

1981
SESSION LAWS
OF THE
STATE OF WASHINGTON

REGULAR SESSION
FORTY-SEVENTH LEGISLATURE
Convened January 12, 1981. Adjourned April 26, 1981.

1st EXTRAORDINARY SESSION
FORTY-SEVENTH LEGISLATURE
Convened April 28, 1981. Adjourned April 28, 1981.



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DENNIS W. COOPER
Code Reviser

PERTINENT FACTS CONCERNING THE WASHINGTON SESSION LAWS

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 pamphlets, which are published as soon as possible following the session, at random dates as accumulated; followed by
 - (ii) a bound volume edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating code sections affected.
- (b) *Temporary pamphlet edition — where and how obtained — price.* The temporary session laws may be ordered from the Statute Law Committee, Legislative Building, Olympia, Washington 98504 at five dollars per set, remittance to accompany order. (No sales tax required.)
- (c) *Permanent bound edition — when and how obtained — price.* The permanent bound edition of the session laws may be ordered from the State Law Librarian, Temple of Justice, Olympia, Washington 98504 at twenty dollars per volume. (No sales tax required.) The laws of the 1981 Regular and 1st Extraordinary sessions will be printed in two volumes. All orders must be accompanied by remittance.

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 adopted 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 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 herein pursuant to 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 1981 regular session to be July 26, 1981 (midnight July 25). The pertinent date for the laws of the 1981 1st Extraordinary session is July 28, 1981 (midnight July 27).
- (b) Laws which carry an emergency clause take effect immediately upon approval by the Governor.
- (c) Laws which ~~prescribe an effective date, take effect upon that date.~~

6. INDEX AND TABLES

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CHAPTER 1

[Initiative Measure No. 383]

RADIOACTIVE WASTE STORAGE

AN ACT Relating to radioactive waste; prohibiting the storage of certain radioactive waste in Washington state; creating a new chapter in Title 70 RCW; and providing penalties.

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

NEW SECTION. Section 1. The people of the state of Washington find that:

(1) Radioactive wastes are highly dangerous, in that releases of radioactive materials and emissions to the environment are inimical to the health and welfare of the people of the state of Washington, and contribute to the occurrences of harmful diseases, including excessive cancer and leukemia. The dangers posed by the transportation and presence of radioactive wastes are increased further by the long time periods that the wastes remain radioactive and highly dangerous;

(2) Transporting, handling, storing, or otherwise caring for radioactive waste presents a hazard to the health, safety, and welfare of the individual citizens of the state of Washington because of the ever-present risk that an accident or incident will occur while the wastes are being cared for;

(3) The likelihood that an accident will occur in this state involving the release of radioactive wastes to the environment becomes greater as the volume of wastes transported, handled, stored, or otherwise cared for in this state increases;

(4) The effects of unplanned releases of radioactive wastes into the environment, especially into the air and water of the state, are potentially both widespread and harmful to the health, safety, and welfare of the citizens of this state.

The burdens and hazards posed by increasing the volume of radioactive wastes transported, handled, stored, or otherwise cared for in this state by the importation of such wastes from outside this state is not a hazard the state government may reasonably ask its citizens to bear. The people of the state of Washington believe that the principles of federalism do not require the sacrifice of the health, safety, and welfare of the people of one state for the convenience of other states or nations.

NEW SECTION. Sec. 2. The definitions set forth in this section apply throughout this chapter.

(1) "Radioactive waste" means unwanted radioactive material, including radioactive residues produced as a result of electric power generation or other reactor operation.

(2) "Medical waste" means radioactive waste from all therapy, diagnosis, or research in medical fields and radioactive waste which results from

the production and manufacture of radioactive material used for therapy, diagnosis, or research in medical fields, except that "medical waste" does not include spent fuel or waste from the fuel of an isotope production reactor.

(3) "Radioactive waste generated or otherwise produced outside the geographic boundaries of the state of Washington" means radioactive waste which was located outside the state of Washington at the time of removal from a reactor vessel.

NEW SECTION. Sec. 3. Notwithstanding any law, order, or regulation to the contrary, after July 1, 1981, no area within the geographic boundaries of the state of Washington may be used by any person or entity as a temporary, interim, or permanent storage site for radioactive waste, except medical waste, generated or otherwise produced outside the geographic boundaries of the state of Washington. This section does not apply to radioactive waste stored within the state of Washington prior to July 1, 1981.

NEW SECTION. Sec. 4. Notwithstanding any law, order, or regulation to the contrary, after July 1, 1981, no person or entity may transport radioactive waste, except medical waste, generated or otherwise produced outside the geographic boundaries of the state of Washington to any site within the geographic boundaries of the state of Washington for temporary, interim, or permanent storage.

NEW SECTION. Sec. 5. (1) A violation of or failure to comply with the provisions of sections 3 or 4 of this act is a gross misdemeanor.

(2) Any person or entity that violates or fails to comply with the provisions of sections 3 or 4 of this act is subject to a civil penalty of one thousand dollars for each violation or failure to comply.

(3) Each day upon which a violation occurs constitutes a separate violation for the purposes of subsections (1) and (2) of this section.

(4) Any person or entity violating this chapter may be enjoined from continuing the violation. The attorney general or any person residing in the state of Washington may bring an action to enjoin violations of this chapter, on his or her own behalf and on the behalf of all persons similarly situated. Such action may be maintained in the person's own name or in the name of the state of Washington. No bond may be required as a condition to obtaining any injunctive relief. The superior courts have jurisdiction over actions brought under this section, and venue shall lie in the county of the plaintiff's residence, in the county in which the violation is alleged to occur, or in Thurston county. In addition to other relief, the court in its discretion may award attorney's and expert witness fees and costs of the suit to a party who demonstrates that a violation of this chapter has occurred.

NEW SECTION. Sec. 6. Notwithstanding the other provisions of this chapter, the state of Washington may enter into an interstate compact, which will become effective upon ratification by a majority of both houses

of the United States Congress, to provide for the regional storage of radioactive wastes.

NEW SECTION. Sec. 7. This chapter shall be liberally construed to protect the health, safety, and welfare of the individual citizens of the state of Washington.

NEW SECTION. Sec. 8. 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. 9. This act may be known as the Radioactive Waste Storage and Transportation Act of 1980.

NEW SECTION. Sec. 10. Sections 1 through 9 of this act shall constitute a new chapter in Title 70 RCW.

Filed in Office of Secretary of State August 29, 1980.

Passed by the vote of the people at the November 4, 1980 state general election.

Proclamation signed by the Governor December 4, 1980.

CHAPTER 2

[House Bill No. 104]

REFORESTATION, STATE-MANAGED LANDS—APPROPRIATION

AN ACT Relating to the department of natural resources; making an appropriation; and declaring an emergency.

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

NEW SECTION. Section 1. There is appropriated to the department of natural resources, for the purpose of funding the reforestation of state-managed lands during the biennium ending June 30, 1981, the sum of \$2,187,000 or so much thereof as may be necessary, from the resource management cost account in the general fund.

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

Passed the House January 23, 1981.

Passed the Senate January 28, 1981.

Approved by the Governor February 5, 1981.

Filed in Office of Secretary of State February 5, 1981.

CHAPTER 3

[Substitute House Bill No. 1610]
STATE INVESTMENT BOARD

AN ACT Relating to state investments; amending section 3, chapter 104, Laws of 1965 ex. sess. as amended by section 5, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.84-.031; amending section 43.84.080, chapter 8, Laws of 1965 as last amended by section 1, chapter 154, Laws of 1979 ex. sess. and RCW 43.84.080; amending section 43.84.140, chapter 8, Laws of 1965 and RCW 43.84.140; amending section 2, chapter 17, Laws of 1975-'76 2nd ex. sess. as last amended by section 3, chapter 119, Laws of 1979 and RCW 43.84.150; amending section 14, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.84-.170; amending section 8, chapter 267, Laws of 1971 ex. sess. as amended by section 1, chapter 103, Laws of 1973 1st ex. sess. and RCW 2.10.080; amending section 8, chapter 229, Laws of 1937 as amended by section 1, chapter 221, Laws of 1955 and RCW 2.12-.070; amending section 43.33.030, chapter 8, Laws of 1965 and RCW 43.33.030; amending section 10, chapter 251, Laws of 1977 ex. sess. and RCW 43.33.130; amending section 3, chapter 261, Laws of 1945 as last amended by section 1, chapter 170, Laws of 1973 1st ex. sess. and RCW 41.24.030; amending section 6, chapter 209, Laws of 1969 ex. sess. as last amended by section 3, chapter 44, Laws of 1975-'76 2nd ex. sess. and RCW 41.26-.060; amending section 7, chapter 209, Laws of 1969 ex. sess. as last amended by section 2, chapter 103, Laws of 1973 1st ex. sess. and RCW 41.26.070; amending section 15, chapter 103, Laws of 1973 1st ex. sess. and RCW 41.32.207; amending section 16, chapter 103, Laws of 1973 1st ex. sess. and RCW 41.40.072; amending section 2, chapter 91, Laws of 1959 and RCW 41.40.075; amending section 9, chapter 274, Laws of 1947 as last amended by section 4, chapter 128, Laws of 1969 and RCW 41.40.080; amending section 7, chapter 105, Laws of 1975-'76 2nd ex. sess. as amended by section 1, chapter 251, Laws of 1977 ex. sess. and RCW 41.50.050; amending section 10, chapter 105, Laws of 1975-'76 2nd ex. sess. as amended by section 2, chapter 251, Laws of 1977 ex. sess. and RCW 41.50.080; amending section 5, chapter 10, Laws of 1965 as amended by section 11, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.31.300; amending section 43-.43.170, chapter 8, Laws of 1965 as amended by section 2, chapter 12, Laws of 1969 and RCW 43.43.170; amending section 43.43.175, chapter 8, Laws of 1965 and RCW 43.43-.175; amending section 4, chapter 281, Laws of 1961 as amended by section 3, chapter 197, Laws of 1969 ex. sess. and RCW 47.12.210; amending section 47.58.070, chapter 13, Laws of 1961 and RCW 47.58.070; amending section 47.60.100, chapter 13, Laws of 1961 and RCW 47.60.100; amending section 51.44.100, chapter 23, Laws of 1961 as last amended by section 6, chapter 103, Laws of 1973 1st ex. sess. and RCW 51.44.100; amending section 7, chapter 217, Laws of 1945 and RCW 73.12.060; amending section 2, chapter 207, Laws of 1975 1st ex. sess. and RCW 77.12.323; adding a new chapter to Title 43 RCW; creating a new section; repealing section 43.33.020, chapter 8, Laws of 1965 and RCW 43.33.020; repealing section 43.33.025, chapter 8, Laws of 1965 and RCW 43-.33.025; repealing section 7, chapter 103, Laws of 1973 1st ex. sess., section 112, chapter 34, Laws of 1975-'76 2nd ex. sess., section 3, chapter 251, Laws of 1977 ex. sess., section 1, chapter 119, Laws of 1979 and RCW 43.33.050; repealing section 8, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.33.060; repealing section 9, chapter 103, Laws of 1973 1st ex. sess., section 26, chapter 105, Laws of 1975-'76 2nd ex. sess., section 4, chapter 251, Laws of 1977 ex. sess. and RCW 43.33.070; repealing section 10, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.33.080; repealing section 11, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.33.090; repealing section 6, chapter 251, Laws of 1977 ex. sess., section 2, chapter 119, Laws of 1979 and RCW 43.33.110; repealing section 11, chapter 251, Laws of 1977 ex. sess. and RCW 43.33.120; providing effective dates; and making an appropriation.

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

NEW SECTION. Section 1. The state investment board shall exercise all the powers and perform all duties prescribed by law with respect to the investment of public trust and retirement funds.

NEW SECTION. Sec. 2. There is hereby created the state investment board to consist of fourteen members to be appointed as provided in this section.

(1) One member who is an active member of the public employees' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be one year.

(2) One member who is an active member of the law enforcement officers' and fire fighters' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be two years.

(3) One member who is an active member of the teachers' retirement system and has been an active member for at least five years. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(4) The state treasurer.

(5) A member of the state house of representatives. This member shall be appointed by the speaker of the house of representatives.

(6) A member of the state senate. This member shall be appointed by the president of the senate.

(7) One member who is a retired member of a state retirement system shall be appointed by the governor, subject to confirmation by the senate. The initial term of appointment shall be three years.

(8) The director of the department of labor and industries.

(9) The director of the department of retirement systems.

(10) Five nonvoting members appointed by the state investment board who are considered experienced and qualified in the field of investments.

The legislative members shall serve terms of two years. The initial legislative members appointed to the board shall be appointed no sooner than January 12, 1981. The position of a legislative member on the board shall become vacant at the end of that member's term on the board or whenever the member ceases to be a member of the senate or house of representatives from which the member was appointed.

After the initial term of appointment, all other members of the state investment board, except ex officio members, shall serve terms of three years and shall hold office until successors are appointed. Members' terms, except for ex officio members, shall commence on January 1 of the year in which the appointments are made.

Members may be reappointed for additional terms. Appointments for vacancies shall be made for the unexpired terms in the same manner as the original appointments. Any member may be removed from the board for cause by the member's respective appointing authority.

NEW SECTION. Sec. 3. 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.

NEW SECTION. Sec. 4. (1) A quorum to conduct the business of the state investment board consists of at least five voting members of the board.

(2) The state investment board shall meet at least quarterly at such times as it may fix. The board shall elect a chairperson and vice chairperson annually: PROVIDED, That the legislative members are not eligible to serve as chairperson or vice chairperson.

NEW SECTION. Sec. 5. Members of the state investment board who are public employees shall serve without compensation but shall suffer no loss because of absence from their regular employment. Members of the board who are not public employees shall receive fifty dollars for each day during which the member attends an official meeting of the board or performs statutorily prescribed duties approved by the chairperson. Members of the board who are not legislators shall be reimbursed for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Legislative members shall receive allowances provided for in RCW 44.04.120 as now existing or hereafter amended.

NEW SECTION. Sec. 6. No member during the term of appointment may be employed by any investment brokerage or mortgage servicing firm doing business with the state investment board. A trust department of a commercial bank or trust company organized under federal or state law is not considered a mortgage servicing firm for purposes of this section.

NEW SECTION. Sec. 7. No member of the state investment board is liable for the negligence, default, or failure of any other person or other member of the board to perform the duties of the member's office and no member of the board shall be considered or held to be an insurer of the funds or assets of any of the trust and retirement funds nor is any nonvoting member liable for actions performed with the exercise of reasonable diligence within the scope of the member's authorized activities as a member of the board.

NEW SECTION. Sec. 8. The state investment board may invest those funds which are not under constitutional prohibition in farm ownership and soil and water conservation loans fully guaranteed as to principal and interest under the Bankhead-Jones farm tenant act administered by the United States department of agriculture.

NEW SECTION. Sec. 9. The state investment board shall keep a full and complete public record of its proceedings in appropriate books of record. Within sixty days of July 1, 1981, the state investment board shall assume physical custody of all investment accounts, files, and other records of each fund placed under the investment authority of the board.

NEW SECTION. Sec. 10. The state investment board shall maintain appropriate offices and employ such personnel as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, the state investment officer, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such employment shall be subject to confirmation of the state finance committee: **PROVIDED**, That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding terms.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1, 1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in this 1980 act shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by this 1980 act shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981.

NEW SECTION. Sec. 11. The state investment board may make appropriate rules and regulations for the performance of its duties. The board shall adopt rules to ensure that its members perform their functions in compliance with chapter 42.18 RCW. Rules adopted by the board shall be adopted pursuant to chapter 34.04 RCW.

NEW SECTION. Sec. 12. All accounts, files, and other records of the state investment board which pertain to each retirement system are subject at any time or from time to time to such reasonable periodic, special, or other examinations by the department of retirement systems as the director of the department of retirement systems deems necessary or appropriate.

NEW SECTION. Sec. 13. The state treasurer may cause any securities in which the state investment board deals to be registered in the name of a nominee without mention of any fiduciary relationship, except that adequate records shall be maintained to identify the actual owner of the security so registered. The securities so registered shall be held in the physical custody of the state treasurer, the federal reserve system, the designee of the state treasurer, or, at the election of the designee and upon approval of the state treasurer, the Depository Trust Company of New York City or its designees.

With respect to the securities, the nominee shall act only upon the order of the state treasurer who shall act only on the direction of the state investment board. All rights to the dividends, interest, and sale proceeds from the securities and all voting rights of the securities are vested in the actual owners of the securities, and not in the nominee.

NEW SECTION. Sec. 14. Any investments made by the state investment board shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived.

NEW SECTION. Sec. 15. The state investment board shall prepare written reports at least quarterly summarizing the investment activities of the state investment board, which reports shall be sent to the governor, the senate ways and means committee, the house appropriations committee, the department of retirement systems, and other agencies having a direct financial interest in the investment of funds by the board, and to other persons on written request. The state investment board shall provide information to the department of retirement systems necessary for the preparation of monthly reports.

NEW SECTION. Sec. 16. The state investment board shall be funded from the investment reserve account created by RCW 43.84.090, subject to legislative appropriation.

Sec. 17. Section 3, chapter 104, Laws of 1965 ex. sess. as amended by section 5, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.84.031 are each amended to read as follows:

Subject to the limitation of authority delegated by RCW 43.84.031 through 43.84.061 and RCW 43.84.150, the state (~~finance committee may by unanimous approval~~) investment board shall adopt procedural policies governing the management of said permanent trust funds.

Sec. 18. Section 43.84.080, chapter 8, Laws of 1965 as last amended by section 1, chapter 154, Laws of 1979 ex. sess. and RCW 43.84.080 are each amended to read as follows:

Wherever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, (~~the state finance committee, or upon authorization from the state finance committee, then~~) the state treasurer(;) may invest or reinvest such portion of such funds or balances as the state treasurer deems expedient in the following defined securities or classes of investments: (~~PROVIDED, That the state treasurer shall provide a monthly report of such investments and reinvestments to the state finance committee:~~)

(1) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States;

(2) In state, county, municipal, or school district bonds, or in warrants of taxing districts of the state. Such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations. The state (~~finance committee~~) treasurer may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;

(3) In motor vehicle fund warrants when authorized by agreement between the (~~committee~~) state treasurer and the (~~state highway commission~~) department of transportation requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction;

(4) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(5) Bankers' acceptances purchased on the secondary market.

Sec. 19. Section 43.84.140, chapter 8, Laws of 1965 and RCW 43.84.140 are each amended to read as follows:

(~~In addition to the provisions of RCW 43.84.010;~~) The state (~~finance committee~~) investment board is authorized to invest moneys in the scientific school permanent fund and the agricultural college permanent fund in regents' revenue bonds issued by the board of regents of Washington State University for the purposes provided for in RCW 28B.10.300 and to invest moneys in the state university permanent fund in regents' revenue bonds issued by the board of regents of the University of Washington for the purposes provided in RCW 28B.10.300.

Sec. 20. Section 2, chapter 17, Laws of 1975-'76 2nd ex. sess. as last amended by section 3, chapter 119, Laws of 1979 and RCW 43.84.150 are each amended to read as follows:

Except where otherwise specifically provided by law, the state (~~finance committee and the director of retirement systems with the approval of those boards otherwise responsible for the management of their respective funds~~) investment board shall have full power to invest and reinvest funds over which ~~(they have)~~ it has investment authority in the following classes of investments, and not otherwise, and to sell or exchange investments acquired in the exercise of that authority: (~~PROVIDED, That the method of granting approval to the state finance committee and the director of retirement systems shall be determined by each board, respectively, in its sole discretion:~~)

(1) Bonds, notes, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, or those guaranteed by, or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof, or the obligation of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system.

(2) Bonds, debentures, notes, or other obligations issued, assumed, or unconditionally guaranteed by the international bank for reconstruction and development, the inter-American development bank, the Asian development bank, or by the federal national mortgage association; in addition to bonds, debentures, or other obligations issued by a federal land bank, or by a federal intermediate credit bank, under the act of congress of July 17, 1961, known as the "Federal Farm Loan Act", (as from time to time amended).

(3) First mortgages on unencumbered real property which are insured by the federal housing administration under the national housing act (as from time to time amended) or are guaranteed by the veterans' administration under the servicemen's readjustment act of 1944 (as from time to time amended), or are otherwise insured or guaranteed by the United States of America, or by an agency or instrumentality thereof to the extent that the investor protection thereby given is essentially the same as that as provided under the foregoing federal enactments.

(4) Conventional fee simple or leasehold first mortgages on real property located within the state of Washington.

(5) Bonds or other evidences of indebtedness of this state or a duly authorized authority or agency thereof; bonds, notes, or other obligations of any municipal corporation, political subdivision or state supported institution of higher learning of this state, issued pursuant to the laws of this state; obligations of any public housing authority or urban redevelopment authority issued pursuant to the laws of this state relating to the creation or operation of a public housing or urban redevelopment authority.

(6) Bonds, notes, or other obligations issued, guaranteed or assumed by any other state or municipal or political subdivision thereof.

(7) Bonds, debentures, notes or other full faith and credit obligations issued, guaranteed, or assumed as to both principal and interest by the government of the Dominion of Canada, or by any province of Canada, or by any city of Canada, which has a population of not less than one hundred thousand inhabitants: PROVIDED, That the principal and interest thereof shall be payable in United States funds, either unconditionally or at the option of the holder: PROVIDED FURTHER, That such securities are rated "A" or better by at least one nationally recognized rating agency.

(8) Bonds, debentures, notes, or other obligations of any corporation duly organized and operating in any state of the United States: PROVIDED, That such securities are rated "A" or better by at least one nationally recognized rating agency.

(9) Capital notes, debentures, or other obligations of any national or state commercial or mutual savings bank doing business in the United States of America.

(10) Equipment trust certificates issued by any corporation duly organized and operating in any state of the United States of America: PROVIDED, That the bonds or debentures of the company are rated "A" or better by at least one nationally recognized rating agency.

(11) Commercial paper: PROVIDED, That it is given the highest attainable rating by at least two nationally recognized rating agencies.

(12) Subject to the limitations hereinafter provided, those funds created under chapters 2.10, 2.12, 41.24, 41.26, 41.32, 41.40, and 43.43 RCW and the accident reserve fund created by RCW 51.44.010 may be invested in the common or preferred stock or shares, whether or not convertible as well as convertible bonds and debentures of corporations created or existing under the laws of the United States, or any state, district or territory thereof: PROVIDED, That:

(a) ~~The state ((finance committee and the director of retirement systems may, with the approval of the respective boards;)) investment board may either have the ((finance committee's)) investment board's staff manage the classes of investments defined by subsection (12) of this section or ((they)) the investment board may contract with an investment counseling firm or firms or the trust department of a national or state chartered commercial bank having its principal office or a branch in this state. ((The state finance committee and the director of retirement systems shall receive advice which shall become part of the official minutes of the next succeeding meeting of the committee and respective boards.))~~ No investment counseling firm shall be engaged in buying, selling, or otherwise marketing securities in which commissions or profit credits arising from these activities accrue to the firm during the time of its employment by the investment board((s)). Nothing in the preceding sentence shall be deemed to apply to the marketing of bonds, notes or other obligations of the United States or any agency thereof, or of

a state or any municipal or political subdivision thereof by a bank in the normal course of its business.

(b) Stock investments to include convertible preferred stock investments, and investments in convertible bonds and debentures shall not exceed twenty-five percent of the total investments (cost basis) of the system: PROVIDED, That in the case of the accident reserve fund created by RCW 51.44.030 such stock investments shall not exceed ten percent of the total investments.

(c) Investment in the stock of any one corporation shall not exceed five percent of the common shares outstanding.

(d) No single common stock investment, based on cost, may exceed two percent of the assets of the total investments (cost basis) of the system.

(e) Such corporation has paid a cash dividend on its common stock in at least eight of the ten years and in each of the last three years next preceding the date of investment.

(f) In the case of convertible bond, debenture, and convertible preferred stock investments, the common stock into which such investments are convertible otherwise qualifies as an authorized investment under the provisions of this section.

(13) Investments in savings and loan associations organized under federal or state law, insured by the federal savings and loan insurance corporation, and operating in this state, including investment in their savings accounts, deposit accounts, bonds, debentures and other obligations or securities (except capital stock) which are insured or guaranteed by an agency of the federal government or by a private corporation approved by the state insurance commissioner and licensed to insure real estate loans in the state of Washington; savings deposits in commercial banks and mutual savings banks organized under federal or state law.

(14) Appropriate contracts of life insurance or annuities from insurers duly organized to do business in the state of Washington, if and when such purchase or purchases would in the judgment of the board be appropriate or necessary to carry out the purposes of this chapter.

(15) Any obligation, equipment trust certificate, or interest in any obligation arising out of any transaction involving the sale of any equipment by, or the lease of any equipment from, any corporation engaged in the business of transportation or manufacturing, with its principal place of business located in Washington state, or by or from any wholly owned subsidiary of any such corporation, provided that either (a) the obligation shall be secured by ownership of the equipment or by a first mortgage or other security interest creating a first lien on such equipment or (b) the obligation shall be guaranteed by the United States government or any agency or instrumentality thereof or by a foreign government or any agency or instrumentality thereof or by any province of Canada.

(16) The sale of call options or the repurchase of sold call options where such options are fully covered by common stocks owned by the funds.

Subject to the above limitations, ~~((the trustees of the several funds shall authorize))~~ the state ~~((finance committee to))~~ investment board may make purchases, sales, exchanges, investments, and reinvestments, of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any money belonging to said funds.

Sec. 21. Section 14, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.84.170 are each amended to read as follows:

Whenever there are surplus moneys available for investment in the permanent common school fund, the agricultural college permanent fund, the normal school permanent fund, the scientific school permanent fund, or the university permanent fund, the state ~~((finance committee shall have))~~ investment board has full power to invest or reinvest such funds in the manner prescribed by RCW 43.84.150, and not otherwise.

Sec. 22. Section 8, chapter 267, Laws of 1971 ex. sess. as amended by section 1, chapter 103, Laws of 1973 1st ex. sess. and RCW 2.10.080 are each amended to read as follows:

(1) The state treasurer shall be the custodian of all funds and securities of the retirement system. Disbursements from this fund shall be made by the state treasurer upon receipt of duly authorized vouchers.

(2) The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system not needed for immediate use in the same manner and subject to all the provisions of law with respect to the deposit of state funds by such treasurer, and all interest earned by such portion of the retirement system's funds as may be deposited by the state treasurer in pursuance of authority herewith given shall be collected by him and placed to the credit of the retirement fund.

(3) The ~~((public employees' retirement))~~ state investment board established by ~~((chapter 41.40 RCW shall have))~~ section 2 of this 1980 act has full power to invest or reinvest the funds of this system in those classes of investments authorized by RCW 43.84.150 ~~((and 41.40.072))~~.

(4) For the purpose of providing amounts to be used to defray the cost of administration ~~((and investment))~~, the judicial retirement board shall ascertain at the beginning of each biennium and request from the legislature an appropriation sufficient to cover estimated expenses for the said biennium.

Sec. 23. Section 8, chapter 229, Laws of 1937 as amended by section 1, chapter 221, Laws of 1955 and RCW 2.12.070 are each amended to read as follows:

Whenever the treasurer estimates that the balance of cash remaining in the judges' retirement fund, together with the estimated receipts for the remainder of the fiscal year, will exceed the estimated disbursements for the remainder of such year in the sum of one thousand dollars or more, he shall request the state (~~(finance committee)~~) investment board to invest such excess in such bonds as are by law authorized for the investment of the permanent school funds of the state. Whenever it appears to the treasurer that the cash remaining in the fund, together with the estimated receipts for the remainder of the fiscal year, will not meet the estimated disbursements as they shall fall due, he shall request the state (~~(finance committee)~~) investment board to sell so many of any bonds belonging to said fund as will produce cash sufficient for that purpose, and deposit the proceeds of such sale in the fund.

Sec. 24. Section 43.33.030, chapter 8, Laws of 1965 and RCW 43.33-.030 are each amended to read as follows:

The state finance committee shall keep a full and complete public record of its proceedings in appropriate books of record(~~(, maintain appropriate offices, and employ such personnel as shall be necessary to perform its duties)~~).

The state treasurer shall provide administrative and clerical assistance for the state finance committee.

Sec. 25. Section 10, chapter 251, Laws of 1977 ex. sess. and RCW 43-.33.130 are each amended to read as follows:

The state finance committee shall prepare written reports at least (~~(quarterly)~~) annually summarizing the (~~(investment and bond)~~) debt management activities of the finance committee, which reports shall be sent to the governor, to the senate ways and means committee, the house appropriations committee, (~~(to members of the investment advisory committee, to all retirement boards, and other)~~) agencies having a direct financial interest in the (~~(investment of funds or)~~) issuance and sale of bonds by the committee, and to other persons on written request.

Sec. 26. Section 3, chapter 261, Laws of 1945 as last amended by section 1, chapter 170, Laws of 1973 1st ex. sess. and RCW 41.24.030 are each amended to read as follows:

There is created in the state treasury a trust fund for the benefit of the firemen of the state covered by this chapter, which shall be designated the volunteer firemen's relief and pension fund and shall consist of:

(1) All bequests, fees, gifts, emoluments, or donations given or paid to the fund.

(2) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording the members of its fire department with protection from death or disability as herein provided as follows:

(a) three dollars for each volunteer or part-paid member of its fire department;

(b) a sum equal to one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970.

(3) Where a municipal corporation has elected to make available to the members of its fire department the retirement provisions as herein provided, an annual fee of thirty dollars for each of its firemen electing to enroll therein, ten dollars of which shall be paid by the municipality and twenty dollars of which shall be paid by the fireman.

(4) Forty percent of all moneys received by the state from its tax on fire insurance premiums shall be paid into the state treasury and credited to the fund.

(5) The state (~~((finance committee))~~) investment board, upon request of the state treasurer shall invest such portion of the amounts credited to the fund as is not, in the judgment of the treasurer, required to meet current withdrawals. Such investments may be made in such bonds, notes or other obligations now or hereafter authorized as an investment for the funds of the (~~((state))~~) public employees' retirement system.

(6) All bonds or other obligations purchased according to subdivision (5) shall be forthwith placed in the custody of the state treasurer, and he shall collect the principal thereof and interest thereon when due.

The state (~~((finance committee))~~) investment board may sell any of the bonds or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

The interest and proceeds from the sale and redemption of any bonds or other obligations held by the fund shall be credited to and form a part of the fund.

All amounts credited to the fund shall be available for making the payments required by this chapter.

The state treasurer shall make an annual report showing the condition of the fund.

Sec. 27. Section 6, chapter 209, Laws of 1969 ex. sess. as last amended by section 3, chapter 44, Laws of 1975-'76 2nd ex. sess. and RCW 41.26-.060 are each amended to read as follows:

The administration of this system is hereby vested in the board of the Washington public employees' retirement system pursuant to RCW 41.26-.050 and the board shall:

(1) Keep in convenient form such data as shall be deemed necessary for actuarial evaluation purposes;

(2) As of March 1, 1970, and at least every two years thereafter, through its actuary, make an actuarial valuation as to the mortality and service experience of the beneficiaries under this chapter and the various

accounts created for the purpose of showing the financial status of the retirement fund;

(3) Adopt for the retirement system the mortality tables and such other tables as shall be deemed necessary;

(4) Keep a record of all its proceedings, which shall be open to inspection by the public;

(5) From time to time adopt such rules and regulations not inconsistent with this chapter, for the administration of the provisions of this chapter, for the administration of the fund created by this chapter and the several accounts thereof, and for the transaction of the business of the board;

~~(6) ((Provide for investment, reinvestment, deposit and withdrawal of funds;~~

~~(7)))~~ Prepare and publish annually a financial statement showing the condition of the fund and the various accounts thereof, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning the Washington law enforcement officers' and fire fighters' retirement system, and furnish a copy thereof to each employer, and to such members as may request copies thereof;

~~((8)))~~ (7) Serve without compensation but shall be reimbursed for expense incident to service as individual members thereof;

~~((9)))~~ (8) Perform such other functions as are required for the execution of the provisions of this chapter;

~~((10)))~~ (9) No member of the board shall be liable for the negligence, default or failure of any employee or of any other member of the board to perform the duties of his office and no member of the board shall be considered or held to be an insurer of the funds or assets of the retirement system but shall be liable only for his own personal default or individual failure to perform his duties as such member and to exercise reasonable diligence in providing for the safeguarding of the funds and assets of the system;

~~((11)))~~ (10) Fix the amount of interest to be credited at a rate which shall be based upon the net annual earnings of the fund for the preceding twelve-month period and from time to time make any necessary changes in such rate;

~~((12)))~~ (11) Pay from the department of retirement systems expense fund the expenses incurred in administration of the retirement system from those funds appropriated for that purpose;

~~((13)))~~ (12) Perform any other duties prescribed elsewhere in this chapter: PROVIDED, That all disability claims shall be submitted and approved or disapproved by the disability boards established by this chapter and the retirement board shall have authority to approve or disapprove disability retirement requests only;

~~((14)))~~ (13) Issue decisions relating to appeals initiated pursuant to RCW 41.16.145 and 41.18.104 as now or hereafter amended and shall be

authorized to order increased benefits pursuant to RCW 41.16.145 and 41.18.104 as now or hereafter amended.

Sec. 28. Section 7, chapter 209, Laws of 1969 ex. sess. as last amended by section 2, chapter 103, Laws of 1973 1st ex. sess. and RCW 41.26.070 are each amended to read as follows:

A fund is hereby created and established in the state treasury to be known as the Washington law enforcement officers' and fire fighters' retirement fund, and shall consist of all moneys paid into it in accordance with the provisions of this chapter, whether such moneys shall take the form of cash, securities, or other assets. ~~The ((members of the retirement)) state investment board ((shall be the trustees of these funds created by this chapter and the retirement board shall have))~~ has full power to invest or reinvest ~~((these)) the funds created by this chapter~~ in the securities authorized by RCW 43.84.150 ~~((and 41.40.072. PROVIDED, That the board shall authorize the state finance committee to execute all transactions in connection with the purchase, sale, or exchange of any investment that it has authorized pursuant to its statutory authority))~~.

(1) The state treasurer shall be the custodian of all funds of the retirement system and all disbursements therefrom shall be paid by the state treasurer upon vouchers duly authorized by the retirement board and bearing the signature of the duly authorized officer of the retirement board.

(2) The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system not needed for immediate use in the same manner and subject to all the provisions of law with respect to the deposit of state funds by such treasurer, and all interest earned by such portion of the retirement system's funds as may be deposited by the state treasurer in pursuance of authority herewith given shall be collected by him and placed to the credit of the retirement fund or the department of retirement systems expense fund.

(3) Into the retirement system fund shall be paid all moneys received by the retirement board, and paid therefrom shall be all refunds, adjustments, retirement allowances and other benefits provided for herein. All contributions by employers for the expense of operating the retirement system as provided for herein shall be transferred by the state treasurer from the retirement system fund to the department of retirement systems expense fund upon authorization of the retirement board.

(4) There is hereby utilized for the purposes of this chapter, the department of retirement systems expense fund, as provided for in RCW 41.40.080 and from which shall be paid the expenses of the administration of this retirement system.

(5) In order to reimburse the department of retirement systems expense fund on an equitable basis the retirement board shall ascertain and report to

each employer the sum necessary to defray its proportional share of the entire expense of the administration of this chapter during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the said administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(6) The retirement board shall compute and bill each employer at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each such employer shall be made on a percentage rate of salary established by the board: PROVIDED, That the retirement board may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(7) For the purpose of providing amounts to be used to defray the cost of such administration, the retirement board shall ascertain at the beginning of each biennium and request from the legislature an appropriation from the department of retirement systems expense fund sufficient to cover estimated expenses for the said biennium.

(8) RCW 41.26.060, 41.26.070 and 41.26.085 shall take effect commencing on January 1, 1972.

Sec. 29. Section 15, chapter 103, Laws of 1973 1st ex. sess. and RCW 41.32.207 are each amended to read as follows:

The state investment board (~~((of trustees shall be the trustees of the several funds created by this chapter and shall have))~~) has full power to (~~((authorize the state finance committee to))~~) invest and reinvest (~~((such))~~) the funds created by this chapter in the manner prescribed by RCW 43.84.150, and not otherwise.

Sec. 30. Section 16, chapter 103, Laws of 1973 1st ex. sess. and RCW 41.40.072 are each amended to read as follows:

The (~~((members of the retirement))~~) state investment board (~~((shall be the trustees of the several funds created by this chapter and the retirement board shall have))~~) has full power to invest or reinvest(~~((, or to authorize the state finance committee to invest or reinvest, such))~~) the funds created by this chapter in the manner prescribed by RCW 43.84.150, and not otherwise(~~((PROVIDED, That the board shall authorize the state finance committee to execute all transactions in connection with the purchase, sale or exchange of any investment that it has authorized pursuant to its statutory authority))~~).

Sec. 31. Section 2, chapter 91, Laws of 1959 and RCW 41.40.075 are each amended to read as follows:

The state (~~((employees⁴))~~) investment board may invest those funds of the retirement (~~((board is authorized to invest those funds))~~) system which are not under constitutional prohibition in farm ownership and soil and water conservation loans fully guaranteed as to principal and interest under the Bankhead-Jones Farm Tenant Act administered by the United States department of agriculture.

Sec. 32. Section 9, chapter 274, Laws of 1947 as last amended by section 4, chapter 128, Laws of 1969 and RCW 41.40.080 are each amended to read as follows:

(1) All bonds or other obligations purchased according to RCW (~~(41-40-070)~~) 43.84.150 shall be forthwith placed in the hands of the state treasurer who is hereby designated as custodian thereof, and it shall be his duty to collect the principal thereof and the interest thereon as the same becomes due and payable, and place the same when so collected into the retirement system's funds (~~((herein provided for bonds or other obligations. The retirement board may authorize the finance committee to sell any of the said bonds, or other obligations upon like resolution, and the proceeds thereof shall be paid by the purchaser to the state treasurer upon delivery to him of such bonds or other obligations by the state treasurer))~~).

(2) The state treasurer shall be the custodian of all other funds of the retirement system and all disbursements therefrom shall be paid by the state treasurer upon vouchers duly authorized by the retirement board and bearing the signature of the duly authorized officer of the retirement board.

(3) The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system not needed for immediate use in the same manner and subject to all the provisions of law with respect to the deposit of state funds by such treasurer, and all interest earned by such portion of the retirement system's funds as may be deposited by the state treasurer in pursuance of authority herewith given shall be collected by him and placed to the credit of the retirement fund or the department of retirement systems expense fund.

(4) There is hereby established in the state treasury two separate funds, namely:

(a) The retirement system fund, into which shall be paid all moneys received by the retirement board and from which shall be paid all refunds, adjustments, retirement allowances and other benefits provided for herein. All contributions by members to the department of retirement systems expense fund as provided in RCW 41.40.330 and contributions by employers for the expense of operating the retirement system as provided for herein shall be transferred by the state treasurer from the retirement system fund to the department of retirement systems expense fund upon authorization of the retirement board;

(b) The department of retirement systems expense fund, from which shall be paid the expenses of the administration of the retirement system.

(5) In order to reimburse the department of retirement systems expense fund on an equitable basis the retirement board shall, after crediting the estimated amount to be collected as employees' contributions, ascertain and report to each employer the sum necessary to defray its proportional share of the entire expense of the administration of this chapter during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the said administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(6) The retirement board shall compute and bill each employer at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each such employer shall be made on a percentage rate of salary established by the board: PROVIDED, That the retirement board may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(7) For the purpose of providing amounts to be used to defray the cost of such administration, the retirement board shall ascertain at the beginning of each biennium and request from the legislature an appropriation from the department of retirement systems expense fund sufficient to cover estimated expenses for the said biennium.

Sec. 33. Section 7, chapter 105, Laws of 1975-'76 2nd ex. sess. as amended by section 1, chapter 251, Laws of 1977 ex. sess. and RCW 41-.50.050 are each amended to read as follows:

The director shall:

(1) Have the authority to organize the department into not more than two divisions, each headed by an assistant director;

(2) Have free access to all files and records of various funds assigned to the department and inspect and audit the files and records as deemed necessary;

~~(3) ((With the assistance of the state finance committee, prepare written reports at least quarterly summarizing the investment activities of the department, which reports shall be sent to the governor, to the senate ways and means committee, the house appropriations committee, to all agencies having a direct financial interest in the investment of funds, and to other persons on request;~~

~~(4)))~~ Employ personnel to carry out the general administration of the department;

~~((5)))~~ (4) Submit an annual written report of the activities of the department to the governor and the legislature, including recommendations for statutory changes the director believes to be desirable;

~~((6))~~ (5) Adopt such rules and regulations as are necessary to carry out the powers, duties, and functions of the department pursuant to the provisions of chapter 34.04 RCW.

Sec. 34. Section 10, chapter 105, Laws of 1975-'76 2nd ex. sess. as amended by section 2, chapter 251, Laws of 1977 ex. sess. and RCW 41.50.080 are each amended to read as follows:

The ~~((director and the state finance committee, with the approval of the respective boards,))~~ state investment board shall provide for the investment of all funds of the Washington public employees' retirement system, the teachers' retirement system, the Washington law enforcement officers' and fire fighters' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, and the judges' retirement fund, pursuant to RCW 43.84.150, and may sell or exchange investments acquired in the exercise of that authority~~((: PROVIDED, That the method of granting approval shall be determined by each board, respectively, in its sole discretion. The state finance committee shall execute all such transactions. Nothing in this section or any other provision of law shall be construed to grant the director any investment powers other than as to funds of those retirement systems designated in this section))~~.

Sec. 35. Section 5, chapter 10, Laws of 1965 as amended by section 11, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.31.300 are each amended to read as follows:

The director of the department of commerce and economic development through the division of nuclear energy development, known as the office of nuclear energy development, in cooperation with the state energy office, shall, in addition to the powers and duties otherwise imposed by law, have the following special powers and duties:

(1) Expend such state funds as may be appropriated by the legislature in order to acquire, develop and operate land and facilities which the director believes will foster the development of the state's nuclear economic potential. Such acquisition may be by lease, dedication, purchase, or other arrangement: PROVIDED, HOWEVER, That nothing herein shall be deemed to authorize the state to acquire nuclear facilities or property to engage in competition with organizations or persons. The leasing from the Energy Research and Development Administration of one thousand acres of land lying within the boundaries of the Hanford works near Richland, Washington, in a lease executed on September 10, 1964, is an example of the proper exercise of powers within the purposes of this chapter.

(2) Lease, sublease, or sell real and personal properties to public or private bodies on a competitive basis and at a fair market value when the director believes that such transactions will foster the development of the state's nuclear economic potential.

The director may, however, on a competitive basis lease real and personal properties at less than fair market value on a short term basis if he

believes that the long term gain to the state's economic growth justifies such an agreement. Where the lease or sale requires the lessee or purchaser to use the premises for the operation of a specific type of activity, the notice to bidders shall specify the type of business activity required. Final selection among bidders shall, subject to the provisions herein, be by the director with the advice and consent of the state energy office.

(3) Enter into contracts with state and private institutions within the state for the carrying out of basic research in such uses of nuclear energy as may be helpful to the economic development of the state.

(4) Assure the maintenance of such insurance coverage by state licensees, lessees, or sublessees as will adequately, in the opinion of the director, protect the citizens of the state of Washington against nuclear incidents that may occur on privately or state controlled nuclear facilities.

(5) Assume responsibility for perpetual surveillance and/or maintenance of radioactive materials held for waste management purposes at any publicly or privately operated facility located within the state, in the event the parties operating such facilities abandon said responsibility, and whenever the federal government or any of its agencies has not assumed said responsibility.

In order to finance such perpetual surveillance and maintenance as the director may undertake, he may collect fees from private or public parties holding radioactive materials for waste management purposes at a total charge of not less than the prevailing rates at similar sites in the nation: PROVIDED, That in the event the estimated total of such fees will be insufficient to defray the estimated cost of administration of this responsibility for any next ensuing fiscal biennium, the director may prescribe additional fees as may be necessary to defray estimated waste management expenses for future fiscal bienniums. All such fees, when received by the director, shall be transmitted to the state treasurer, who shall act as custodian. The treasurer shall place the money in a special account, in the nature of a revolving fund, which may be designated "perpetual maintenance fund," to be disbursed on authorization of the director, or his designated representative. Disbursement shall be made in the manner prescribed by chapter 42.24 RCW, and shall be subject to post audit by the state auditor. No appropriations shall be required to permit expenditures and payment of obligations from such fund, but the condition of the fund and its administration shall be reported biennially to the legislature by the director. Moneys in the perpetual maintenance fund shall be invested by the state (~~finance committee~~) investment board in the manner as other state moneys: PROVIDED, HOWEVER, That any interest accruing as a result of investment shall accrue to the perpetual maintenance fund.

Additional moneys as may be specifically appropriated by the legislature, or received from any public or private source, may be placed in the perpetual maintenance fund. The perpetual maintenance fund shall be used

exclusively for surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations.

(6) Enter into an agreement with the federal government or any of its authorized agencies to assume perpetual surveillance and/or maintenance of lands leased or purchased from the federal government or any of its authorized agencies and used as a burial or storage site for radioactive wastes.

Sec. 36. Section 43.43.170, chapter 8, Laws of 1965 as amended by section 2, chapter 12, Laws of 1969 and RCW 43.43.170 are each amended to read as follows:

Whenever the ~~((state patrol retirement board))~~ director of the department of retirement systems determines that the state patrol retirement fund contains moneys in excess of current needs, ~~((they shall authorize the state finance committee to))~~ the director shall notify the state investment board of such a condition and the state investment board shall invest such surplus in such bonds or other obligations as are or may be in the future authorized for the investment of the funds of the ((state)) public employees' retirement system.

Sec. 37. Section 43.43.175, chapter 8, Laws of 1965 and RCW 43.43.175 are each amended to read as follows:

All bonds or other obligations purchased according to RCW 43.43.170 shall be forthwith placed in the custody of the state treasurer, and he shall collect the principal thereof and interest thereon when due.

The state ~~((finance committee))~~ investment board may sell any of the bonds or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

The interest earned and proceeds from the sale or redemption of any bonds or other obligations held by the fund shall be credited to and form a part of the fund.

All amounts credited to the fund shall be available for making the payments required by RCW ~~((43.43.120))~~ 43.43.250 through ~~((43.43.330))~~ 43.43.320.

Sec. 38. Section 4, chapter 281, Laws of 1961 as amended by section 3, chapter 197, Laws of 1969 ex. sess. and RCW 47.12.210 are each amended to read as follows:

Such an agreement shall provide that the state finance committee shall purchase, at par, warrants drawn upon the motor vehicle fund in payment for the property covered by the agreement and the engineering costs necessary for such advance purchase or condemnation. Such warrants shall be purchased by the state finance committee, upon the presentation by the holders thereof to the state treasurer, from any moneys available for investment in ~~((: (1) The accident fund, medical aid fund, or the reserve fund created by chapter 51.44 RCW; or (2))~~ the state treasury ((available for investment)) as provided in RCW 43.84.080: PROVIDED, That in no event

shall more than ten percent of the assets of any fund be used for the purpose of acquiring property as authorized herein, except in the case of current state funds in the state treasury, twenty percent of the balance therein available for investment may be invested as provided in RCW 47.12.180 through 47.12.240.

Sec. 39. Section 47.58.070, chapter 13, Laws of 1961 and RCW 47.58-.070 are each amended to read as follows:

Notwithstanding any other provision of the law, bonds issued under this chapter shall be legal investments by the state (~~((finance committee))~~) investment board of any state moneys in its hands, except permanent school funds.

Sec. 40. Section 47.60.100, chapter 13, Laws of 1961 and RCW 47.60-.100 are each amended to read as follows:

Notwithstanding any other provision of the law, bonds issued by the authority shall be legal investments by the state (~~((finance committee))~~) investment board of any state moneys in its hands, except permanent school funds and motor vehicle funds.

Sec. 41. Section 51.44.100, chapter 23, Laws of 1961 as last amended by section 6, chapter 103, Laws of 1973 1st ex. sess. and RCW 51.44.100 are each amended to read as follows:

Whenever, in the judgment of the state (~~((finance committee))~~) investment board, there shall be in the accident fund, medical aid fund, or in the reserve fund, funds in excess of that amount deemed by (~~((such committee))~~) the state investment board to be sufficient to meet the current expenditures properly payable therefrom, the (~~((committee))~~) state investment board may invest and reinvest such excess funds in the manner prescribed by RCW 43.84.150, and not otherwise.

The state (~~((finance committee))~~) investment board may give consideration to the investment of excess funds in federally insured student loans made to persons in vocational training or retraining or reeducation programs. The state (~~((finance committee))~~) investment board may make such investments by purchasing from savings and loan associations, commercial banks, mutual savings banks, credit unions and other institutions authorized to be lenders under the federally insured student loan act, organized under federal or state law and operating in this state loans made by such institutions to residents of the state of Washington particularly for the purpose of vocational training or reeducation: **PROVIDED**, That the state (~~((finance committee))~~) investment board shall purchase only that portion of any loan which is guaranteed or insured by the United States of America, or by any agency or instrumentality of the United States of America: **PROVIDED FURTHER**, That the state (~~((finance committee))~~) investment board is authorized to enter into contracts with such savings and loan associations,

commercial banks, mutual savings banks, credit unions, and other institutions authorized to be lenders under the federally insured student loan act to service loans purchased pursuant to this section at an agreed upon contract price.

Sec. 42. Section 7, chapter 217, Laws of 1945 and RCW 73.12.060 are each amended to read as follows:

All money in the veterans' loan insurance fund and all money in the veterans' loan insurance reserve fund shall be invested by the state (~~(finance committee)~~) investment board and all expenses of the veterans' loan insurance division shall be paid by the director from the income from said investments, which expenses the director is hereby authorized to incur and pay.

Sec. 43. Section 2, chapter 207, Laws of 1975 1st ex. sess. and RCW 77.12.323 are each amended to read as follows:

(1) There is established in the state game fund an account to be known as the game special wildlife account. All moneys received pursuant to RCW 77.12.320 as now or hereafter amended as compensation for fish and wildlife losses shall be deposited in the game special wildlife account of the state game fund and shall be used only for purposes in support of RCW 77.12-.010, 77.12.030, and 77.12.175.

(2) The commission may advise the state treasurer and the state (~~(finance committee)~~) investment board of any surplus in the game special wildlife account above the current needs in support of game and wildlife. The state (~~(finance committee)~~) investment board may invest and reinvest such surplus of said account as the commission or department deems appropriate, except as otherwise prohibited by law, in an investment authorized by RCW 43.84.150, or in securities issued by the United States government as defined by RCW 43.84.080 (1) and (4), and all income received from such investments shall be deposited to the credit of the game special wildlife account in the state game fund.

NEW SECTION. Sec. 44. The amendment of RCW 2.10.080, 2.12-.070, 41.26.060, 41.26.070, and 41.40.080 by this 1980 act is intended solely to provide for the investment of state funds and is not intended to alter the administration of the affected retirement systems by the department of retirement systems under chapter 41.50 RCW.

NEW SECTION. Sec. 45. Sections 1 through 16 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 46. Sections 2, 4, 5, 6, 7, 10, 11, 16, and 47 of this 1980 act shall take effect on July 1, 1980. The remaining sections of this 1980 act shall take effect on July 1, 1981.

NEW SECTION. Sec. 47. There is appropriated for the biennium ending June 30, 1981, to the state investment board from the investment reserve account the sum of five thousand dollars, or so much thereof as may

be necessary, to cover transitional costs incurred during the fiscal year ending June 30, 1981.

NEW SECTION. Sec. 48. The following acts or parts of acts are each repealed:

- (1) Section 43.33.020, chapter 8, Laws of 1965 and RCW 43.33.020;
- (2) Section 43.33.025, chapter 8, Laws of 1965 and RCW 43.33.025;
- (3) Section 7, chapter 103, Laws of 1973 1st ex. sess., section 112, chapter 34, Laws of 1975-'76 2nd ex. sess., section 3, chapter 251, Laws of 1977 ex. sess., section 1, chapter 119, Laws of 1979 and RCW 43.33.050;
- (4) Section 8, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.33.060;
- (5) Section 9, chapter 103, Laws of 1973 1st ex. sess., section 26, chapter 105, Laws of 1975-'76 2nd ex. sess., section 4, chapter 251, Laws of 1977 ex. sess. and RCW 43.33.070;
- (6) Section 10, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.33.080;
- (7) Section 11, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.33.090;
- (8) Section 6, chapter 251, Laws of 1977 ex. sess., section 2, chapter 119, Laws of 1979 and RCW 43.33.110; and
- (9) Section 11, chapter 251, Laws of 1977 ex. sess. and RCW 43.33.120.

NEW SECTION. Sec. 49. 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 7, 1980.

Passed the Senate March 6, 1980.

Vetoed by the Governor April 4, 1980.

Filed in Office of Secretary of State April 4, 1980.

Veto overridden by the House January 30, 1981.

Veto overridden by the Senate February 6, 1981.

Filed in Office of Secretary of State February 10, 1981.

Note: Governor's explanation of veto is as follows:

"I am returning herewith without my approval, Substitute House Bill No. 1610 entitled:

"AN ACT Relating to state investments."

House Bill No. 1610 represents a major restructuring of the state's investment management. One fourteen member board, which is made up in significant part by executive and legislative appointees, is to replace the numerous boards that now exist. It is the composition of this new board that concerns me.

I challenge the legislative participation on the board. The legislature's duty is to make laws. A necessary part of this is an evaluation of current laws and an objective evaluation of how these laws are being carried out. This evaluative role by

the legislature is critical and must not be hindered by a possible conflict of interest through actual participation in ongoing programs.

In addition, I question the appointed origin of the board members. The active and the retired members of the state's retirement systems must be responsive to public interest. The board that this bill proposes would be rife with appointed individuals who would be insulated from public accountability.

Lastly, I recognize the structural and administrative problems which this bill addresses. Many other states have selected a more centralized management system. However, since this bill would not significantly shift the state's investment authority until mid-1981, I am convinced that there is enough time to develop better alternatives to meet such challenges.

For the foregoing reasons, I have determined to veto Substitute House Bill No. 1610.

Respectfully submitted,

Dixy Lee Ray
Governor"

Note: Chief Clerk of the House's letter informing the Secretary of State that the legislature has overridden the Governor's veto is as follows:

"February 10, 1981

The Honorable Ralph Munro
Secretary of State
Legislative Building
Olympia, WA 98504

Dear Mr. Munro:

We herewith transmit Substitute House Bill No. 1610, which was passed by the House of Representatives on January 30, 1981, and by the Senate on February 6, 1981, notwithstanding the Governor's Veto.

Yours very truly,

VITO T. CHIECHI
Chief Clerk"

CHAPTER 4

[Second Substitute House Bill No. 209]

STATE FUNDS, TRANSFERS

AN ACT Relating to state funds; amending section 28A.40.100, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 6, Laws of 1980 and RCW 28A.40.100; amending section 2, chapter 178, Laws of 1961 and RCW 79.64.020; amending section 8, chapter 294, Laws of 1971 ex. sess. as last amended by section 3, chapter 6, Laws of 1979 and RCW 84.33.080; amending section 3, chapter 212, Laws of 1977 ex. sess. as amended by section 1, chapter 164, Laws of 1979 ex. sess. and RCW 43.101.210; adding a new section to chapter 84.33 RCW; creating new sections; repealing section 1, chapter 70, Laws of

1975-'76 2nd ex. sess. and RCW 82.32.095; providing effective dates; and declaring an emergency.

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

Section 1. Section 28A.40.100, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 6, Laws of 1980 and RCW 28A.40.100 are each amended to read as follows:

The common school construction fund is to be used exclusively for the purpose of financing the construction of facilities for the common schools. The sources of said fund shall be: (1) Those proceeds derived from sale or appropriation of timber and other crops from school and state land subsequent to June 30, 1965, other than those granted for specific purposes; (2) the interest accruing on the permanent common school fund from and after July 2, 1967, together with all rentals and other revenue derived therefrom and from land and other property devoted to the permanent common school fund from and after July 1, 1967; (3) all moneys received by the state from the United States under the provisions of section 191, Title 30, United States Code, Annotated, and under section 810, chapter 12, Title 16, (Conservation), United States Code, Annotated; and (4) such other sources as the legislature may direct. That portion of the common school construction fund derived from interest on the permanent common school fund may be used to retire such bonds as may be authorized by law for the purpose of financing the construction of facilities for the common schools.

The interest accruing on the permanent common school fund together with all rentals and other revenues accruing thereto pursuant to subsection (2) of this section prior to July 1, 1967, shall be exclusively applied to the current use of the common schools.

To the extent that the moneys in the common school construction fund are in excess of the amount necessary to allow fulfillment of the purpose of said fund, the excess shall be available for deposit to the credit of the permanent common school fund or available for the current use of the common schools, as the legislature may direct. Any money from the common school construction fund which is made available for the current use of the common schools shall be restored to the fund by appropriation, including interest income foregone, before the end of the next fiscal biennium following such use.

Sec. 2. Section 2, chapter 178, Laws of 1961 and RCW 79.64.020 are each amended to read as follows:

A resource management cost account in the state general fund is hereby created to be used solely for the purpose of defraying the costs and expenses necessarily incurred by the department in managing and administering public lands and the making and administering of leases, sales, contracts, licenses, permits, easements, and rights of way as authorized under the provisions of this title. Appropriations from the account to the department shall

be expended for no other purposes. Funds in the account may be appropriated or transferred by the legislature for the benefit of the trust from which the funds were derived.

NEW SECTION. Sec. 3. The reserve for accrued revenue account is abolished and all funds therein are transferred to the general fund.

NEW SECTION. Sec. 4. Section 1, chapter 70, Laws of 1975-'76 2nd ex. sess. and RCW 82.32.095 are each repealed.

NEW SECTION. Sec. 5. There is added to chapter 84.33 RCW a new section to read as follows:

A timber tax distribution guarantee account is established in the state treasury. Any interest earned on the investment of cash balances in this account shall be deposited in this account. If funds in the state timber tax reserve account are insufficient to make the distributions under RCW 84.33.080(4), each taxing district other than the state shall receive an amount from the timber tax distribution guarantee account to cover the insufficiency: PROVIDED, That a school district shall not receive an amount from the timber tax distribution guarantee account for that part of its state timber tax reserve account distribution which is attributable to a maintenance and operation levy.

Sec. 6. Section 8, chapter 294, Laws of 1971 ex. sess. as last amended by section 3, chapter 6, Laws of 1979 and RCW 84.33.080 are each amended to read as follows:

(1) On or before December 15 of each year commencing with 1972, the assessor of each timber county shall deliver to the treasurer of such county and to the department of revenue a schedule setting forth for each taxing district or portion thereof lying within such county:

(a) The value of timber as shown on the timber roll for such year;

(b) The aggregate dollar rate calculated pursuant to RCW 84.33.060 and actually utilized the immediately preceding October in extending real property taxes upon the tax rolls for collection in the following year;

(c) A "timber factor" which is the product of such aggregate dollar rate, the assessment ratio applied generally by such assessor in computing the assessed value of other property in his county and the appropriate portion listed below of the timber roll for such year ((a) above):

YEAR	PORTION OF TIMBER ROLL
1972	25%
1973	55%
1974 through 1977	100%
1978 and thereafter	80%

On or before December 31 of each year commencing with 1972, the department of revenue shall determine the proportion that each taxing district's timber factor bears to the sum of the timber factors for all taxing districts in the state, and shall deliver a list to the assessor and the treasurer of each timber county and to the state treasurer showing the factor and proportion for each taxing district.

(2) On the twentieth day of the second month of each calendar quarter, commencing February 20, 1974, the state treasurer shall pay to the treasurer of each timber county for the account of each taxing district such district's proportion and pay into the state general fund for the support of the common schools the state's proportion (determined in December of the preceding year pursuant to subsection (1) of this section) of the amount in state timber tax account A collected upon timber harvested in the preceding calendar quarter, but in no event shall any such quarterly payment to a taxing district, when added to such payments made to such district the previous quarters of the same year, exceed, respectively one-fourth, one-half, three-fourths, or the full amount of the timber factor for such district determined in December of the preceding year.

The balance in state timber tax account A, if any, on the twentieth day of the second month of each calendar quarter commencing February 20, 1975 and ending November 20, 1982 shall be transferred to the state timber tax reserve account.

(3) If the balance in state timber tax account A immediately prior to such twentieth day of the second month of each calendar quarter is not sufficient to permit a payment of one-fourth, one-half, three-fourths, or the full amount, as the case may be, which, when added to the payments made to any taxing district the previous quarters of the same year, will equal the timber factor for such district determined in December of the preceding year, the necessary additional amount shall be transferred from the state timber tax reserve account to state timber tax account A.

(4) ~~((If, after the transfer, if any, from the state timber tax account A (pursuant to subsection (2) of this section) in August of any year commencing with 1974, the balance in the state timber reserve account exceeds two million dollars, the amount of the excess shall be applied first, subject to legislative appropriation of funds allocated from the state timber reserve account;))~~ Funds in the state timber tax reserve account may be appropriated by the legislature for the support of the common schools, and for activities undertaken by the department of revenue forest tax division and for the activities undertaken by the department of natural resources relating to classification of lands as required by this chapter. ((If)) Following the transfer, if any, from the state timber tax account A (pursuant to subsection (2) of this section) in November of 1977 and each year thereafter, ~~((the balance in the state timber tax reserve account exceeds two million dollars;))~~ the department of revenue shall determine on or before December 31

of such year, an amount to be distributed to the taxing districts the following calendar year, which distribution shall be determined in the following manner: PROVIDED, That the amount of such excess reserve account distribution shall be limited to that amount which, when added to the total account A distribution for the same calendar year, will allow a percentage increase or decrease in total calendar year distributions equal to the percentage increase or decrease in excise tax collections between the preceding calendar year and the current calendar year:

(a) The department of revenue shall calculate a harvest factor and a harvest factor proportion for each taxing district, in the manner provided in subsection (5) of this section except that for years before 1978 there shall be used the aggregate value of timber harvested for as many quarters for which information is available;

(b) By multiplying the amount of such excess by the harvest factor proportion for each taxing district respectively, the department of revenue shall calculate the amount to be distributed to each local taxing district and to the state and shall certify such amounts to the respective county assessors and state;

(c) Along with each quarterly payment pursuant to subsection (2) of this section, the state treasurer shall pay, out of the state timber reserve account, to the treasurer of each timber county for the account of each local taxing district one-fourth of such district's portion (determined pursuant to (b) above) of such excess and the state treasurer shall pay into the state's general fund for the support of the common schools out of the state timber tax reserve account such additional one-fourth amount due the state.

(5) On or before December 31 of each year commencing with 1978, the department of revenue shall deliver to the treasurer of each timber county a schedule setting forth for each taxing district or portion thereof lying within such county:

(a) The average of the aggregate value of all timber harvested within such district in each of the immediately preceding five years as determined from the excise tax returns filed with the department of revenue;

(b) The aggregate dollar rate calculated pursuant to RCW 84.33.060 and chapter 84.52 RCW and actually utilized the immediately preceding October in extending real property taxes upon the tax rolls for collection the following year;

(c) A "harvest factor" which is the product of such five year average and such aggregate dollar rate;

(d) The proportion that each taxing district's harvest factor bears to the sum of the harvest factors for all taxing districts in the state.

NEW SECTION. Sec. 7. The unappropriated balance of the state timber tax reserve account is transferred to the timber tax distribution guarantee account.

Sec. 8. Section 3, chapter 212, Laws of 1977 ex. sess. as amended by section 1, chapter 164, Laws of 1979 ex. sess. and RCW 43.101.210 are each amended to read as follows:

(1) Costs of criminal justice training shall be borne in part by those who necessitate the establishment and maintenance of the criminal justice system.

(2) In each instance of bail forfeiture or monetary penalty paid in lieu of a court appearance attendant to any violation of a law of this state or an ordinance of a city or county except an ordinance relating to vehicles unlawfully left or parked, an assessment which shall be in addition to such bail forfeited or penalty paid shall be collected and forwarded within thirty days of receipt of such assessment by the clerk of the court, or the county treasurer, to the state treasurer to be deposited in an account within the state general fund to be known as the criminal justice training account, hereby created, funds from which shall be appropriated by law to the Washington state criminal justice training commission as established by chapter 43.101 RCW: PROVIDED, That funds in the criminal justice training account may be transferred to the state general fund by statute prior to June 30, 1981. The amount of the assessment shall be as follows:

(a) When forfeiture or penalty is ten dollars to nineteen dollars and ninety-nine cents, three dollars;

(b) When forfeiture or penalty is twenty dollars to thirty-nine dollars and ninety-nine cents, five dollars;

(c) When forfeiture or penalty is forty dollars to fifty-nine dollars and ninety-nine cents, seven dollars;

(d) When forfeiture or penalty is sixty dollars to ninety-nine dollars and ninety-nine cents, twelve dollars; and

(e) When forfeiture or penalty is one hundred dollars or more, fifteen dollars.

(3) When any deposit of bail is made for a violation to which this section applies, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed in subsection (2) of this section.

(4) When bail is forfeited or a penalty paid, the assessment prescribed in this section shall be forwarded to the state treasurer pursuant to this section. If bail is returned, the assessment made thereon shall also be returned.

NEW SECTION. Sec. 9. On the effective date of this act, the state treasurer shall transfer seven hundred eighty-four thousand dollars from the criminal justice training account to the state general fund.

NEW SECTION. Sec. 10. 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. 11. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions. Sections 3, 4, and 7 of this act shall take effect on June 30, 1981. The remainder of this act shall take effect immediately.

Passed the House February 3, 1981.
Passed the Senate February 16, 1981.
Approved by the Governor February 19, 1981.
Filed in Office of Secretary of State February 19, 1981.

CHAPTER 5

[Substitute House Bill No. 206]
SUPPLEMENTAL BUDGET

AN ACT Relating to state agencies; adopting a supplemental budget; making supplemental appropriations and authorizing expenditures; making other appropriations; amending section 52, chapter 270, Laws of 1979 ex. sess. (uncodified); amending section 1, chapter 167, Laws of 1980 (uncodified); amending section 53, chapter 270, Laws of 1979 ex. sess. as amended by section 8, chapter 167, Laws of 1980 (uncodified); amending section 54, chapter 270, Laws of 1979 ex. sess. as amended by section 9, chapter 167, Laws of 1980 (uncodified); amending section 55, chapter 270, Laws of 1979 ex. sess. (uncodified); amending section 56, chapter 270, Laws of 1979 ex. sess. (uncodified); amending section 58, chapter 270, Laws of 1979 ex. sess. as amended by section 10, chapter 167, Laws of 1980 (uncodified); amending section 59, chapter 270, Laws of 1979 ex. sess. as amended by section 11, chapter 167, Laws of 1980 (uncodified); amending section 60, chapter 270, Laws of 1979 ex. sess. (uncodified); amending section 61, chapter 270, Laws of 1979 ex. sess. (uncodified); amending section 62, chapter 270, Laws of 1979 ex. sess. (uncodified); amending section 19, chapter 261, Laws of 1979 ex. sess. (uncodified); amending section 63, chapter 270, Laws of 1979 ex. sess. (uncodified); amending section 64, chapter 270, Laws of 1979 ex. sess. (uncodified); amending section 65, chapter 270, Laws of 1979 ex. sess. as amended by section 1, chapter 158, Laws of 1980 and by section 12, chapter 167, Laws of 1980 (uncodified); amending section 100, chapter 270, Laws of 1979 ex. sess. (uncodified); amending section 15, chapter 15, Laws of 1970 ex. sess. as last amended by section 5, chapter 6, Laws of 1980 and RCW 28A.48.010; and declaring an emergency.

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

NEW SECTION. Section 1. A supplemental budget as set forth in this 1981 act is hereby adopted and, subject to the provisions set forth in this 1981 act, the several amounts specified in this 1981 act, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be disbursed for salaries, wages, and other expenses of the designated agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 1979, and ending June 30, 1981, except as otherwise provided, out of the several funds of the state hereinafter named, and making other appropriations.

NEW SECTION. Sec. 2. FOR THE HOUSE OF REPRESENTATIVES

General Fund Appropriation \$ 1,400,000

NEW SECTION. Sec. 3. FOR THE SENATE

General Fund Appropriation \$ 800,000

NEW SECTION. Sec. 4. FOR THE ADMINISTRATOR FOR THE COURTS

General Fund Appropriation \$ 500,000

NEW SECTION. Sec. 5. FOR THE INSURANCE COMMISSIONER

General Fund Appropriation \$ 41,000

The appropriation contained in this section shall be used exclusively for payment of costs of receivership services provided in the case of H & A Associates, Incorporated, provided that reimbursement is not received prior to June 30, 1981.

NEW SECTION. Sec. 6. FOR THE DEPARTMENT OF REVENUE

General Fund Appropriation \$ 275,000

NEW SECTION. Sec. 7. FOR THE SECRETARY OF STATE

General Fund Appropriation \$ 189,000

NEW SECTION. Sec. 8. FOR THE OFFICE OF FINANCIAL MANAGEMENT

General Fund Appropriation \$ 4,200,000

The appropriation contained in this section, or so much thereof as may be necessary, shall be used exclusively for grants to those units of local government most severely impacted by the eruptions of Mt. St. Helens as determined pursuant to this section.

(1) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "FEMA costs" means the difference between those costs of a unit of local government resulting from Mt. St. Helens eruptions which are eligible for reimbursement under criteria established by the federal emergency management agency and those funds provided, or to be provided, by the federal emergency management agency to the unit of local government.

(b) "Units of local government" means counties, cities, towns, special purpose districts, and municipal or quasi municipal corporations.

(c) "Operating budget" means those budget items of a unit of local government other than capital, enterprise, and any special revenue-funded budget items, to be specifically delineated by the office of financial management.

(2) The office of financial management shall develop a distribution mechanism for these grants subject to the following criteria:

(a) The only costs eligible for reimbursement and the only costs used in calculating the distribution of grants shall be FEMA costs.

(b) Grants shall not be distributed to units of local government having a FEMA cost impact of less than four percent of their operating budget.

(c) Grants shall be distributed in a relationship that provides a greater percentage reimbursement to those units of local government whose FEMA costs represent a greater proportion of their operating budget, but in no instance shall a unit of local government receive grants in excess of seventy-five percent of their FEMA costs.

NEW SECTION. Sec. 9. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Department of General Administration Facilities and Services Revolving Fund Appropriation \$ 540,000

NEW SECTION. Sec. 10. FOR THE DEPARTMENT OF LICENSING

Highway Safety Fund Appropriation \$ 14,000

NEW SECTION. Sec. 11. FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

General Fund—Criminal Justice Training Account Appropriation \$ 469,000

NEW SECTION. Sec. 12. FOR THE DEPARTMENT OF NATURAL RESOURCES

General Fund Appropriation \$ 350,000

The appropriation contained in this section shall be expended exclusively for emergency forest fire suppression.

Sec. 13. Section 52, chapter 270, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

State Funding Sources	\$	((1,239,677,000))
		<u>1,325,993,000</u>
Federal Funding Sources	\$	((848,298,000))
		<u>936,195,000</u>
Other Funding Sources	\$	13,433,000
Total of all Funding Sources	\$	((2,101,408,000))
		<u>2,275,621,000</u>
Total FTE Staff Years		((28,435))
		<u>27,961</u>

The appropriations contained in sections 53 through 65 of this act shall be subject to the following conditions and limitations:

(1) The department shall not initiate any new services beyond those authorized by appropriation in this act without approval of the office of financial management. The senate ways and means committee and the house appropriations committee of the legislature shall be advised of any approvals.

(2) Funds appropriated to programs in sections 53 through 65 of this act shall be initially allotted reflecting the fiscal assumptions and legislative intent of this act. ~~((Transfers between programs may occur only to the extent required to meet obligations deriving from federal matching requirements and legislative intent regarding federal programs as expressed in this appropriations act.))~~ Transfers between or within programs may occur notwithstanding any limitation, condition, or proviso in sections 53 through 65, chapter 270, Laws of 1979 ex. sess., when approved by the office of financial management. Prior to implementation of any transfer, an analysis of the programmatic impacts and justification of approved ~~((amendments to this plan))~~ transfers will be conveyed by the office of financial management to the senate ways and means committee and the house appropriations committee of the legislature.

(3) The department of social and health services will cooperate with the state energy office and participate in the programs established by Title III of the National Energy Conservation Policy Act.

Sec. 14. Section 1, chapter 167, Laws of 1980 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ADULT CORRECTIONS PROGRAM

There is appropriated to the department of social and health services for the adult corrections program for the biennium ending June 30, 1981, the following amount, or so much thereof as may be necessary:

General Fund Appropriation \$ 9,144,000

The appropriation contained in this section shall be subject to the following conditions and limitations:

(1) \$2,440,000 shall be expended for the operation of Cedar Creek as an adult corrections facility.

~~((2) \$206,000 shall be expended for a modular home construction vocation training program at the Washington state penitentiary.~~

~~(3) \$788,000 shall be expended for relief coverage required to be provided due to correctional officer training.~~

~~(4) \$733,000 shall be expended for provision of additional beds within the institutions.~~

~~(5) \$2,145,000 shall be expended for the costs incurred at the Washington state penitentiary resulting from the lockdown.))~~

Sec. 15. Section 53, chapter 270, Laws of 1979 ex. sess. as amended by section 8, chapter 167, Laws of 1980 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ADULT CORRECTIONS PROGRAM

General Fund Appropriation \$ ~~((12,318,000))~~
115,847,000

Total FTE Staff Years 4,299

The appropriation contained in this section shall be subject to the following conditions and limitations:

~~((1) Not more than \$1,702,000 from the general fund shall be expended for community services:~~

~~(2) Not more than \$1,716,000 from the general fund and 76.0 FTE's shall be expended for intensive parole:~~

~~(3) Not more than \$15,679,000 from the general fund and 731 FTE's shall be expended for probation and parole:~~

~~(4) Not more than \$7,002,000 from the general fund and 152 FTE's shall be expended for work/training release:~~

~~(5) Not more than \$81,663,000 from the general fund and 3,259 FTE's shall be expended for institutional staffing:~~

~~(6) \$123,000 from the general fund shall be expended to contract with a nonprofit corporation to provide a diversionary program for convicted felons with prior conviction records and prior incarcerations. No felon may participate in the program if: (a) he or she has a prior conviction for any violent or inherently dangerous felony, or (b) the crime for which he or she is being diverted into the program is a violent or inherently dangerous felony. For the purposes of this section, "violent or inherently dangerous felony" means rape in the first or second degree, robbery in the first or second degree, kidnapping in the first or second degree, assault in the first or second degree, or arson in the first or second degree. Prior to entering into the contract, the secretary of the department of social and health services must have assurance of the cooperation of the superior court bench of the county in which the program will be implemented. The program shall include the following:~~

~~(a) A contractual agreement between such nonprofit corporation and the felon with approval of the sentencing judge. Such agreement will describe work performance and restitution expectations, and judicial conditions and review;~~

~~(b) A fully controlled residential component;~~

~~(c) Supervision by a probation officer of the department of social and health services;~~

~~(d) Coordination of all activities by a case manager employed by such nonprofit corporation;~~

~~(e) Job development and placement services which will guarantee each participant regular employment;~~

~~(f) Specialized alcohol, drug, and counseling services; and~~

~~(g) Participation of community and corporate entities which will provide \$1,212,000 in direct and in-kind support.~~

~~(7) Not more than \$25,000 from the general fund will be expended for a program evaluation by an independent third party of the diversionary program set forth in subsection (6) of this section. Such evaluation will commence with the initiation of the contract and shall include the following:~~

~~(a) Evaluation of the intake procedures, including initial screening, final screening, the contract between the nonprofit organization and the convicted felon, and the participant selection process;~~

~~(b) Evaluation of the program elements;~~

~~(c) Evaluation of the program impact on recidivism using the measures of rearrest, type of rearrest offense, reconviction, revocation and recommitment;~~

~~(d) Evaluation of the control group;~~

~~(e) Data collection and analysis; and~~

~~(f) A cost benefit analysis.~~

~~(8) In the event chapter ... (Substitute House Bill No. 144), Laws of 1979 1st ex. sess. fails to pass, \$100,000 will be reverted to the general fund.~~

~~(9) \$347,000 shall be expended for the funding of private nonprofit diversion programs for persons convicted of alcohol and substance abuse related crimes and who are placed on probation, parole, or work training release.)~~

\$2,000,000 is provided for the temporary use of McNeil Island as an adult correctional facility.

Sec. 16. Section 54, chapter 270, Laws of 1979 ex. sess. as amended by section 9, chapter 167, Laws of 1980 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—JUVENILE REHABILITATION PROGRAM

General Fund Appropriation—State	\$	((51,197,000))
		<u>49,433,000</u>
General Fund Appropriation—Federal	\$	747,000
Total Appropriation	\$	((51,944,000))
		<u>50,180,000</u>
Total FTE Staff Years		((1,966)) <u>1,897</u>

The appropriations contained in this section shall be subject to the following conditions and limitations:

(1) \$600,000 from the general fund and 50 FTE staff years shall be held in reserve for the sole purpose of providing adequate staffing within the institutions and to allow residence units not currently being utilized to be opened and staffed. Staffing patterns within the residence units will provide for at least two staff persons during those periods, other than normal sleeping hours, when residents are not attending classes or involved in work programs.

(2) Not more than \$30,000 shall be expended for resource development and coordination and educational program development and coordination.

(3) \$800,000 and 26 FTE staff years shall be expended for a mental health unit at Maple Lane School, except that such unit will be fully implemented and operational by September 30, 1979, except that if such unit is not implemented and operational by September 30, 1979, the operational responsibility will be transferred to the mental health division of the department of social and health services.

(4) No funds shall be expended for the lease-back of any institutional facility.

Sec. 17. Section 55, chapter 270, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MENTAL HEALTH PROGRAM

General Fund Appropriation—State	\$	((98,559,000))
		<u>100,304,000</u>
General Fund Appropriation—Federal	\$	((17,184,000))
		<u>17,522,000</u>
General Fund Appropriation—Local	\$	2,119,000
Total Appropriation	\$	((117,862,000))
		<u>119,945,000</u>
Total FTE Staff Years		((3,110)) <u>3,108</u>

The appropriations contained in this section shall be subject to the following conditions and limitations:

(1) \$31,845,000 of which \$11,396,000 shall be from federal funds shall be expended to maintain and enhance the present level of community mental health services, except that, of this amount, \$373,000 from state funds shall be expended to continue the "grandfathered" level of support through the 1979-81 biennium at which time this level of support shall be terminated.

~~(2) ((\$5,500,000 from state funds shall be expended for the purpose of providing staffing grant-in-aid to the nonprofit community mental health centers and to nonprofit mental health providers: PROVIDED, That no more than a total of \$200,000 may be assigned to nonprofit mental health providers.~~

~~(3))~~ \$500,000 from state funds shall be expended to implement a program for the violent, disturbed child.

~~((4))~~ (3) \$262,000 from state funds ~~((shall))~~ may be expended to maintain institutional legal services.

~~((5))~~ (4) \$302,000 from state funds shall be expended for a demonstration project providing case management, residential, and support services to chronic seriously mentally ill adults who have continual histories of admission and readmission to eastern state hospital.

~~((6))~~ (5) \$400,000 from state funds shall be expended for a demonstration project in four counties to provide full case management services.

~~((7))~~ (6) \$984,000, of which \$49,000 shall be from federal funds, and 60 FTE staff years shall be held in reserve for the sole purpose of providing adequate staffing with the state hospitals.

~~((8))~~ (7) Not more than \$250,000 shall be expended for a demonstration project to reduce the number of hospitalizations of children assessed by mental health professionals as needing hospital care, provided that the project will involve intensive in-home family crisis and education services conducted by highly-trained individuals and shall include an evaluation component to compare the outcomes with those of similar children who are hospitalized. The department shall submit this evaluation to the legislature by January 5, 1981.

Sec. 18. Section 56, chapter 270, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DEVELOPMENTAL DISABILITIES PROGRAM

General Fund Appropriation—State	\$	((99,439,000))
		<u>99,956,000</u>
General Fund Appropriation—Federal	\$	((61,900,000))
		<u>59,893,000</u>
Total Appropriation	\$	((161,339,000))
		<u>159,849,000</u>
Total FTE Staff Years		((6,821)) <u>6,750</u>

The appropriations contained in this section are subject to the following conditions and limitations:

(1) \$1,718,000 (of which \$859,000 shall be from federal funds) ~~((with))~~ may be expended for home aide services, assuming six hundred fifty-five cases per month in fiscal year 1980 and seven hundred thirty-one cases per month in fiscal year 1981.

(2) Not more than \$682,000 (of which \$46,000 shall be from federal funds) shall be expended to increase the personal needs allowance of clients in group homes and institutions to \$32.50 per month.

(3) \$78,000 from state funds ~~((shall))~~ may be expended for the provision of legal services for institutionalized persons: PROVIDED, That no moneys may be expended on deinstitutionalization lawsuits.

(4) ~~((2,793,000 from state funds shall be expended solely for the purpose of providing vendor rate increases.~~

~~((7))~~ (5) Extended sheltered employment will be provided in the vocational rehabilitation program and none of the appropriations contained in this section shall be expended for such services.

~~((7))~~ (5) Not more than \$344,000 shall be allocated for a pilot project for disturbed youth to develop a treatment program for certain youth with multiple problems that do not fit within the specific eligibility criteria of the various service programs of the department of social and health services.

The department shall provide the appropriate legislative committees an evaluation and monitoring report semiannually regarding the effectiveness of this pilot project, and shall provide to the forty-seventh legislature, no later than January 5, 1981, an evaluation report containing recommendations for future programming.

~~((8))~~ (6) Not more than \$2,946,000 shall be expended exclusively to increase compensation for group home resident care and support staff, excluding administrative staff.

Sec. 19. Section 58, chapter 270, Laws of 1979 ex. sess. as amended by section 10, chapter 167, Laws of 1980 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—NURSING HOMES PROGRAM

General Fund Appropriation—State	\$	((122,273,000))
		<u>128,834,000</u>
General Fund Appropriation—Federal	\$	((21,595,000))
		<u>128,084,000</u>
Total Appropriation	\$	((243,868,000))
		<u>256,918,000</u>

The appropriations contained in this section shall be subject to the following conditions and limitations:

(1) The wages for nursing service personnel shall be the sum of the product of ninety percent of the prevailing wages for the categories of nursing assistants, licensed practical nurses, registered nurses, and noncontractual therapists and related restorative employees, expressed as an hourly rate, based upon the state-wide salary survey as conducted pursuant to RCW 41.06.160, multiplied by the standard hours determined by the department of social and health services.

(2) The wages for all employees, other than those specified in subsection (1) of this section and administrators and assistant administrators, shall be the sum of the product of ninety percent of the prevailing wages, expressed as an hourly rate, based upon the state-wide salary survey as conducted pursuant to RCW 41.06.160, multiplied by the standard hours for such employees developed by the department of social and health services.

(3) Food reimbursement shall be one hundred fifteen percent of the average of all costs for bulk and raw foods and beverages purchased for dietary needs, expressed as a per patient per day amount.

(4) Reimbursement for administration and operations will include all items not specified in subsections (1), (2), (3), (5), and (6) of this section and shall not exceed the eighty-fifth percentile of all reporting facilities, except that the nursing home facilities may be grouped by factors, other than ownership or legal organizational characteristics, which could reasonably influence cost requirements for administration and operations.

(5) Property reimbursement for both leased and owner-operated facilities shall not exceed the predicted cost plus one standard deviation of the necessary and ordinary costs of depreciation, and interest, of owner-operated facilities utilizing a multiple regression formula developed by the department of social and health services, recognizing factors which may be significant, including location, age, and type of facility. For July 1980 rate setting, rental costs of leased facilities other than those operating as intermediate care facilities for the mentally retarded, and depreciation and interest costs of owner-operated facilities, for leases or mortgages entered into prior to July 1, 1979, shall be reimbursed to the extent they do not exceed the reimbursement rate payable for the property cost center as of June 30, 1979, adjusted to meet any discrepancies as determined by the federal government between the reimbursements made and the approved state medic-aid plan, and adjusted for any approved capitalized additions or replacements; except that, any leased facility which has operated as an intermediate care facility for the mentally retarded prior to July 1, 1979, shall be reimbursed to the extent that the property costs exceed the upper limit of the multiple regression formula.

(6) The return of net invested equity for each facility will be determined by utilizing Medicare rules and regulations.

(7) Patient personal needs allowance limitation will be extended to \$32.50 per month.

~~(8) ((\$500,000, or so much thereof as may be necessary, may be expended by the department of social and health services for purposes of retaining special private counsel, subject to the concurrence of the governor, to defend the department against law suits challenging the cost reimbursement system of the department of social and health services.~~

~~(9))~~ \$810,000, of which \$404,000 shall be from federal funds, shall be used to implement a program which will enable short-term placement in nursing homes.

~~((+10))~~ (9) \$1,800,000 (of which \$900,000 shall be from federal funds) may be used for reimbursement of costs incurred from the training of nurses' assistants.

Sec. 20. Section 59, chapter 270, Laws of 1979 ex. sess. as amended by section 11, chapter 167, Laws of 1980 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—INCOME MAINTENANCE GRANTS PROGRAM

General Fund Appropriation—State	\$	((310,017,000))
		<u>362,698,000</u>
General Fund Appropriation—Federal	\$	((205,932,000))
		<u>266,072,000</u>
Total Appropriation	\$	((515,949,000))

628,770,000

The appropriations contained in this section shall be subject to the following conditions and limitations:

(1) ~~((31))~~ ~~\$31,928,000 (of which \$10,052,000 shall be from federal funds) shall be expended for the purposes of providing a 10.0% per year increase to all assistance grants.~~

~~((2))~~ \$1,496,000 from state funds shall be expended to increase the personal needs allowance of clients in nursing homes and congregate care facilities to \$32.50 per month.

~~((3))~~ (2) \$5,036,000 (of which \$448,000 shall be from federal funds) shall be expended solely for vendor rate increases of 7.0% per year.

~~((4))~~ (3) \$760,000 from state general funds shall be expended to provide forty-eight hours of shelter care for victims of domestic violence.

~~((5))~~ (4) \$360,000 from state general funds ~~((shall))~~ may be expended to provide a variable one-time allowance for persons without resources who are discharged from a skilled nursing facility.

~~((6))~~ (5) \$900,000 of state funds and \$600,000 of federal funds shall be expended to place Kitsap county residents into Area I grant standards eligibility and pay such grants accordingly.

~~((7))~~ (6) Not more than \$1,869,000 shall be expended exclusively to increase compensation for employees of congregate care facilities, excluding administrative staff.

~~((8))~~ (7) From the appropriation contained in this section, the department shall implement a 1.0% grant standard increase for all public assistance recipients effective July 1, 1980, in addition to the grant increase provided in subsection (1) of this section; except that, up to an additional 2.0% grant standard increase for all public assistance recipients may be implemented from the savings generated by the supplemental security income cost-of-living increase provided for fiscal year 1981.

(8) \$1,834,000 (of which \$917,000 shall be from state funds) is provided for the federal emergency assistance program at the food only level.

Sec. 21. Section 60, chapter 270, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—COMMUNITY SOCIAL SERVICES GRANTS PROGRAM

General Fund Appropriation—State	\$	((79,755,000))
		<u>83,355,000</u>
General Fund Appropriation—Federal	\$	65,624,000
General Fund Appropriation—Local	\$	100,000
Total Appropriation	\$	((145,479,000))
		<u>149,079,000</u>

The appropriations contained in this section shall be subject to the following conditions and limitations:

~~((4))~~ (1) \$161,000 from state funds shall be provided to the department of personnel alcoholism program for state employees stationed in eastern Washington, except that this program shall be initiated in eastern Washington by January 1, 1980; otherwise the funds shall revert to the general fund.

~~((5))~~ \$866,000, of which \$434,000 shall be from federal funds, shall be expended to provide enhancement of the foster care program, including the establishment of a foster parent's property damage or loss fund, an increase in the clothing allowance, and a children's needs assessment.

(6)) (2) Reimbursement to private child caring agencies responsible for foster care placement shall be increased from \$33 per month per child to \$50 per month per child.

(3) Chore services authorized under RCW 74.08.540 shall be provided through June 30, 1981, for those individuals who are adult recipients of supplemental security income and/or state supplementation and other individuals having income equal to or less than the state standards for state supplementation/supplemental security income. \$2,000,000 from state funds shall be used to continue chore services for a period ending not later than April 30, 1981, for those individuals who received chore services in February, 1981, but who are not eligible under the preceding sentence.

(4) \$1,600,000, or so much as is necessary, shall be used to provide bureau of community and residential care (BCRC) attendant care services, through June 30, 1981, to those individuals who received attendant care services in February, 1981.

Sec. 22. Section 61, chapter 270, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MEDICAL ASSISTANCE GRANTS PROGRAM

General Fund Appropriation—State	\$	((201,114,000))
		<u>238,061,000</u>
General Fund Appropriation—Federal	\$	((148,435,000))
		<u>178,689,000</u>
Total Appropriation	\$	((349,549,000))
		<u>416,750,000</u>

The appropriations contained in this section shall be subject to the following condition(s) and limitation(s):

~~((1))~~ \$23,743,000 (of which \$9,628,000 shall be from federal funds) shall be expended solely for inflationary increases for hospitals:

~~((2))~~ \$23,236,000 (of which \$10,307,000 shall be from federal funds) shall be expended solely for inflationary increases for medical vendors other than hospitals:))

\$1,923,000 (of which \$961,000 shall be from state funds) is provided in the federal emergency assistance program medical services.

Sec. 23. Section 62, chapter 270, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—PUBLIC HEALTH PROGRAM

General Fund Appropriation—State	\$	((20,556,000))
		19,430,000
General Fund Appropriation—Federal	\$	((49,745,000))
		49,731,000
General Fund Appropriation—Local	\$	400,000
General Fund Appropriation—State and Local Improvements Revolving Account— Water Supply Facilities: Appropriated pursuant to chapter 128, Laws of 1972 ex. sess. (Referendum 27)—Reappropriation	\$	10,814,000
Total Appropriation	\$	((81,515,000))
		80,375,000
Total FTE Staff Years		((838)) 817

The appropriations contained in this section shall be subject to the following conditions and limitations:

(1) \$1,266,000 from state funds ~~((shall))~~ may be used ~~((solely))~~ for supplemental funding to kidney centers.

(2) \$400,000 from state funds ~~((will))~~ may be used ~~((solely))~~ to continue the contract for the purchase of cancer research.

(a) Local offices are to provide outreach for the EPSDT program.

(b) The department shall develop a screening/billing form to be used by EPSDT providers as a requirement for payment.

(c) The department shall develop a reporting system which will enable follow-up to the EPSDT diagnosis and treatment process.

(d) 2 FTE's shall be used by the department for the coordination and management of the EPSDT program.

(3) \$800,000 of the general fund appropriation—state is contingent upon reduction of a like amount from section 19, chapter 261, Laws of 1979 ex. sess.

Sec. 24. Section 19, chapter 261, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

There is hereby appropriated from the general fund to the department of social and health services for the 1979–81 biennium, the sum of ~~((two million two hundred twenty-nine))~~ one million four hundred thousand dollars and twelve additional FTE staff years or so much thereof as may be necessary to carry out the purposes of RCW 18.71.200 through 18.71.210 and chapter 18.73 RCW.

~~((No less than sixty percent of the appropriated funds shall be disbursed in the form of grants under section 8 of this act.))~~

Sec. 25. Section 63, chapter 270, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—VOCATIONAL REHABILITATION PROGRAM

General Fund Appropriation—State	\$	<u>((7,196,000))</u>
		7,150,000
General Fund Appropriation—Federal	\$	<u>((35,741,000))</u>
		35,665,000
Total Appropriation	\$	<u>((42,937,000))</u>
		42,815,000
Total FTE Staff Years		<u>((658))648</u>

The appropriation contained in this section shall be subject to the following condition or limitation: \$2,871,000 of which \$2,153,000 shall be federal funds shall be expended for the extended sheltered employment program.

Sec. 26. Section 64, chapter 270, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ADMINISTRATION AND SUPPORTING SERVICES PROGRAM

General Fund Appropriation—State	\$	<u>((52,875,000))</u>
		49,631,000
General Fund Appropriation—Federal	\$	<u>((33,837,000))</u>
		34,847,000
Total Appropriation	\$	<u>((86,712,000))</u>
		84,478,000
Total FTE Staff Years		<u>((2,951))</u>
		2,815

The appropriations contained in this section shall be subject to the following conditions and limitations:

(1) Not more than \$14,003,000 of which \$8,359,000 shall be federal funds, and 702 FTE's shall be expended for support enforcement.

(2) Not more than \$2,526,000 of which \$923,000 shall be federal funds, and 104 FTE's shall be expended for fair hearings.

(3) Not more than \$17,628,000 of which \$5,371,000 shall be federal funds, and 526 FTE's shall be expended for information systems.

~~((4) \$115,000 of which \$23,000 shall be federal funds shall be expended to increase the personal needs allowance to \$32.50 per month.))~~

Sec. 27. Section 65, chapter 270, Laws of 1979 ex. sess. as amended by section 1, chapter 158, Laws of 1980 and by section 12, chapter 167, Laws of 1980 (uncodified) is reenacted and amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—COMMUNITY SERVICES ADMINISTRATION PROGRAM

General Fund Appropriation—State	\$	((70,935,000))	
			71,294,000
General Fund Appropriation—Federal	\$	((103,001,000))	
			99,321,000
Total Appropriation	\$	((173,936,000))	
			170,615,000
Total FTE Staff Years		((7,792))	7,629

The appropriations contained in this section shall be subject to the following conditions and limitations:

(1) Fifty-two FTE's shall be utilized in the delinquency prevention and crisis intervention intake services program. During the 1979-1981 biennium, the delinquency prevention services program shall be maintained without any significant changes.

(2) Not more than 258 FTE staff years and \$7,852,000 (of which \$7,736,000 shall be from federal funds) shall be utilized in the disability insurance benefits section.

(3) The department of social and health services shall obtain competitive bids from the private sector for the purpose of the administration of the dental program with medical assistance.

NEW SECTION. Sec. 28. The department shall conduct a random sample of those individuals affected by the elimination and/or reduction of the public assistance programs as required by this supplemental budget. This study shall include a detailing of the following impacts: (1) The extent to which individuals are institutionalized as a result of loss of assistance; (2) the number of individuals which were able to find assistance from private sources to meet basic needs; (3) the number of individuals who become enrolled in another state or locally funded program. The department shall provide this report within existing research resources.

NEW SECTION. Sec. 29. The department shall conduct a random sample of those individuals affected by the reduction of chore services as required by this supplemental budget. This study shall include a detailing of the following impacts: (1) The extent to which individuals are institutionalized as a result of loss of assistance; (2) the number of individuals which were able to find assistance from private sources to meet basic needs; and (3) the number of individuals who become enrolled in another state or locally funded program. The department shall provide this report within existing research resources.

Sec. 30. Section 100, chapter 270, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—
 BASIC EDUCATION ALLOCATION FOR FISCAL YEARS 1980
 AND 1981

General Fund Appropriation—State	\$	((2,063,520,000))
		<u>2,050,620,000</u>
<u>General Fund—State Timber Tax Reserve</u>		
Account Appropriation	\$	24,000,000
<u>Common School Construction Fund Appropria-</u>		
tion	\$	19,956,000
<u>General Fund—Resource Management Cost</u>		
Account Appropriation	\$	1,823,000
Total Appropriation	\$	<u>2,096,399,000</u>

The appropriations contained in this section shall be subject to the following conditions and limitations:

(1) No district may grant from any fund source whatsoever any percentage salary increase greater than that provided in sections 100, 102, 103, and 106 of this act.

(2) The allocation of moneys for a basic education allocation per annual average full time equivalent student for the 1979–80 school year shall be at 100% of formula and 100% of formula in the 1980–81 school year. One hundred percent of formula for each school district shall be determined by the superintendent of public instruction as follows:

(a) Respecting certificated employees: A numerical allocation of one certificated staff unit shall be established for each average annual twenty full time equivalent kindergarten, elementary, and secondary students, excluding secondary vocational full time equivalent students enrolled in a vocational program approved by the superintendent of public instruction.

(b) Respecting certificated employees: A numerical allocation of one certificated staff unit shall be established for each average annual sixteen and sixty–seven one–hundredths full time equivalent students enrolled in a vocational education program approved by the superintendent of public instruction.

(c) Respecting certificated employees: Numerical allocations of certificated staff units shall be established for districts enrolling not more than one hundred average annual full time equivalent students and for small school plants within any school district, which small plants have been judged to be remote and necessary by the state board of education as follows:

(i) For grades K–6, for enrollments of not more than sixty annual average full time equivalent students, three certificated staff units;

(ii) For grades K–6, for enrollments above sixty annual average full time equivalent students, additional certificated staff units based upon a ratio of one certificated staff unit per twenty annual average full time equivalent students;

(iii) For grades 7 and 8, for enrollments of not more than twenty annual average full time equivalent students, one certificated staff unit;

(iv) For grades 7 and 8, for enrollment above twenty annual average full time equivalent students, additional certificated staff units based upon a ratio of one certificated staff unit per twenty annual average full time equivalent students.

(d) Respecting certificated employees: Numerical allocations of certificated staff units shall be established for districts operating high schools with enrollments of not more than three hundred average annual full time equivalent students as follows:

(i) Nine and one-half certificated staff units for the first sixty annual average full time equivalent students;

(ii) Additional certificated staff units based upon a ratio of one certificated staff unit per forty-three and one-half average annual full time equivalent students.

(e) Total certificated compensation entitlement for school year 1979-80 shall be the sum of the following subsections:

(i) Maintenance of compensation shall be calculated using each district's 1978-79 base salary established in section 101 of this act times the number of certificated staff units generated in subsection (2)(a) through (d) of this section in each district times each district's particular 1979-80 average staff mix factor improved by seven and forty-three hundredths percent;

(ii) Total salary increase compensation for each district shall be calculated by multiplying the 1978-79 base salary times the total number of staff units generated in subsection (2)(a) through (d) of this section times the 1979-80 average staff mix factor, times the percentage salary increase for each district pursuant to section 102 of this act improved by six and thirteen hundredths percent; and

(iii) Health benefits shall be calculated at the rate of \$85 per month per certificated full time equivalent staff units generated in subsection (2)(a) through (d) of this section.

(f) Total certificated compensation entitlement for school year 1980-81 shall be equal to the sum of the following subsections:

(i) Maintenance of compensation shall be calculated by using each district's 1978-79 base salary established in section 101 of this act improved by the percentage salary increase for each district pursuant to section 102 of this act, times the number of staff units generated in subsection (2)(a) through (d) of this section times each district's particular 1980-81 average staff mix factor improved by seven and seventy-eight hundredths percent;

(ii) Total salary increase compensation for each district shall be calculated by multiplying the 1978-79 base salary times the total number of staff units generated in subsection (2)(a) through (d) of this section times the

1980-81 average staff mix factor, improved by the percentage salary increase pursuant to section 102 of this act, times the percentage salary increase pursuant to section 103 of this act improved by six and forty-eight hundredths percent; and

(iii) Health benefits shall be calculated at the rate of \$95 per month per certificated full time equivalent staff units generated in subsection (2)(a) through (d) of this section.

(g) Respecting classified employees: A numerical allocation of one classified staff unit for each three certificated staff units as computed for the purposes of subsections (2) (a), (c) and (d) of this section, and one classified staff unit for each sixty vocational full time equivalent students, for each school district shall be established.

(h) Total 1979-80 basic education classified compensation entitlement for each district shall be equal to the sum of the following:

(i) Maintenance of classified compensation shall be equal to the staff units generated in subsection (2)(g) of this section times the 1978-79 average classified salary established in section 104 of this act improved by nineteen and thirty-one hundredths percent;

(ii) Total salary increase compensation shall be equal to the 1978-79 average classified salary established in section 104 of this act times the classified units established in subsection (2)(g) of this section times eight percent salary increase improved by thirteen and thirteen hundredths percent; and

(iii) Health benefits shall be calculated at the rate of \$85 per month per classified full time equivalent staff units generated in subsection (2)(g) of this section.

(i) Total 1980-81 basic education classified compensation entitlement for each district shall be equal to the sum of the following:

(i) Maintenance of classified compensation shall be equal to the staff units generated in subsection (2)(g) of this section times the 1978-79 average classified salary for each district improved by eight percent improved by nineteen and sixty-six hundredths percent;

(ii) Total salary increase compensation shall be equal to the 1978-79 average classified salary for each district improved by eight percent times the number of staff units established in subsection (2)(g) of this section, times six percent salary increase improved by thirteen and forty-eight hundredths percent; and

(iii) Health benefits shall be calculated at the rate of \$95 per month per classified full time equivalent staff units generated in subsection (2)(g) of this section.

(j) Respecting nonemployee related costs: The allocation of additional moneys for nonemployee related costs for the 1979-80 school year shall utilize the number of certificated staff units as computed for the purposes of subsections (2) (a), (c), and (d) of this section, multiplied by \$3,910 for

each such certificated staff unit and shall utilize the number of certificated staff units computed for the purposes of subsection (2)(b) of this section, multiplied by \$6,893 for each such certificated staff unit.

(k) Respecting nonemployee related costs: The allocation of additional moneys for nonemployee related costs for the 1980-81 school year shall utilize the number of certificated staff units as computed for the purposes of subsections (2) (a), (c), and (d) of this section, multiplied by \$4,184 for each such certificated unit and shall utilize the number of certificated staff units computed for the purposes of subsection (2)(b) of this section multiplied by \$7,375 for each such certificated staff unit.

(3) Not more than \$10,460,000 of the appropriation contained in this section shall be expended for districts which experience an enrollment decline in the 1979-80 school year from the 1978-79 base enrollment level and in the 1980-81 school year from the 1979-80 base enrollment level. The superintendent of public instruction shall distribute funds based on certificated staff units in the 1979-80 and 1980-81 school years to such districts on the basis of current school year enrollment plus one-half the amount of the enrollment decline from the prior school year level. The superintendent of public instruction in ascertaining the full time equivalent enrollment under this section for any school district declining in enrollment at a rate of at least four percent, or three hundred full time equivalent students, whichever is less, from the immediately preceding school year, shall increase the enrollment as otherwise herein computed by fifty percent of the full time equivalent pupil enrollment loss from the previous school year.

(4) The superintendent of public instruction shall distribute not more than \$19,507,000 of the funds appropriated by this section, outside of the basic education allocation to school districts as follows:

(a) For school district emergencies, not more than \$500,000.

(b) For fire protection districts at a rate of \$1.00 per year for each student attending a school located in an unincorporated area within a fire protection district as mandated by RCW 52.36.020; not more than \$280,000 for the 1979-80 school year and not more than \$280,000 for the 1980-81 school year.

(c) Not more than \$6,138,000 shall be expended for extracurricular and extended duty pay to be distributed on the basis of \$85 per state funded full time equivalent certificated staff per year in the following programs: Basic education, secondary vocational education, general support, handicapped, and special needs.

(d) For substitute teachers, to be distributed to districts on the basis of the number of state supported employees who are classroom teachers; for fiscal year 1980, an amount not to exceed \$5,447,000 and for fiscal year 1981, an amount not to exceed \$6,562,000: PROVIDED, That such distribution shall be for not more than five days per classroom teacher and shall

be reimbursable at a rate of forty dollars per day exclusively for sick leave days taken.

(e) Not more than \$300,000 for nonhigh school district billings for documented shortages caused by application of the levy lid act, chapter 325, Laws of 1977 ex. sess.

(5) The superintendent of public instruction shall ensure that data reported by each school district regarding the staff mix factor is accurate for allocation purposes.

NEW SECTION. Sec. 31. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

General Fund Appropriation—State	\$	607,000
General Fund—Resource Management Cost		
Account Appropriation	\$	3,177,000
Total Appropriation	\$	3,784,000

The appropriations contained in this section shall be subject to the following conditions and limitations:

- (1) Not more than \$2,542,000 shall be expended for handicapped excess costs.
- (2) Not more than \$1,000,000 shall be expended for the pupil transportation program.
- (3) Not more than \$242,000 shall be expended for adult education at vocational-technical institutes.

Sec. 32. Section 15, chapter 15, Laws of 1970 ex. sess. as last amended by section 5, chapter 6, Laws of 1980 and RCW 28A.48.010 are each amended to read as follows:

(1) On or before the last business day of September 1969 and each month thereafter, the superintendent of public instruction shall apportion from the state general fund to the several educational service districts of the state the proportional share of the total annual amount due and apportionable to such educational service districts for the school districts thereof as follows:

September	9%
October	9%
November	5.5%
December	9%
January	9%
February	9%
March	9%
April	9%
May	5.5%
June	9%
July	8.5%
August	8.5%

The annual amount due and apportionable shall be the amount apportionable for all apportionment credits estimated to accrue to the schools during the apportionment year beginning September first and continuing through August thirty-first. Appropriations made for school districts for each year of a biennium shall be apportioned according to the schedule set forth in this section for the fiscal year starting September 1st of the then calendar year and ending August 31st of the next calendar year. The apportionment from the state general fund for each month shall be an amount which will equal the amount due and apportionable to the several educational service districts during such month: PROVIDED, That any school district may petition the superintendent of public instruction for an emergency advance of funds which may become apportionable to it but not to exceed ten percent of the total amount to become due and apportionable during the school districts apportionment year. The superintendent of public instruction shall determine if the emergency warrants such advance and if the funds are available therefor. If he determines in the affirmative, he may approve such advance and, at the same time, add such an amount to the apportionment for the educational service district in which the school district is located: PROVIDED, That the emergency advance of funds and the interest earned by school districts on the investment of temporary cash surpluses resulting from obtaining such advance of state funds shall be deducted by the superintendent of public instruction from the remaining amount apportionable to said districts during that apportionment year in which the funds are advanced.

(2) Notwithstanding the apportionment percentages prescribed in subsection (1) of this section, for the period ending August 31, 1981, the June apportionment shall be 4.5 percent and the July and August apportionments shall each be 10.75 percent.

NEW SECTION. Sec. 33. FOR THE STATE TREASURER—
TRANSFERS

General Fund—Investment Reserve Account
 Appropriation: For transfer to the General Fund on or before June 30, 1981, an amount up to \$18,000,000 (in addition to amounts appropriated in section 171, chapter 270, Laws of 1979 ex. sess.) \$ 18,000,000

State Treasurer's Service Fund Appropriation:
 For transfer to the General Fund on or before July 20, 1981, an amount up to \$11,600,000 in excess of the cash requirements in the State Treasurer's Service Fund for fiscal year 1982, for credit to the fiscal year in which earned (in addition to

amounts appropriated in section 171, chapter 270, Laws of 1979 ex. sess.) \$ 11,600,000

NEW SECTION. Sec. 34. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 17, 1981.
Passed the Senate February 16, 1981.
Approved by the Governor February 19, 1981.
Filed in Office of Secretary of State February 19, 1981.

CHAPTER 6

[Substitute House Bill No. 207]

INSURANCE PREMIUM TAX—PREPAYMENT

AN ACT Relating to insurance premiums taxation; amending section .14.06, chapter 79, Laws of 1947 and RCW 48.14.060; adding a new section to chapter 48.14 RCW; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 48.14 RCW a new section to read as follows:

(1) Every insurer with a tax obligation under RCW 48.14.020 shall make prepayment of the tax obligations under RCW 48.14.020 for the current calendar year's business, if the sum of the tax obligations under RCW 48.14.020 for the preceding calendar year's business is four hundred dollars or more.

(2) The commissioner shall credit the prepayment toward the appropriate tax obligations of the insurer for the current calendar year under RCW 48.14.020.

(3) The minimum amounts of the prepayments shall be percentages of the insurer's tax obligation based on the preceding calendar year's business and 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; and
- (c) On or before December 15, twenty-five percent.

(4) The effect of transferring policies of insurance from one insurer to another insurer is to transfer the tax prepayment obligation with respect to the policies.

(5) On or before June 1 of each year, the commissioner shall notify each insurer required to make prepayments in that year of the amount of each prepayment and shall provide remittance forms to be used by the insurer. However, an insurer's responsibility to make prepayments is not affected by

failure of the commissioner to send, or the insurer to receive, the notice or forms.

Sec. 2. Section .14.06, chapter 79, Laws of 1947 and RCW 48.14.060 are each amended to read as follows:

(1) Any insurer failing to file its tax statement and to pay the specified tax or prepayment of tax on premiums ~~((for more than thirty days after date due shall be liable to a penalty of twenty-five dollars for each additional day of delinquency))~~ by the last day of the month in which the tax becomes due shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not paid within forty-five days after the due date, the insurer shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not paid within sixty days of the due date, the insurer shall be assessed a total penalty of twenty percent of the amount of the tax. In such event the tax may be collected by distraint, and the penalty recovered by any action instituted by the commissioner in any court of competent jurisdiction. The amount of any such penalty collected shall be paid to the state treasurer and credited to the general fund.

(2) At his discretion the commissioner may revoke the certificate of authority of any such delinquent insurer, such certificate of authority not to be reissued until all taxes, prepayments of tax, and penalties incurred by the insurer have been fully paid and the insurer has otherwise qualified for the certificate of authority.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 18, 1981.

Passed the Senate February 17, 1981.

Approved by the Governor February 19, 1981.

Filed in Office of Secretary of State February 19, 1981.

CHAPTER 7

[Substitute House Bill No. 208]

EXCISE TAXES—PAYMENT OF

AN ACT Relating to excise taxation; amending section 82.32.090, chapter 15, Laws of 1961 as last amended by section 1, chapter 179, Laws of 1971 ex. sess. and RCW 82.32.090; adding a new section to chapter 82.32 RCW; repealing section 82.04.490, chapter 15, Laws of 1961, section 45, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.04.490; repealing section 82.08.070, chapter 15, Laws of 1961, section 8, chapter 293, Laws of 1961, section 8, chapter 299, Laws of 1971 ex. sess. and RCW 82.08.070; repealing section 82.12.050, chapter 15, Laws of 1961, section 53, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.12.050; repealing section 82.16.070, chapter 15, Laws of 1961, section 14, chapter 293, Laws of 1961, section 56, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.16.070; adding a new section to chapter 82.04 RCW; and providing an effective date.

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

NEW SECTION. Section 1. There is added to chapter 82.32 RCW a new section to read as follows:

For tax payments due for the taxable activities occurring in and after the month of September, 1981, through April, 1982, the taxes imposed in chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW are due and payable within twenty-five days following the end of the month in which the taxable activities occur. For tax payments due for taxable activities occurring after April, 1982, and through April, 1983, these taxes are due and payable within twenty days following the end of the month in which the taxable activities occur. For tax payments due for taxable activities occurring after April, 1983, these taxes are due and payable within fifteen days following the end of the month in which the taxable activities occur.

The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year.

The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

Sec. 2. Section 82.32.090, chapter 15, Laws of 1961 as last amended by section 1, chapter 179, Laws of 1971 ex. sess. and RCW 82.32.090 are each amended to read as follows:

If payment of any tax due is not received by the department of revenue by the ~~((last day of the month in which the tax becomes))~~ due date, there shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not received by the last day of the month ~~((next succeeding the month))~~ in which the due date falls, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received by the last day of the ~~((second))~~ month next succeeding the month in which the due date falls, there shall be assessed a total penalty of twenty percent of the amount of the tax. No penalty so added shall be less than two dollars.

If payment of any tax is received within the first ten days of the month next succeeding the month in which the tax is payable, the amount of such payment shall be credited to, and shall be treated for all purposes as having been collected during, the fiscal year which includes the month preceding the month in which such due date falls. Effective June 30, 1985, and thereafter if the payment of any tax is received during the first twenty-five days in the month in which the tax is payable, the amount of such payment shall be credited to, and shall be treated for all purposes as having been collected during, the fiscal year which includes the month preceding the month in which such due date falls.

If a warrant be issued by the department of revenue for the collection of taxes, increases, and penalties, there shall be added thereto a penalty of five percent of the amount of the tax, but not less than five dollars.

Notwithstanding the foregoing, the aggregate of penalties imposed under this chapter for failure to file a return, late payment of any tax, increase, or penalty, or issuance of a warrant shall not exceed twenty-five percent of the tax due, or seven dollars, whichever is greater.

***NEW SECTION. Sec. 3.** *There is added to chapter 82.04 RCW a new section to read as follows:*

In computing tax under this chapter, a person collecting tax under chapters 82.08 and 82.12 RCW may credit against the amount of the tax otherwise due under this chapter one-fourth of one percent of the tax collected under chapters 82.08 and 82.12 RCW as compensation for collecting the tax and complying with reporting requirements.

*Sec. 3. was vetoed, see message at end of chapter.

NEW SECTION. Sec. 4. The following acts or parts of acts are each repealed:

(1) Section 82.04.490, chapter 15, Laws of 1961, section 45, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.04.490;

(2) Section 82.08.070, chapter 15, Laws of 1961, section 8, chapter 293, Laws of 1961, section 8, chapter 299, Laws of 1971 ex. sess. and RCW 82.08.070;

(3) Section 82.12.050, chapter 15, Laws of 1961, section 53, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.12.050; and

(4) Section 82.16.070, chapter 15, Laws of 1961, section 14, chapter 293, Laws of 1961, section 56, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.16.070.

NEW SECTION. Sec. 5. This act shall take effect September 1, 1981.

Passed the House February 3, 1981.

Passed the Senate February 18, 1981.

Approved by the Governor February 19, 1981, with the exception of Section 3, which is vetoed.

Filed in Office of Secretary of State February 19, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section of Substitute House Bill 208 entitled:

AN ACT Relating to excise taxation.

Section 3 of this bill allows those who collect retail sales tax to keep one-fourth percent of the tax they collect as compensation for collecting the tax.

The principle that taxpayers should not be compensated for complying with tax laws has long been accepted by federal, state, and local governments in the United States with only minor exceptions. I believe it would be unwise to depart from that principle at this time. To award retail sales taxpayers a subsidy estimated to be nearly \$8 million during the 1981-83 biennium, while the state faces serious financial problems, demonstrates an indefensible order of priorities.

With the exception of Section 3, which I have vetoed, the remainder of Substitute House Bill 208 is approved."

CHAPTER 8

[Substitute House Bill No. 245]

PUBLIC ASSISTANCE SERVICES—ELIGIBILITY, STANDARDS—MCNEILL ISLAND OPERATION

AN ACT Relating to social and health services; reenacting and amending section 74.04.005, chapter 26, Laws of 1959 as last amended by section 1, chapter 84, Laws of 1980 and by section 1, chapter 174, Laws of 1980 and RCW 74.04.005; amending section 74.04.015, chapter 26, Laws of 1959 as last amended by section 296, chapter 141, Laws of 1979 and RCW 74.04.015; amending section 74.04.050, chapter 26, Laws of 1959 as amended by section 3, chapter 228, Laws of 1963 and RCW 74.04.050; amending section 74.04.200, chapter 26, Laws of 1959 as amended by section 302, chapter 141, Laws of 1979 and RCW 74.04.200; amending section 6, chapter 172, Laws of 1969 ex. sess. and RCW 74.04.510; amending section 3, chapter 10, Laws of 1973 2nd ex. sess. and RCW 74.04.620; amending section 6, chapter 10, Laws of 1973 2nd ex. sess. and RCW 74.04.650; amending section 74.08.025, chapter 26, Laws of 1959 as last amended by section 1, chapter 79, Laws of 1980 and RCW 74.08.025; amending section 74.08.040, chapter 26, Laws of 1959 and RCW 74.08.040; amending section 10, chapter 172, Laws of 1969 ex. sess. and RCW 74.08.043; amending section 74.08.120, chapter 26, Laws of 1959 as last amended by section 326, chapter 141, Laws of 1979 and RCW 74.08.120; amending section 2, chapter 51, Laws of 1973 1st ex. sess. and RCW 74.08.540; amending section 74.09.010, chapter 26, Laws of 1959 as amended by section 333, chapter 141, Laws of 1979 and RCW 74.09.010; amending section 4, chapter 30, Laws of 1967 ex. sess. as last amended by section 4, chapter 169, Laws of 1971 ex. sess. and RCW 74.09.510; amending section 5, chapter 30, Laws of 1967 ex. sess. as last amended by section 344, chapter 141, Laws of 1979 and RCW 74.09.520; amending section 74.12.010, chapter 26, Laws of 1959 as last amended by section 350, chapter 141, Laws of 1979 and RCW 74.12.010; adding new sections to chapter 74.08 RCW; adding a new section to chapter 74.09 RCW; creating a new section; repealing section 2, chapter 174, Laws of 1980 and RCW 74.04.001; repealing section 74.04.250, chapter 26, Laws of 1959 and RCW 74.04.250; repealing section 1, chapter 35, Laws of 1973 1st ex. sess. and RCW 74.08.047; repealing section 2, chapter 35, Laws of 1973 1st ex. sess. and RCW 74.08.048; repealing section 74.08.112, chapter 26, Laws of 1959 and RCW 74.08.112; repealing section 74.09.020, chapter 26, Laws of 1959 and RCW 74.09.020; repealing section 74.09.030, chapter 26, Laws of 1959, section 334, chapter 141, Laws of 1979 and RCW 74.09.030; repealing section 74.09.070, chapter 26, Laws of 1959, section 336, chapter 141, Laws of 1979 and RCW 74.09.070; repealing section 74.10.010, chapter 26, Laws of 1959, section 346, chapter 141, Laws of 1979 and RCW 74.10.010; repealing section 74.10.020, chapter 26, Laws of 1959, section 5, chapter 169, Laws of 1971 ex. sess. and RCW 74.10.020; repealing section 74.10.030, chapter 26, Laws of 1959, section 347, chapter 141, Laws of 1979 and RCW 74.10.030; repealing section 74.10.070, chapter 26, Laws of 1959, section 348, chapter 141, Laws of 1979 and RCW 74.10.070; repealing section 1, chapter 60, Laws of 1967 ex. sess., section 349, chapter 141, Laws of 1979 and RCW 74.10.090; repealing section 2, chapter 60, Laws of 1967 ex. sess. and RCW 74.10.100; providing an expiration date; and declaring an emergency.

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

Section 1. Section 74.04.005, chapter 26, Laws of 1959 as last amended by section 1, chapter 84, Laws of 1980 and by section 1, chapter 174, Laws of 1980 and RCW 74.04.005 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) "General assistance"—~~((Shall include))~~ Aid to unemployable persons ((and unemployed employable persons)) in need who:

(a) Are not eligible to receive ((or are not receiving)) federal-aid assistance((: PROVIDED, That general assistance shall be granted temporarily to any person eligible for and receiving 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:

~~(a) "Unemployable persons" are those persons who by reason of bodily or mental infirmity or other cause are substantially incapacitated from gainful employment as determined by the secretary and the commissioner of the employment security department in accordance with rules adopted pursuant to RCW 74.04.001.~~

~~(b) "Unemployed employable persons" are those persons who although capable of gainful employment are unemployed.~~

~~(7) "Medical indigents"—Are persons without income or resources sufficient to secure necessary medical services)); and~~

(b) Are incapacitated from gainful employment by reason of:

(i) Bodily infirmity;

(ii) Being diagnosed as psychotic or psychotic in remission;

(iii) Being mentally retarded in accordance with standards adopted by the department;

(iv) Participation in an approved drug or alcoholism treatment program;
or

(v) Being sixty-five years of age, or over: PROVIDED, That such incapacity in (b) (i) through (iv) of this subsection, as determined by the department, will last at least sixty days from the date of application, except that persons in approved alcoholism and/or drug programs may be eligible for less than a sixty-day period in accordance with the terms of their treatment plan.

~~((8))~~ (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.

~~((9))~~ (8) "Recipient"—Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

~~((10))~~ "Requirement"—~~Items of goods and services included in the state department of social and health services standards of assistance and required by an applicant or recipient to maintain a defined standard of living.~~

~~((11))~~ (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 income 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 income 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.

(c) Term and burial insurance for use of the applicant or recipient.

(d) Vehicle(s) used and useful having an equity value not to exceed one thousand five hundred dollars.

(e) Life insurance having a cash surrender value not to exceed seven hundred fifty dollars until July 1, 1981, and thereafter one thousand five hundred dollars.

(f) Cash, marketable securities, and any excess of values exempted under (d) and (e) of this section, not to exceed seven hundred fifty dollars for a single person or one thousand two hundred fifty dollars for a family unit

of two or more until July 1, 1981, and thereafter one thousand five hundred dollars for a single person or two thousand two hundred fifty dollars for a family unit of two or more.

(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: PROVIDED, That in the determination of need of applicants for or recipients of general assistance for unemployed employables no resources or income shall be considered as exempt per se, but the department may by rule and regulation adopt standards which will permit the exemption of the home and personal property and belongings from consideration as an available resource or income when such resources or income are determined to be necessary to the applicant's or recipient's restoration to independence. The department may by rule and regulation exempt personal property and belongings and income-producing property which can be used by the applicant or recipient to decrease his or her need for public assistance or aid in rehabilitating the applicant or recipient or his or her dependents.

((+2)) (11) "Income"—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 after applying for or receiving public assistance: PROVIDED, That all necessary expenses that may reasonably be attributed to the earning of income shall be considered in determining net income: PROVIDED FURTHER, That 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: PROVIDED FURTHER, That in determining the amount of assistance to which a recipient of aid to families with dependent children is entitled, the department is hereby authorized to disregard as a resource or income the earned income exemptions consistent with federal requirements: PROVIDED FURTHER, 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 "earned income" 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.

~~((13))~~ (12) "Need" —The difference between the applicant's or recipient's ~~((cost of requirements))~~ 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 net income received by or available to the applicant or recipient and the dependent members of his family.

~~((14))~~ (13) 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. 2. Section 74.04.015, chapter 26, Laws of 1959 as last amended by section 296, chapter 141, Laws of 1979 and RCW 74.04.015 are each amended to read as follows:

The secretary of social and health services shall be the responsible state officer for the administration of, and the disbursement of all funds, goods, commodities and services, which may be received by the state in connection with ~~((, old age assistance, medical assistance to the aged, aid to families with dependent children, aid to the blind, disability assistance, child welfare services, vocational rehabilitation, and including, but not limited to other))~~ programs of public assistance or services related directly or indirectly to assistance programs, and all other matters included in the federal social security act approved August 14, 1935, or any other federal act or as the same may be amended excepting those specifically required to be administered by ~~((the superintendent of public instruction or the state commission for vocational education and those required to be administered and disbursed in connection with public health services such as communicable disease control, maternal and child health, sanitation, and vital statistics services))~~ other entities.

He shall make such reports and render such accounting as may be required by the federal agency having authority in the premises.

Sec. 3. Section 74.04.050, chapter 26, Laws of 1959 as amended by section 3, chapter 228, Laws of 1963 and RCW 74.04.050 are each amended to read as follows:

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) ~~((Old age assistance;~~
- ~~(2))~~ Medical assistance ~~((to the aged))~~;
- ~~((3))~~ (2) Aid to dependent children;
- ~~((4) Aid to the needy blind;~~
- ~~(5))~~ (3) Child welfare services; and

~~((6) Aid to permanently and totally disabled;~~

~~(7))~~ (4) Any other programs of public assistance for which provision for federal grants or funds may from time to time be made.

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.

Sec. 4. Section 74.04.200, chapter 26, Laws of 1959 as amended by section 302, chapter 141, Laws of 1979 and RCW 74.04.200 are each amended to read as follows:

It shall be the duty of the department of social and health services to establish ~~((uniform))~~ state-wide standards which may vary by geographical areas to govern the granting of assistance in the several categories of this title and it shall have power to compel compliance with such ~~((uniform))~~ standards as a condition to the receipt of state and federal funds by counties for social security purposes.

Sec. 5. Section 6, chapter 172, Laws of 1969 ex. sess. and RCW 74.04-.510 are each amended to read as follows:

The department shall promulgate rules and regulations conforming to federal laws, rules and regulations required to be observed in maintaining the eligibility of the state to receive from the federal government and to issue or distribute to recipients, food stamps or coupons under a food stamp plan. Such rules and regulations shall relate to and include, but shall not be limited to: (1) The classifications of and requirements of eligibility of households to receive food stamps or coupons. (2) The periods during which households shall be certified or recertified to be eligible to receive food stamps or coupons under this plan. ~~((3) The establishment of a purchase payment schedule for coupons graduated on the basis of the incomes and the number of persons in an eligible household.))~~

Sec. 6. Section 3, chapter 10, Laws of 1973 2nd ex. sess. and RCW 74-.04.620 are each amended to read as follows:

The department is authorized to establish a program of state supplementation to the national program of supplemental security income consistent with Public Law 92-603 and Public Law 93-66 to those persons who are in need thereof in accordance with eligibility requirements established by the department.

The department is authorized to establish reasonable standards of assistance and resource and income exemptions specifically for such program of state supplementation which shall be consistent with the provisions of the Social Security Act.

The department is authorized to make payments to applicants for supplemental security income, pursuant to agreements as provided in Public Law 93-368, who are otherwise eligible for general assistance.

Sec. 7. Section 6, chapter 10, Laws of 1973 2nd ex. sess. and RCW 74.04.650 are each amended to read as follows:

Notwithstanding any other provisions of RCW 74.04.600 through 74.04.650 (~~for~~), those individuals who have been receiving supplemental security income assistance and failed to comply with federal requirements relating to drug abuse and alcoholism treatment and rehabilitation shall be (~~required to reapply for state assistance programs to be eligible~~) ineligible for state assistance.

Sec. 8. Section 74.08.025, chapter 26, Laws of 1959 as last amended by section 1, chapter 79, Laws of 1980 and RCW 74.08.025 are each amended to read as follows:

Public assistance shall be awarded to any applicant:

(1) Who is in need and otherwise meets the eligibility requirements of department cash assistance programs; and

(2) Who has not made a voluntary assignment of property or cash for the purpose of qualifying for an assistance grant; and

(3) 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.

Sec. 9. Section 74.08.040, chapter 26, Laws of 1959 and RCW 74.08.040 are each amended to read as follows:

(1) Grants shall be awarded on a ((uniform)) state-wide basis in accordance with standards of assistance established by the department((The department shall establish standards of assistance for old age assistance, aid to dependent children, aid to the blind, and general assistance to unemployable persons which shall be used to determine an applicant's or recipient's living requirements and which shall include reasonable allowances for shelter, fuel, food, clothing, household maintenance and operation, personal maintenance, and necessary incidentals. The total dollar value of the assistance budget shall, under average conditions, be not less than seventy-five dollars per month for an individual living alone; but a recipient shall not receive a grant of seventy-five dollars or more unless his actual requirements amount to seventy-five dollars. Grants shall be paid in the amount of requirements less all available income and resources which can be applied by the recipient toward meeting need, including shelter.

In order to determine such standards of assistance the department shall establish objective budgetary guides based upon actual living cost studies of the items of the budget. Such living cost studies shall be renewed or revised annually and new standards of assistance reflecting current living costs shall determine budgets of need. Any indicated adjustment in standards shall become effective not later than June 1st of 1953 and June 1st of each succeeding year)) and may vary by geographical areas.

(2) The standards of assistance for any family size shall be adjusted on July 1 of each year. Except for federal emergency assistance, the standards shall be equal to the difference between (a) the community services administration nonfarm poverty-level income, published in January or February of that year except that the March 1, 1981, to June 30, 1981, standards shall reflect the poverty levels published in April 1980, adjusted for family size for the continental United States and (b) the sum of the food stamp benefit and the low-income energy assistance benefit.

(3) The standards for federal emergency assistance shall be equal to the value of the federal department of agriculture's thrifty food plan used in the federal food stamp program.

(4) The food stamp benefit shall be determined by using the standard income deductions contained in authorizing federal legislation, an additional forty-five dollar income deduction, and that portion of the standards of assistance designated by the legislature as an energy allowance.

(5) For the purpose of establishing standards of assistance, (a) the low-income energy assistance benefit shall be prorated to determine a monthly amount and (b) state supplements for supplemental security income recipients shall be no less than the levels specified in 42 U.S.C. Section 1618.

(6) The assistance standards shall not be reduced between January 1 and June 30 for increases in food stamp allotments. The department may adjust these standards for shelter provided at no cost.

(7) The standards of assistance shall take into account the economy of joint living arrangements, and the department may, by rule and regulation, prescribe maximums ~~((for grants))~~ and continue existing rateable reductions through March 1, 1981.

~~((For general assistance to unemployed employable persons, the department shall establish standards of assistance based upon annual living cost studies and compatible with a minimum necessary for decent and healthful subsistence. Such standards shall permit the meeting of actual and emergent need on an individual basis.))~~

NEW SECTION. Sec. 10. There is added to chapter 74.08 RCW a new section to read as follows:

There shall be included in the standards of assistance a monthly amount designated as an energy allowance. For supplemental security income recipients, the energy allowance shall be equal to the state supplement. For recipients of other federally aided assistance programs and general assistance to unemployable persons, the energy assistance allowance shall be determined according to the following schedule.

NUMBER OF PERSONS IN THE ASSISTANCE UNIT

Fiscal Year	1	2	3	4	5	6
1981	\$ 78	\$ 84	\$ 89	\$ 94	\$ 99	\$104

Note 1: For each additional person in the assistance unit, add five dollars.

Sec. 11. Section 10, chapter 172, Laws of 1969 ex. sess. and RCW 74.08.043 are each amended to read as follows:

In determining the living requirements of otherwise eligible applicants and recipients of ~~((old age assistance, aid to the blind, disability assistance))~~ supplemental security income and general assistance, the department is authorized to consider the need for personal and special care and supervision due to physical and mental conditions.

Sec. 12. Section 74.08.120, chapter 26, Laws of 1959 as last amended by section 326, chapter 141, Laws of 1979 and RCW 74.08.120 are each amended to read as follows:

The term "funeral" shall mean the proper preparation, transportation within the local service area defined by the department, and care of the remains of a deceased person with needed facilities and appropriate memorial services~~((, including))~~. "Burial" includes necessary costs of a lot or cremation and all services related to interment and the customary memorial marking of a grave.

The department is hereby authorized ~~((through the county offices))~~ to assume responsibility for payment for the funeral and burial of deceased persons dying without assets sufficient to pay for the minimum standard funeral herein provided: PROVIDED, HOWEVER, That the secretary may furnish funeral assistance for deceased recipients if they leave assets to a

surviving spouse and/or to minor children and if the assets are resources permitted to be owned by or available to an eligible applicant or recipient under RCW 74.04.005, and the department shall thereby have a lien against said assets valid for six years from the date of filing with the county auditor and such lien claim shall have preference to all other claims except prior secured creditors. If the assets remain exempt, or if no probate is commenced, the lien shall automatically terminate without further action six years after filing. If the deceased person is survived by a spouse or is a minor child survived by his parent or parents, the department may take into consideration the assets of such surviving spouse, parent, or parents in determining whether or not the department will assume responsibility for the funeral.

~~((The department shall not pay more than cost for a minimum standard service rendered by each vendor.))~~ Payments to the funeral director and to the cemetery or crematorium will be made by separate vouchers. The standard of such services and the uniform amounts to be paid shall be determined by the department after giving due consideration to such advice and counsel as it shall obtain from the trade associations of the various vendors and related state departments, agencies, and commissions. ~~((The payments made by the department shall not be subject to supplementation by the relatives or friends of recipients. Whenever relatives or friends provide for other than the minimum standard service authorized, the state shall not participate in the payment of any part of the cost.))~~ Payment made for any funeral or burial service by relatives, friends, or any other third party shall be subtracted from the payment made by the department.

Sec. 13. Section 2, chapter 51, Laws of 1973 1st ex. sess. and RCW 74.08.540 are each amended to read as follows:

(1) The term "services" shall include homemaker-home health services, chore services and personal and household services.

(2) The goal of the homemaker-home health service within the department of social and health services shall be to maintain, strengthen, improve and safeguard home and family life by augmenting professional services in homes where there are social and/or health needs which interfere with the independent functioning of an individual or family.

The principal purpose of the homemaker-home health service shall be:

(a) To keep the family together while the natural homemaker is incapacitated, either in or out of the home; and to prevent family breakdown for any other reason, thus avoiding the shock of separating children from their parents, their brothers and sisters, their schools, their friends.

(b) To enable the elderly, the chronically ill, the mentally ill, retarded, or otherwise disabled individual to remain in or return to his own home among familiar surroundings whenever possible in accordance with RCW 74.08.283.

(c) To permit an individual to remain at home, or, to return home sooner than he otherwise could from an institution. This will allow for more appropriate utilization of hospitals, nursing homes, and other facilities. It will help offset the cost of expensive institutional care for the family, the individual and the community.

(d) To keep the employed adult on the job who otherwise must take unscheduled time off to care for children, an elderly parent, or an ill relative.

(e) To help individuals and families learn better management of daily living, including improved child-rearing practices and self-care.

(3) Housekeeping service shall mean service primarily concerned with the performance of household tasks and the physical care of small children where required. Housekeeping services do not include the assumption of parental duties normally associated with the direction and management of children.

Housekeeping service is an additional requirement when the normal caretaker of the children:

(a) Is in the home (except for a temporary period) and retains responsibility for direction and management of the children;

(b) Is in the home but is physically unable to perform the necessary household services and/or physical care of children without assistance; and

(c) Is not available and there is no person available to render the service without cost.

(4) Chore services includes the provision of household and personal care ((as needed)) to give attention and protection for the client's safety and well-being.

Chore services means services in performing light work, household tasks or personal care which eligible persons are unable to do for themselves because of frailty or other conditions. Chore services include, but are not limited to assisting in keeping client and home ((neat and clean, preparation of meals, help in shopping, lawn care, simple household repairs, running errands, wood chopping, and other tasks as required)) safe and clean, preparation of meals, and other tasks as determined by the department.

Eligible persons shall be adult recipients of ((old age assistance, aid to the blind, disability assistance, and general assistance to the unemployable who are potential disability assistance recipients, nonrecipients sixty-five years old or over released from a mental institution who are eligible for medical assistance under the state's Title XIX plan, and those potential recipients who would otherwise be eligible for public assistance if the cost of this service were an additional grant requirement)) supplemental security income and/or state supplementation and other individuals having income equal to or less than the state standards for supplemental security income and state supplementation.

NEW SECTION. Sec. 14. There is added to chapter 74.08 RCW a new section to read as follows:

In order to reduce hardship due to the reduction of the income eligibility standard for chore services, the department is authorized to continue providing chore services authorized under RCW 74.08.540 for individuals who received chore services in February, 1981, for a length of time determined by the department, not to exceed sixty days, or until such time as:

(1) Their income exceeds fifty-seven percent of state median income adjusted for family size for a single person, or fifty percent of state median income adjusted for family size for a larger family; or

(2) The department determines that the service is no longer needed.

Not more than two million dollars may be expended for services provided under this section.

NEW SECTION. Sec. 15. There is added to chapter 74.08 RCW a new section to read as follows:

The department is authorized to continue to provide bureau of community and residential care (BCRC) attendant care services to those individuals who received attendant care services in February. The attendant care services shall be continued through June 30, 1981, or until such earlier time as:

(1) Their income exceeds fifty-seven percent of state median income adjusted for family size for a single person, or fifty percent of state median income adjusted for family size for a larger family; or

(2) The department determines that the service is no longer needed.

NEW SECTION. Sec. 16. There is added to chapter 74.08 RCW a new section to read as follows:

Notwithstanding the provisions of sections 13 and 14 of this act, relating to the provision of chore services, the department of social and health services may by regulation establish a program of emergency chore services assistance, provided on a case by case basis for a limited period of time, to cover (1) disabled persons who would have otherwise been eligible for chore services prior to March 1, 1981, or (2) elderly persons who would have otherwise been eligible for chore services prior to March 1, 1981, and (3) because of unusual and compelling circumstances will suffer manifest and extraordinary hardship. The costs of this program shall be borne by the transfer of appropriate funds, to the extent of funds available, from other programs pursuant to section 13, chapter ... (House Bill 206), Laws of 1981 (the supplemental budget), except that analysis of programmatic impacts shall not be required.

Sec. 17. Section 74.09.010, chapter 26, Laws of 1959 as amended by section 333, chapter 141, Laws of 1979 and RCW 74.09.010 are each amended to read as follows:

As used in this chapter:

(1) "Department" means the department of social and health services.

(2) "Secretary" means the secretary of social and health services.

(3) "Internal management" means the administration of medical ~~((and related services to recipients of public))~~ assistance and medical ~~((indigent persons))~~ care services.

(4) "Medical ~~((indigents))~~ assistance" ~~((are persons without income or resources sufficient to secure necessary medical services))~~ means the federal aid assistance program under Title XIX of the social security act.

(5) "Medical care services" means the limited scope of care financed by state funds.

(6) "Nursing home" means nursing home as defined in RCW 18.51.010.

NEW SECTION. Sec. 18. There is added to chapter 74.09 RCW a new section to read as follows:

(1) To the extent of available funds, medical care services may be provided to recipients of general assistance in accordance with requirements established by the department.

(2) Determination of the amount, scope, and duration of medical care services for recipients of medical care services is the responsibility of the department.

(3) The department shall establish standards of assistance and resource and income exemptions, which may include deductibles and co-insurance provisions.

(4) The scope of such medical care services shall be limited to coverage for acute and emergent conditions, except that podiatry, chiropractic, and dental services shall not be included from March 1, 1981, through June 30, 1981.

(5) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded who are eligible for medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

(6) Payments made by the department under this program shall be the limit of expenditures for medical care services solely from state funds.

(7) Medical care services received no more than seven days prior to the date of application shall be retroactively certified and approved for payment on behalf of a person who was otherwise eligible at the time the medical services were furnished.

Sec. 19. Section 4, chapter 30, Laws of 1967 ex. sess. as last amended by section 4, chapter 169, Laws of 1971 ex. sess. and RCW 74.09.510 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 ~~((to an applicant: (1) Who is in need; (2) who has not made a voluntary assignment of property or cash for the purpose of qualifying for an assistance grant; (3) who is not an inmate of a public institution except as a patient in a medical institution or except as an inmate in a county or city jail or juvenile detention facility, or except as an inmate in a public institution who~~

could qualify for federal aid assistance; and (4) who is a resident of the state of Washington)), including the approbation against the voluntary assignment of property or cash for the purpose of qualifying for an assistance grant, as defined in the social security Title XIX state plan for mandatory categorically needy persons and: (1) Individuals who would be eligible for case 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, but do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) intermediate care or in an intermediate care facility for the mentally retarded, or (d) inpatient psychiatric facilities; and (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.

Sec. 20. Section 5, chapter 30, Laws of 1967 ex. sess. as last amended by section 344, chapter 141, Laws of 1979 and RCW 74.09.520 are each amended to read as follows:

The term "medical assistance" may include the following care and services: (1) Inpatient hospital services; (2) outpatient hospital services; (3) other laboratory and x-ray services; (4) skilled nursing home services; (5) physicians' services, which shall include prescribed medication and instruction on birth control devices; (6) medical care, or any other type of remedial care as may be established by the secretary; (7) home health care services; (8) private duty nursing services; (9) dental services; (10) physical therapy and related services; (11) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (12) other diagnostic, screening, preventive, and rehabilitative services.

"Medical assistance," notwithstanding any other provision of law, shall not include podiatry, chiropractic, or dental services that are not mandated by Title XIX of the social security act.

Sec. 21. Section 74.12.010, chapter 26, Laws of 1959 as last amended by section 350, chapter 141, Laws of 1979 and RCW 74.12.010 are each amended to read as follows:

For the purposes of the administration of aid to families with dependent children assistance, 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 with his father, mother, grandmother, grandfather, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, 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 the secretary shall have discretion to provide that aid to families with dependent children 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 the support of such child, to the extent that matching funds are available from the federal government)).~~)).

"Aid to families with dependent children" 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 the spouse of such relative if living with him and if such relative is the child's parent and 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.

NEW SECTION. Sec. 22. The department of social and health services is authorized to operate McNeil Island correctional facilities for the care and custody of felons of the state.

NEW SECTION. Sec. 23. The following acts or parts of acts are each repealed:

- (1) Section 2, chapter 174, Laws of 1980 and RCW 74.04.001;
- (2) Section 74.04.250, chapter 26, Laws of 1959 and RCW 74.04.250;
- (3) Section 1, chapter 35, Laws of 1973 1st ex. sess. and RCW 74.08.047;
- (4) Section 2, chapter 35, Laws of 1973 1st ex. sess. and RCW 74.08.048;
- (5) Section 74.08.112, chapter 26, Laws of 1959 and RCW 74.08.112;
- (6) Section 74.09.020, chapter 26, Laws of 1959 and RCW 74.09.020;
- (7) Section 74.09.030, chapter 26, Laws of 1959, section 334, chapter 141, Laws of 1979 and RCW 74.09.030;
- (8) Section 74.09.070, chapter 26, Laws of 1959, section 336, chapter 141, Laws of 1979 and RCW 74.09.070;

(9) Section 74.10.010, chapter 26, Laws of 1959, section 346, chapter 141, Laws of 1979 and RCW 74.10.010;

(10) Section 74.10.020, chapter 26, Laws of 1959, section 5, chapter 169, Laws of 1971 ex. sess. and RCW 74.10.020;

(11) Section 74.10.030, chapter 26, Laws of 1959, section 347, chapter 141, Laws of 1979 and RCW 74.10.030;

(12) Section 74.10.070, chapter 26, Laws of 1959, section 348, chapter 141, Laws of 1979 and RCW 74.10.070;

(13) Section 1, chapter 60, Laws of 1967 ex. sess., section 349, chapter 141, Laws of 1979 and RCW 74.10.090; and

(14) Section 2, chapter 60, Laws of 1967 ex. sess. and RCW 74.10.100.

NEW SECTION. Sec. 24. With the exception of section 3 and section 22 of this act, this 1981 amendatory act, consisting of the amendments, repeals, and new sections enacted herein, shall expire on June 30, 1981. Upon the expiration of sections 1, 2, 4 through 21, and 23 of this 1981 amendatory act, the amendments and repeals herein enacted shall have no further force or effect, and the sections of the Revised Code of Washington amended or repealed herein shall return to the language which they contained prior to the effective date of this act.

NEW SECTION. Sec. 25. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 18, 1981.

Passed the Senate February 17, 1981.

Approved by the Governor February 19, 1981.

Filed in Office of Secretary of State February 19, 1981.

CHAPTER 9

[Senate Bill No. 3209]

STATE PAYROLL REVOLVING ACCOUNT

AN ACT Relating to the state treasurer; amending section 2, chapter 25, Laws of 1967 ex. sess. as last amended by section 69, chapter 151, Laws of 1979 and RCW 42.16.011; amending section 3, chapter 25, Laws of 1967 ex. sess. and RCW 42.16.012; amending section 4, chapter 25, Laws of 1967 ex. sess. as last amended by section 70, chapter 151, Laws of 1979 and RCW 42.16.013; amending section 5, chapter 25, Laws of 1967 ex. sess. as last amended by section 71, chapter 151, Laws of 1979 and RCW 42.16.014; amending section 6, chapter 25, Laws of 1967 ex. sess. and RCW 42.16.015; amending section 2, chapter 72, Laws of 1971 ex. sess. as last amended by section 1, chapter 17, Laws of 1977 and RCW 43.85.241; creating a new section; and declaring an emergency.

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

Section 1. Section 2, chapter 25, Laws of 1967 ex. sess. as last amended by section 69, chapter 151, Laws of 1979 and RCW 42.16.011 are each amended to read as follows:

A state payroll revolving account in the state general fund and an agency payroll revolving fund are created in the state treasury, for the payment of compensation to employees and officers of the state and distribution of all amounts withheld therefrom pursuant to law and amounts authorized by employees to be withheld pursuant to law; also for the payment of the state's contributions for retirement and insurance and other employee benefits: PROVIDED, That the utilization of the state payroll revolving ~~((fund))~~ account shall be optional except for agencies whose payrolls are prepared under a centralized system established pursuant to regulations of the director of financial management: PROVIDED FURTHER, That the utilization of the agency payroll revolving fund shall be optional for agencies whose operations are funded in whole or part other than by funds appropriated from the state treasury.

Sec. 2. Section 3, chapter 25, Laws of 1967 ex. sess. and RCW 42.16.012 are each amended to read as follows:

The amounts to be disbursed from the state payroll revolving ~~((fund))~~ account from time to time on behalf of agencies utilizing such ~~((fund))~~ account shall be transferred thereto by the state treasurer from appropriated funds properly chargeable with the disbursement for the purposes set forth in RCW 42.16.011, on or before the day prior to scheduled disbursement. The amounts to be disbursed from the agency payroll revolving fund from time to time on behalf of agencies electing to utilize such fund shall be deposited therein by such agencies from funds held by the agency pursuant to law outside the state treasury and properly chargeable with the disbursement for the purposes set forth in RCW 42.16.011, on or before the day prior to scheduled disbursement.

Sec. 3. Section 4, chapter 25, Laws of 1967 ex. sess. as last amended by section 70, chapter 151, Laws of 1979 and RCW 42.16.013 are each amended to read as follows:

The state treasurer shall make such transfers to the state payroll revolving ~~((fund))~~ account in the amounts to be disbursed as certified by the respective agencies: PROVIDED, That if the payroll is prepared on behalf of an agency from data authenticated and certified by the agency under a centralized system established pursuant to regulation of the director of financial management, the state treasurer shall make the transfer upon the certification of the head of the agency preparing the centralized payroll or his designee.

Sec. 4. Section 5, chapter 25, Laws of 1967 ex. sess. as last amended by section 71, chapter 151, Laws of 1979 and RCW 42.16.014 are each amended to read as follows:

Disbursements from the revolving account and fund~~((s))~~ created by RCW 42.16.010 through 42.16.017 shall be by warrant in accordance with the provisions of RCW 43.88.160: PROVIDED, That when the payroll is

prepared under a centralized system established pursuant to regulations of the director of financial management, disbursements on behalf of the agency shall be certified by the head of the agency preparing the centralized payroll or his designee: PROVIDED FURTHER, That disbursements from a centralized paying agency representing amounts withheld, and/or contributions, for payment to any individual payee on behalf of several agencies, may be by single warrant representing the aggregate amounts payable by all such agencies to such payee. The procedure for disbursement and certification of these aggregate amounts shall be established by the director of financial management.

All payments to employees or other payees, from the revolving account and fund((s)) created by RCW 42.16.010 through 42.16.017, whether certified by an agency or by the director of financial management on behalf of such agency, shall be made wherever possible by a single warrant reflecting on its face the amount charged to each revolving account and fund.

Sec. 5. Section 6, chapter 25, Laws of 1967 ex. sess. and RCW 42.16-.015 are each amended to read as follows:

All amounts increasing the balance in the state payroll revolving (~~fund~~) account, as a result of the cancellation of warrants issued therefrom shall be transferred by the state treasurer to the fund from which the canceled warrant would originally have been paid except for the provisions of RCW 42.16.010 through 42.16.017.

Sec. 6. Section 2, chapter 72, Laws of 1971 ex. sess. as last amended by section 1, chapter 17, Laws of 1977 and RCW 43.85.241 are each amended to read as follows:

On or before July 20 of each year, the state treasurer shall distribute all interest credited to the deposit interest account as of June 30, which account is hereby established within the state general fund. Said account shall be divided among the various accounts and funds from which such investments and investment deposits are made, in proportion to the respective amounts thereof. Interest so distributed shall be credited to the proper account or fund in the fiscal year in which it was collected: PROVIDED, That interest earned on the balances of the forest reserve fund, the liquor excise tax fund, the tort claims revolving fund, the deposit interest account, the suspense fund, the undistributed receipts fund, the state payroll revolving (~~fund~~) account, the agency payroll revolving fund, the agency vendor payment revolving fund, and the local sales and use tax revolving fund shall be credited to the state treasurer's service fund.

NEW SECTION. Section 7. All moneys in the state treasury to the credit of the state payroll revolving fund shall be transferred on the effective date of this act to the state payroll revolving account.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 19, 1981.

Passed the House February 25, 1981.

Approved by the Governor February 27, 1981.

Filed in Office of Secretary of State February 27, 1981.

CHAPTER 10

[Substitute Senate Bill No. 3210]

STATE TREASURY WARRANTS—PAYMENT OF—INTEREST RATE

AN ACT Relating to the state treasurer; amending section 2, chapter 48, Laws of 1975 and RCW 43.08.061; amending section 43.08.062, chapter 8, Laws of 1965 and RCW 43.08.062; amending section 43.08.070, chapter 8, Laws of 1965 as amended by section 2, chapter 88, Laws of 1971 ex. sess. and RCW 43.08.070; amending section 5, chapter 80, Laws of 1899 and RCW 39.56.030; repealing section 3, chapter 80, Laws of 1899, section 1, chapter 88, Laws of 1971 ex. sess. and RCW 39.56.010; and declaring an emergency.

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

Section 1. Section 2, chapter 48, Laws of 1975 and RCW 43.08.061 are each amended to read as follows:

The public printer shall print all state treasury warrants for distribution as directed by the state treasurer. All warrants redeemed by the state treasurer shall be retained for a period of ~~((six))~~ two years, following their ~~((issuance))~~ redemption, after which they may be destroyed without regard to the requirements imposed for their destruction by chapter 40.14 RCW.

Sec. 2. Section 43.08.062, chapter 8, Laws of 1965 and RCW 43.08.062 are each amended to read as follows:

~~((All warrants drawn on the state treasury shall be presented for payment within five years after the date of the issue thereof.))~~

Should the payee or legal holder of any warrant drawn against the state treasury fail to present ((it) the warrant for payment within ((the time specified)) two years of the date of its issue or, if registered and drawing interest, within two years of its call, the state treasurer shall enter the same as canceled on the books of his office.

Should the payee or legal owner of ~~((any))~~ such a canceled warrant thereafter present it for payment ~~((after the lapse of five years from the date of issue))~~, the state treasurer may, upon proper showing by affidavit and the delivery of the ~~((canceled))~~ warrant into his possession, issue a new warrant in lieu thereof, and the state treasurer is authorized to pay the new warrant.

Sec. 3. Section 43.08.070, chapter 8, Laws of 1965 as amended by section 2, chapter 88, Laws of 1971 ex. sess. and RCW 43.08.070 are each amended to read as follows:

Upon the presentation of any state warrant to the state treasurer, if there is not sufficient money then available in the appropriate fund with which to redeem all warrants drawn against such fund which the treasurer anticipates will be presented for payment during the current business day, he may endorse on the warrant, "Not paid for want of funds," with the day and date of presentation, and the warrant shall draw legal interest from and including that date until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first; or, in the alternative, the treasurer may prepare and register a single new warrant, drawn against the appropriate fund, and exchange such new warrant for one or more warrants not paid for want of funds when presented for payment totaling a like amount but not exceeding one million dollars, which new warrant shall then draw legal interest from and including its date of issuance until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first. The legal rate or rates of interest on these warrants shall be established by the state treasurer in accordance with RCW 39.56.030.

Sec. 4. Section 5, chapter 80, Laws of 1899 and RCW 39.56.030 are each amended to read as follows:

It shall be the duty of every public officer issuing public warrants to make monthly investigation to ascertain the market value of the current warrants issued by him, and he shall, so far as practicable, fix the rate of interest (~~((not in any event, however, exceeding the maximum rate hereinbefore established therefor)))~~) on the warrants issued by him during the ensuing month so that the par value shall be the market value thereof.

NEW SECTION. Sec. 5. Section 3, chapter 80, Laws of 1899, section 1, chapter 88, Laws of 1971 ex. sess. and RCW 39.56.010 are each repealed.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed The Senate February 19, 1981.

Passed the House February 25, 1981.

Approved by the Governor February 27, 1981.

Filed in Office of Secretary of State February 27, 1981.

CHAPTER 11

[Senate Bill No. 3531]

WESTERN WASHINGTON UNIVERSITY CAPITAL PROJECT APPROPRIATION

AN ACT Relating to Western Washington University; making an appropriation; and declaring an emergency.

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

NEW SECTION. Section 1. In addition to the funds appropriated by section 194(7), chapter 270, Laws of 1979 ex. sess., there is hereby appropriated to Western Washington University from the Western Washington University capital projects account in the general fund for the biennium ending June 30, 1981, the sum of seven hundred eighty-eight thousand dollars, or so much thereof as may be necessary, for the planning, construction, and equipping of the College of Business and Economics building.

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

Passed the Senate February 27, 1981.

Passed the House February 27, 1981.

Approved by the Governor February 27, 1981.

Filed in Office of Secretary of State February 27, 1981.

CHAPTER 12

[House Bill No. 103]

URBAN ARTERIAL BOARD—SERIES II BOND PROCEEDS—
APPROPRIATION

AN ACT Relating to transportation; making supplemental appropriations; and declaring an emergency.

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

NEW SECTION. Section 1. There is hereby appropriated from the urban arterial trust account in the motor vehicle fund to the urban arterial board for the biennium ending June 30, 1981 \$10,000,000 consisting of state funds, or so much thereof as may be necessary: PROVIDED, That said appropriation shall include \$10,000,000 from the proceeds from the sale of Series II bonds as provided for by RCW 47.26.420 through 47.26.427.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House February 11, 1981.

Passed the Senate February 25, 1981.

Approved by the Governor March 5, 1981.

Filed in Office of Secretary of State March 5, 1981.

CHAPTER 13

[Substitute House Bill No. 118]

STORAGE WAREHOUSEMEN, WHARFINGERS AND WAREHOUSEMEN— DEREGULATION

AN ACT Relating to warehousemen; amending section 7-204, chapter 157, Laws of 1965 ex. sess. and RCW 62A.7-204; amending section 81.04.010, chapter 14, Laws of 1961 and RCW 81.04.010; amending section 81.08.010, chapter 14, Laws of 1961 as amended by section 3, chapter 105, Laws of 1965 ex. sess. and RCW 81.08.010; amending section 81.12.010, chapter 14, Laws of 1961 as last amended by section 4, chapter 210, Laws of 1969 ex. sess. and RCW 81.12.010; amending section 81.24.030, chapter 14, Laws of 1961 and RCW 81.24.030; repealing section 81.24.040, chapter 14, Laws of 1961 and RCW 81.24.040; repealing section 81.92.010 through 81.92.100, chapter 14, Laws of 1961 and RCW 81.92.010 through 81.92.100; repealing section 81.92.110, chapter 14, Laws of 1961, section 1, chapter 13, Laws of 1972 ex. sess. and RCW 81.92.110; repealing section 81.92.120 through 81.92.140, chapter 14, Laws of 1961 and RCW 81.92.120 through 81.92.140; repealing section 81.92.150, chapter 14, Laws of 1961, section 39, chapter 199, Laws of 1969 ex. sess. and RCW 81.92.150; repealing section 81.92.160, chapter 14, Laws of 1961 and RCW 81.92.160; repealing section 81.94.010 through 81.94.050, chapter 14, Laws of 1961 and RCW 81.94.010 through 81.94.050; repealing section 81.94.060, chapter 14, Laws of 1961, section 118, chapter 154, Laws of 1973 1st ex. sess. and RCW 81.94.060; repealing section 81.94.070 through 81.94.110, chapter 14, Laws of 1961 and RCW 81.94.070 through 81.94.110; and repealing section 81.94.130, chapter 14, Laws of 1961 and RCW 81.94.130.

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

Section 1. Section 7-204, chapter 157, Laws of 1965 ex. sess. and RCW 62A.7-204 are each amended to read as follows:

(1) A warehouseman is liable for damages for loss of or injury to the goods caused by his failure to exercise such care in regard to them as a reasonably careful man would exercise under like circumstances but unless otherwise agreed he is not liable for damages which could not have been avoided by the exercise of such care.

(2) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage, and setting forth a specific liability per article or item, or value per unit of weight, beyond which the warehouseman shall not be liable; provided, however, that such liability may on written request of the bailor at the time of signing such storage agreement or within a reasonable time after receipt of the warehouse receipt be increased on part or all of the goods thereunder, in

which event increased rates may be charged based on such increased valuation, but that no such increase shall be permitted contrary to a lawful limitation of liability contained in the warehouseman's tariff, if any. No such limitation is effective with respect to the warehouseman's liability for conversion to his own use.

(3) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the bailment may be included in the warehouse receipt or tariff.

(4) This section does not impair or repeal the duties of care or liabilities or penalties for breach thereof as provided in chapters 22.09((;-)) and 22.32(~~(;- 81-92, and 81-94)~~) RCW.

Sec. 2. Section 81.04.010, chapter 14, Laws of 1961 and RCW 81.04.010 are each amended to read as follows:

As used in this title, unless specially defined otherwise or unless the context indicates otherwise:

"Commission" means the utilities and transportation commission.

"Commissioner" means one of the members of such commission.

"Corporation" includes a corporation, company, association or joint stock association.

"Person" includes an individual, a firm or copartnership.

"Street railroad" includes every railroad by whatsoever power operated, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for hire, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any one city or town, and includes all equipment, switches, spurs, tracks, bridges, right of trackage, subways, tunnels, stations, terminals and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such street railroad, within this state.

"Street railroad company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any street railroad or any cars or other equipment used thereon or in connection therewith within this state.

"Railroad" includes every railroad, other than street railroad, by whatsoever power operated for public use in the conveyance of persons or property for hire, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such railroad.

"Railroad company" includes every corporation, company, association, joint stock association, partnership or person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any railroad or any cars or other equipment used thereon or in connection therewith within this state.

"Express company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, who shall engage in or transact the business of carrying any freight, merchandise or property for hire on the line of any common carrier operated in this state.

"Common carrier" includes all railroads, railroad companies, street railroads, street railroad companies, steamboat companies, express companies, car companies, sleeping car companies, freight companies, freight line companies, and every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town, owning, operating, managing or controlling any such agency for public use in the conveyance of persons or property for hire within this state.

"Vessel" includes every species of watercraft, by whatsoever power operated, for public use in the conveyance of persons or property for hire over and upon the waters within this state, excepting all towboats, tugs, scows, barges, and lighters, and excepting rowboats and sailing boats under twenty gross tons burden, open steam launches of five tons gross and under, and vessels under five tons gross propelled by gas, fluid, naphtha or electric motors.

"Steamboat company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever, owning, controlling, leasing, operating or managing any vessel over and upon the waters of this state.

"Transportation of property" includes any service in connection with the receiving, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage and handling of the property transported, and the transmission of credit.

"Transportation of persons" includes any service in connection with the receiving, carriage and delivery of the person transported and his baggage and all facilities used, or necessary to be used in connection with the safety, comfort and convenience of the person transported.

"Public service company" includes every common carrier(~~(, wharfinger and warehouseman)~~).

The term "service" is used in this title in its broadest and most inclusive sense.

Sec. 3. Section 81.08.010, chapter 14, Laws of 1961 as amended by section 3, chapter 105, Laws of 1965 ex. sess. and RCW 81.08.010 are each amended to read as follows:

The term "public service company", as used in this chapter, shall mean every company now or hereafter engaged in business in this state as a public utility and subject to regulation as to rates and service by the utilities and transportation commission under the provisions of this title: PROVIDED,

That it shall not include any such company the issuance of stocks and securities of which is subject to regulation by the Interstate Commerce Commission: PROVIDED FURTHER, That it shall not include any "motor carrier" as that term is defined in RCW 81.80.010 (~~or any "storage warehouse", "storage warehouseman" or "warehouseman" as those terms are defined in RCW 81.92.010~~) or any "garbage and refuse collection company" subject to the provisions of chapter 81.77 RCW.

Sec. 4. Section 81.12.010, chapter 14, Laws of 1961 as last amended by section 4, chapter 210, Laws of 1969 ex. sess. and RCW 81.12.010 are each amended to read as follows:

The term "public service company," as used in this chapter, shall mean every company now or hereafter engaged in business in this state as a public utility and subject to regulation as to rates and service by the utilities and transportation commission under the provisions of this title: PROVIDED, That it shall not include common carriers subject to regulation by the Interstate Commerce Commission: PROVIDED FURTHER, That it shall not include motor freight carriers subject to the provisions of chapter 81.80 RCW or garbage and refuse collection companies subject to the provisions of chapter 81.77 RCW (~~or storage warehousemen subject to the provisions of chapter 81.92 RCW or wharfingers and warehousemen subject to the provisions of chapter 81.94 RCW~~): PROVIDED FURTHER, That nothing contained in this chapter shall relieve public service companies from the necessity for compliance with the provisions of RCW 81.80.270.

Sec. 5. Section 81.24.030, chapter 14, Laws of 1961 and RCW 81.24.030 are each amended to read as follows:

Every steamboat company (~~and every wharfinger or warehouseman~~) shall, on or before the first day of April of each year, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year, or portion thereof, and pay to the commission a fee of two-fifths of one percent of the amount of gross operating revenue: PROVIDED, That the fee so paid shall in no case be less than five dollars. The percentage rate of gross operating revenue to be paid in any year may be decreased by the commission by general order entered before March 1st of such year.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

- (1) Section 81.24.040, chapter 14, Laws of 1961 and RCW 81.24.040;
- (2) Section 81.92.010 through 81.92.100, chapter 14, Laws of 1961 and RCW 81.92.010 through 81.92.100;
- (3) Section 81.92.110, chapter 14, Laws of 1961, section 1, chapter 13, Laws of 1972 ex. sess. and RCW 81.92.110;
- (4) Section 81.92.120 through 81.92.140, chapter 14, Laws of 1961 and RCW 81.92.120 through 81.92.140;

(5) Section 81.92.150, chapter 14, Laws of 1961, section 39, chapter 199, Laws of 1969 ex. sess. and RCW 81.92.150;

(6) Section 81.92.160, chapter 14, Laws of 1961 and RCW 81.92.160;

(7) Section 81.94.010 through 81.94.050, chapter 14, Laws of 1961 and RCW 81.94.010 through 81.94.050;

(8) Section 81.94.060, chapter 14, Laws of 1961, section 118, chapter 154, Laws of 1973 1st ex. sess. and RCW 81.94.060;

(9) Section 81.94.070 through 81.94.110, chapter 14, Laws of 1961 and RCW 81.94.070 through 81.94.110; and

(10) Section 81.94.130, chapter 14, Laws of 1961 and RCW 81.94.130.

Passed the House February 18, 1981.

Passed the Senate February 24, 1981.

Approved by the Governor March 6, 1981.

Filed in Office of Secretary of State March 6, 1981.

CHAPTER 14

[Engrossed Substitute Senate Bill No. 3041]

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL—STATE'S MEMBERS

AN ACT Relating to electric power and conservation planning; adding a new chapter to Title 43 RCW; and declaring an emergency.

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

NEW SECTION. Section 1. The state of Washington agrees to participate in the Pacific Northwest Electric Power and Conservation Planning Council pursuant to the Pacific Northwest Electric Power Planning and Conservation Act.

NEW SECTION. Sec. 2. As used in this chapter:

(1) The term "the act" means the Pacific Northwest Electric Power Planning and Conservation Act.

(2) The term "council" means the Pacific Northwest Electric Power and Conservation Planning Council.

NEW SECTION. Sec. 3. The governor, with the consent of the senate, shall appoint two residents of Washington state to the council pursuant to the act. These persons shall undertake the functions and duties of members of the council as specified in the act and in appropriate state law. Upon appointment by the governor to the council, the nominee shall make available to the senate such disclosure information as is requested for the confirmation process, including that required in RCW 42.17.240.

NEW SECTION. Sec. 4. (1) Unless removed at the governor's pleasure, council members shall serve a term ending January 15 of the third year following appointment except that, with respect to members initially appointed, the governor shall designate one member to serve a term ending

January 15 of the second year following appointment. Initial appointments to the council shall be made within thirty days of the effective date of this act.

(2) Each member shall serve until a successor is appointed, but if a successor is not appointed within sixty days of the beginning of a new term, the member shall be considered reappointed, subject to the consent of the senate.

(3) A vacancy on the council shall be filled for the unexpired term by the governor, with the consent of the senate.

NEW SECTION. Sec. 5. (1) Council members shall spend sufficient time on council activities to fully represent the state of Washington in carrying out the purposes of the act.

(2) State agencies shall provide technical assistance to council members upon request. The council members shall request that the council request the administrator of the Bonneville Power Administration to reimburse the state for the expenses associated with such assistance as provided in the act.

(3) The members of the council shall maintain liaison with the governor or his designees and the committees on energy and utilities, or their successor entities, of the senate and house of representatives.

(4) The members of the council shall submit to the governor and legislature an annual report describing the activities and plans of the council.

(5) Each member of the council shall receive compensation to be determined by the governor and applicable federal law and shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060, as now or hereafter amended.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 3, 1981.

Passed the House March 3, 1981.

Approved by the Governor March 9, 1981.

Filed in Office of Secretary of State March 9, 1981.

CHAPTER 15

[House Bill No. 604]

NURSING HOME RESIDENTS—MEDICAL CARE SERVICES

AN ACT Relating to public assistance; amending section 18, chapter 8, Laws of 1981 and RCW 74.09.____; making an appropriation; providing an expiration date; and declaring an emergency.

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

Section 1. Section 18, chapter 8, Laws of 1981 and RCW 74.09.____ are each amended to read as follows:

(1) To the extent of available funds, medical care services may be provided (a) to recipients of general assistance and (b) to residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded who are aged, blind, or disabled as defined in Title XVI of the federal social security act and whose income exceeds three hundred percent of the federal supplemental security income benefit level for a single person living alone, and who were residents of any such facility under the medical assistance program during February, 1981, in accordance with requirements established by the department.

(2) Determination of the amount, scope, and duration of medical care services for recipients of medical care services is the responsibility of the department.

(3) The department shall establish standards of assistance and resource and income exemptions, which may include deductibles and co-insurance provisions. All nonexempt income and resources of medical care service recipients shall be applied against the cost of their medical care services.

(4) The scope of such medical care services shall be limited to coverage for acute and emergent conditions, except that podiatry, chiropractic, and dental services shall not be included from March 1, 1981, through June 30, 1981.

(5) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded who are eligible for medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

(6) Payments made by the department under this program shall be the limit of expenditures for medical care services solely from state funds.

(7) Medical care services received no more than seven days prior to the date of application shall be retroactively certified and approved for payment on behalf of a person who was otherwise eligible at the time the medical services were furnished.

This section shall expire on June 30, 1981.

NEW SECTION. Sec. 2. There is hereby appropriated from the general fund to the department of social and health services for the period March 1, 1981, through June 30, 1981, the sum of two hundred sixty thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House March 5, 1981.

Passed the Senate March 6, 1981.

Approved by the Governor March 16, 1981.

Filed in Office of Secretary of State March 16, 1981.

CHAPTER 16

[Substitute House Bill No. 166]

SCHOOL EMPLOYEES' SALARIES—DISTRICT BOARDS' AUTHORITY

AN ACT Relating to school districts; amending section 3, chapter 10, Laws of 1972 ex. sess. as last amended by section 4, chapter 182, Laws of 1980 and RCW 28A.58.100; creating new sections; adding a new section to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; and declaring an emergency.

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

Section 1. Section 3, chapter 10, Laws of 1972 ex. sess. as last amended by section 4, chapter 182, Laws of 1980 and RCW 28A.58.100 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 employees(~~(, and fix, alter, allow and order paid their salaries and compensation)~~);

(2) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or noncertification 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 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 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 and such accumulated time may be taken at any time during the school year but for purposes of payments for unused sick leave shall not exceed twelve days per year;

(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.58.097 and 28A.21.360;

(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 he returns to the employment of the district.

When any teacher or other certificated employee leaves one school district within the state and commences employment with another school district within the state, he shall retain the same seniority, leave benefits and other benefits that he had in his previous position. 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.

NEW SECTION. Sec. 2. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW a new section 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. No school district board of directors may grant salary and compensation increases from any fund source whatsoever in excess of the amount and or percentage

as may be provided for employees as set forth in the state operating appropriations act in effect at the time the compensation is payable.

(2) Increases in school district employee fringe benefit contributions by school districts shall be included for purposes of determining salary and compensation increases under this section if contributions to fringe benefits provided by a district exceed or, by virtue of the increase, will exceed the amount provided for fringe benefits in the state operating appropriations act in effect at the time the compensation is payable.

(3) For purposes of this section, salary and compensation shall not include the following:

(a) Payment for unused leave for illness or injury under RCW 28A.58.097,

(b) Employer contributions for the following employee fringe benefits:

(i) Old Age Survivors Insurance

(ii) Workers' Compensation

(iii) Unemployment Compensation

(iv) Retirement benefits under the Washington State Retirement System.

(4) Provisions of any contract in force on the effective date of this amendatory act which conflict with requirements of this section shall continue in effect until contract expiration. After expiration, any new contract executed between the parties shall be consistent with this section.

NEW SECTION. Sec. 3. There is added to chapter 41.59 RCW a new section to read as follows:

Nothing in this chapter shall be construed to grant employers or employees the right to reach agreements regarding salary or compensation increases in excess of those authorized in accordance with section 2 of this amendatory act.

NEW SECTION. Sec. 4. There is added to chapter 41.56 RCW a new section to read as follows:

Nothing in this chapter shall be construed to grant school districts or school district employees the right to reach agreements in excess of those authorized in accordance with section 2 of this amendatory act.

NEW SECTION. Sec. 5. If any provision of this amendatory 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 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of

the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 6, 1981.

Passed the Senate March 19, 1981.

Approved by the Governor March 20, 1981.

Filed in Office of Secretary of State March 20, 1981.

CHAPTER 17

[Senate Bill No. 3213]

ELECTRIFIED PUBLIC STREETCAR LINES—LOCAL IMPROVEMENTS

AN ACT Relating to electrified public streetcar lines; amending section 35.43.040, chapter 7, Laws of 1965 as amended by section 1, chapter 258, Laws of 1969 ex. sess. and RCW 35.43.040; and declaring an emergency.

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

Section 1. Section 35.43.040, chapter 7, Laws of 1965 as amended by section 1, chapter 258, Laws of 1969 ex. sess. and RCW 35.43.040 are each amended to read as follows:

Whenever the public interest or convenience may require, the legislative authority of any city or town may order the whole or any part of any local improvement including but not restricted to those, or any combination thereof, listed below to be constructed, reconstructed, repaired, or renewed and landscaping including but not restricted to the planting, setting out, cultivating, maintaining, and renewing of shade or ornamental trees and shrubbery thereon; may order any and all work to be done necessary for completion thereof; and may levy and collect special assessments on property specially benefited thereby to pay the whole or any part of the expense thereof, viz:

(1) Alleys, avenues, boulevards, lanes, park drives, parkways, public places, public squares, public streets, their grading, regrading, planking, replanking, paving, repaving, macadamizing, remacadamizing, graveling, re-graveling, piling, repiling, capping, recapping, or other improvement; if the management and control of park drives, parkways, and boulevards is vested in a board of park commissioners, the plans and specifications for their improvement must be approved by the board of park commissioners before their adoption;

(2) Auxiliary water systems;

(3) Auditoriums, field houses, gymnasiums, swimming pools, or other recreational or playground facilities or structures;

(4) Bridges, culverts, and trestles and approaches thereto;

(5) Bulkheads and retaining walls;

(6) Dikes and embankments;

(7) Drains, sewers and sewer appurtenances which as to trunk sewers shall include as nearly as possible all the territory which can be drained through the trunk sewer and subsewers connected thereto;

(8) Escalators or moving sidewalks together with the expense of operation and maintenance;

(9) Parks and playgrounds;

(10) Sidewalks, curbing, and crosswalks;

(11) Street lighting systems together with the expense of furnishing electrical energy, maintenance, and operation;

(12) Underground utilities transmission lines;

(13) Water mains, hydrants and appurtenances which as to trunk water mains shall include as nearly as possible all the territory in the zone or district to which water may be distributed from the trunk water mains through lateral service and distribution mains and services;

(14) Fences, culverts, syphons, or coverings or any other feasible safeguards along, in place of, or over open canals or ditches to protect the public from the hazards thereof;

(15) Roadbeds, trackage, signalization, storage facilities for rolling stock, overhead and underground wiring, and any other stationary equipment reasonably necessary for the operation of an electrified public street-car line.

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

Passed the Senate February 12, 1981.

Passed the House March 30, 1981.

Approved by the Governor April 3, 1981.

Filed in Office of Secretary of State April 3, 1981.

CHAPTER 18

[Substitute Senate Bill No. 3076]

SALES TAX—VENDING MACHINE FOOD SALES

AN ACT Relating to revenue and taxation; and amending section 49, chapter 37, Laws of 1980 as amended by section 3, chapter 86, Laws of 1980 and RCW 82.08.0284.

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

Section 1. Section 49, chapter 37, Laws of 1980 as amended by section 3, chapter 86, Laws of 1980 and RCW 82.08.0284 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this ~~((paragraph))~~ subsection shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, except for food products furnished as meals under a state administered nutrition program for the aged as provided for in the Older American Act (P.L. 95-478 Title III) and RCW 74.38.040(6), or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

(2) Subsection (1) of this section notwithstanding, the retail sale of food products is subject to sales tax under RCW 82.08.020 if the food products are sold through a vending machine, and in this case the selling price for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

This subsection does not apply to hot prepared food products, other than food products which are heated after they have been dispensed from the vending machine.

For tax collected under this subsection, the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

Passed the Senate March 18, 1981.

Passed the House April 7, 1981.

Approved by the Governor April 16, 1981.

Filed in Office of Secretary of State April 16, 1981.

CHAPTER 19

[Engrossed Substitute Senate Bill No. 3080]

MOTOR VEHICLE OFFENSES—TRAFFIC INFRACTION CLASSIFICATION— HEARINGS, PROCEDURE, COSTS—MONETARY PENALTY, ESTABLISHMENT OF

AN ACT Relating to motor vehicle offenses; amending section 2, chapter 136, Laws of 1979 ex. sess. as amended by section 7, chapter 148, Laws of 1980 and RCW 46.63.020; amending section 10, chapter 136, Laws of 1979 ex. sess. and RCW 46.63.080; amending section 1, chapter 101, Laws of 1901 as amended by section 1, chapter 10, Laws of 1903 and RCW 42.16.020; amending section 13, chapter 136, Laws of 1979 ex. sess. as amended by section 4, chapter 128, Laws of 1980 and RCW 46.63.110; adding a new section to chapter 46.63 RCW; repealing section 13, chapter 128, Laws of 1980 and RCW 46.63.150; and declaring an emergency.

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

Section 1. Section 2, chapter 136, Laws of 1979 ex. sess. as amended by section 7, chapter 148, Laws of 1980 and RCW 46.63.020 are each 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;
- (6) RCW 46.20.021 relating to driving without a valid driver's license;

(7) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

(8) RCW 46.20.342 relating to driving with a suspended or revoked license;

(9) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

(10) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;

(11) Chapter 46.29 RCW relating to financial responsibility;

(12) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(13) RCW 46.48.175 relating to the transportation of dangerous articles;

~~((13))~~ (14) RCW 46.52.010 relating to duty on striking an unattended car or other property;

~~((14))~~ (15) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

~~((15))~~ (16) RCW 46.52.090 relating to reports by repairmen, storage-men, and appraisers;

~~((16))~~ (17) RCW 46.52.100 relating to driving under the influence of liquor or drugs;

(18) RCW 46.52.108 relating to disposal of abandoned vehicles or hulks;

~~((17))~~ (19) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company and an employer;

(20) RCW 46.52.210 relating to abandoned vehicles or hulks;

~~((18))~~ (21) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;

~~((19))~~ (22) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

~~((20))~~ (23) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(24) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

~~((21))~~ (25) RCW 46.61.500 relating to reckless driving;

~~((22))~~ (26) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((23))~~ (27) RCW 46.61.520 relating to negligent homicide by motor vehicle;

~~((24))~~ (28) RCW 46.61.525 relating to negligent driving;

~~((25))~~ (29) RCW 46.61.530 relating to racing of vehicles on highways;

~~((26))~~ (30) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

(31) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((27))~~ (32) RCW 46.64.020 relating to nonappearance after a written promise;

~~((28))~~ (33) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((29))~~ (34) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((30))~~ (35) 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;

~~((31))~~ (36) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((32))~~ (37) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((33))~~ (38) Chapter ~~(46.83)~~ 46.82 RCW relating to driver's training schools.

Sec. 2. Section 10, chapter 136, Laws of 1979 ex. sess. and RCW 46.63.080 are each amended to read as follows:

(1) Procedures for the conduct of all hearings provided for in this chapter may be established by rule of the supreme court.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

(3) The attorney representing the state, county, city, or town may appear in any proceedings under this chapter but need not appear, notwithstanding any statute or rule of court to the contrary.

Sec. 3. Section 1, chapter 101, Laws of 1901 as amended by section 1, chapter 10, Laws of 1903 and RCW 42.16.020 are each amended to read as follows:

No state, county, municipal or other public officer within the state of Washington, who receives from the state, or from any county or municipality therein, a fixed and stated salary as compensation for services rendered as such public officer shall be allowed or paid any per diem for attending or testifying on behalf of the state of Washington, or any county or municipality therein, at any trial or other judicial proceeding, in any state, county or municipal court within this state; nor shall such officer, in any case, be allowed nor paid any per diem for attending or testifying in any state or municipal court of this state, in regard to matters and information that have come to his knowledge in connection with and as a result of the performance of his duties as a public officer as aforesaid: Provided, This section shall not apply when any deduction shall be made from the regular salary of such officer by reason of his being in attendance upon the superior court, but in such cases regular witness fees shall be paid; and further, that if a public officer be subpoenaed and required to appear or testify in judicial proceedings in a county other than that in which he resides, then said public

officer shall be entitled to receive per diem and mileage as provided by statute in other cases; and, provided further, that this section shall not apply to police officers when called as witnesses in the superior courts during hours when they are off duty as such officers. A law enforcement officer who has issued a notice of traffic infraction is not entitled to receive witness fees or mileage in a contested traffic infraction case.

NEW SECTION. Sec. 4. There is added to chapter 46.63 RCW a new section to read as follows:

Each party to a traffic infraction case is responsible for costs incurred by that party. No costs or attorney fees may be awarded to either party in a traffic infraction case.

NEW SECTION. Sec. 5. Section 13, chapter 128, Laws of 1980 and RCW 46.63.150 are each repealed.

Sec. 6. Section 13, chapter 136, Laws of 1979 ex. sess. as amended by section 4, chapter 128, Laws of 1980 and RCW 46.63.110 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court may prescribe by rule a schedule of monetary penalties for designated traffic infractions.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to overtime parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. The monetary penalty for failure to respond to a notice of a traffic infraction relating to overtime parking as defined by local law, ordinance, regulation, or resolution shall be set by the local legislative body which originally enacted the local law, ordinance, regulation, or resolution creating the parking offense. The local court, whether a municipal, police, or district court may impose the monetary penalty set by the local legislative body. Such locally set monetary penalty is not subject to the assessments required by RCW 46.81.030 and 43.101.210 and related court rules.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) 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, in its discretion, 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 shall notify the department of the

failure to pay the penalty and the department may not renew the person's driver's license until the penalty has been paid and the penalty provided in subsection (2) of this section has been paid.

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, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 11, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 16, 1981.

Filed in Office of Secretary of State April 16, 1981.

CHAPTER 20

[Senate Bill No. 3221]

UNIVERSITY OF WASHINGTON, SCHOOL OF DENTISTRY—RESIDENT TUITION AND FEES—REGIONALIZED PROGRAM

AN ACT Relating to the University of Washington; and amending section 1, chapter 105, Laws of 1975 1st ex. sess. and RCW 28B.15.225.

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

Section 1. Section 1, chapter 105, Laws of 1975 1st ex. sess. and RCW 28B.15.225 are each amended to read as follows:

The board of regents of the University of Washington may exempt from payment of the nonresident portion of the legally-established student tuition and fees, any student admitted to the university's school of medicine pursuant to any contracts with the states of Alaska, Montana, or Idaho, or agencies thereof, providing for a program of regionalized medical education conducted by said school of medicine, or any student admitted to the university's school of dentistry pursuant to any 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 said school of dentistry, which contracts provide that the proportional cost of such program and in excess of resident student tuition and fees will be reimbursed to the university by or on behalf of said states or agencies thereof.

Passed the Senate March 16, 1981.

Passed the House April 7, 1981.

Approved by the Governor April 16, 1981.

Filed in Office of Secretary of State April 16, 1981.

CHAPTER 21

[Substitute Senate Bill No. 3034]

VOLUNTEER FIREMEN—SERVICE AND DISABILITY BENEFITS

AN ACT Relating to volunteer firemen's relief and pensions; amending section 15, chapter 261, Laws of 1945 as last amended by section 1, chapter 76, Laws of 1975-'76 2nd ex. sess. and RCW 41.24.150; amending section 16, chapter 261, Laws of 1945 as last amended by section 2, chapter 76, Laws of 1975-'76 2nd ex. sess. and RCW 41.24.160; amending section 23, chapter 261, Laws of 1945 as last amended by section 5, chapter 76, Laws of 1975-'76 2nd ex. sess. and RCW 41.24.230; amending section 17, chapter 261, Laws of 1945 as last amended by section 1, chapter 157, Laws of 1979 ex. sess. and RCW 41.24.170; and prescribing an effective date.

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

Section 1. Section 15, chapter 261, Laws of 1945 as last amended by section 1, chapter 76, Laws of 1975-'76 2nd ex. sess. and RCW 41.24.150 are each amended to read as follows:

Whenever a fireman serving in any capacity as a member of his own fire department subject to the provisions of this chapter becomes physically or mentally disabled, or sick, in consequence or as the result of the performance of his or her duties, so as to be wholly prevented from engaging in each and every duty of his or her regular occupation, business or profession, he or she shall be paid from the fund monthly, the sum of (~~seven hundred fifty~~) nine hundred dollars for a period of not to exceed six months, or (~~twenty-five~~) thirty dollars per day for such period as is part of a month, after which period, if the member is incapacitated to such an extent that he or she is thereby prevented from engaging in any occupation or performing any work for compensation or profit or if the member sustained an injury after October 1, 1978 which resulted in the loss or paralysis of both legs, or arms, or one leg and one arm or total loss of eyesight but such injury has not prevented the member from engaging in an occupation or performing work for compensation or profit, he or she shall be entitled to draw from the fund monthly, the sum of (~~three hundred seventy-five~~) four hundred fifty dollars so long as the disability continues, except as hereinafter provided: PROVIDED, That if the member has a wife or husband and/or a child or children unemancipated or under eighteen years of age, he or she shall be entitled to draw from the fund monthly the additional sums of (~~seventy-five~~) ninety dollars because of the fact of his wife or her husband, (~~thirty-seven~~) forty-five dollars (~~and fifty cents~~) because of the fact of his or her youngest or only child unemancipated or under eighteen years of age, and (~~thirty~~) thirty-five dollars because of the fact of each additional child unemancipated or under eighteen years of age, all to a total maximum amount of (~~seven hundred fifty~~) nine hundred dollars. The board may at any time reopen the grant of such disability pension if the pensioner is gainfully employed, and may reduce it in the proportion that the annual income from

such gainful employment bears to the annual income received by the pensioner at the time of his disability: PROVIDED, That where a fireman sustains a permanent partial disability the state board may provide that such injured fireman shall receive a lump sum compensation therefor to the same extent as is provided for permanent partial disability under the workmen's compensation act under Title 51 RCW in lieu of such monthly disability payments.

Sec. 2. Section 16, chapter 261, Laws of 1945 as last amended by section 2, chapter 76, Laws of 1975-'76 2nd ex. sess. and RCW 41.24.160 are each amended to read as follows:

Whenever a fireman dies as the result of injuries received, or sickness contracted in consequence or as the result of the performance of his or her duties, the board of trustees shall order and direct the payment of the sum of ~~((one thousand five hundred))~~ two thousand dollars to his widow or her widower, or if there be no widow or widower, then to his or her dependent child or children, or if there be no dependent child or children, then to his or her parents or either of them, and the sum of one hundred ~~((fifty))~~ eighty dollars per month to his widow or her widower during his or her life together with the additional monthly sums of ~~((thirty-seven))~~ forty-five dollars ~~((and fifty cents))~~ for the youngest or only child and ~~((thirty))~~ thirty-five dollars for each additional child of the member, unemancipated or under eighteen years of age, dependent upon the member for support at the time of his or her death, to a maximum total of ~~((three))~~ four hundred dollars per month: PROVIDED, That if there is no widow or widower, or the widow or widower dies while there are children, unemancipated or under eighteen years of age, then the amount of one hundred ~~((fifty))~~ eighty dollars per month shall be paid for the youngest or only child together with an additional ~~((thirty))~~ thirty-five dollars per month for each additional of such children to a maximum of ~~((three))~~ four hundred dollars per month until they become emancipated or reach the age of eighteen years; and if there are no widow or widower, child or children entitled thereto, then to his or her parents or either of them the sum of one hundred ~~((fifty))~~ eighty dollars per month for life, if it is proved to the satisfaction of the board that the parents, or either of them, were dependent on the deceased for their support at the time of his or her death: PROVIDED, That if the widow or widower, child or children, or the parents, or either of them, marry while receiving such pension the person so marrying shall thereafter receive no further pension from the fund.

In the case provided for herein, the monthly payment provided may be converted in whole or in part, into a lump sum payment, not in any case to exceed ~~((ten))~~ twelve thousand dollars, equal or proportionate, as the case may be, to the value of the annuity then remaining, to be fixed and certified by the state insurance commissioner, in which event the monthly payments

shall cease in whole or in part accordingly or proportionately. Such conversion may be made either upon written application to the state board and shall rest in the discretion of the state board; or the state board is authorized to make, and authority is hereby given it to make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of the annuity then remaining in full satisfaction of claims due to dependents. Within the rule aforesaid the amount and value of the lump sum payment may be agreed upon between the applicant and the state board. Any person receiving a monthly payment hereunder at the time of the effective date of this act may elect, within two years, to convert such payments into a lump sum payment as herein provided.

Sec. 3. Section 23, chapter 261, Laws of 1945 as last amended by section 5, chapter 76, Laws of 1975-'76 2nd ex. sess. and RCW 41.24.230 are each amended to read as follows:

Upon the death of any fireman resulting from injuries or sickness in consequence or as the result of the performance of his or her duties, the board of trustees shall authorize the issuance of a voucher for the sum of ~~((seven hundred fifty))~~ one thousand dollars, and upon the death of any fireman who is receiving any disability pension provided for in this chapter, the board of trustees shall authorize the issuance of a voucher for the sum of ~~((two hundred fifty))~~ five hundred dollars, to help defray the funeral expenses and burial of such fireman, which voucher shall be paid in the manner provided for payment of other charges against the fund.

Sec. 4. Section 17, chapter 261, Laws of 1945 as last amended by section 1, chapter 157, Laws of 1979 ex. sess. and RCW 41.24.170 are each amended to read as follows:

Whenever any fireman has been a member and served honorably for a period of ten years or more as an active member in any capacity, of any regularly organized volunteer fire department of any municipality in this state, and which municipality and fireman are enrolled under the retirement provisions, and the fireman has reached the age of sixty-five years, the board of trustees shall order and direct that he be retired and be paid a monthly pension as provided in this section.

Whenever a fireman has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department of any municipality in this state, and he has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of twenty-five years, the board of trustees shall order and direct that he be retired and such fireman be paid a monthly pension of ~~((one hundred fifty))~~ two hundred dollars from the fund for the balance of his life.

Whenever any fireman has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department of any municipality in

this state, and the fireman has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of less than twenty-five years, the board of trustees shall order and direct that he be retired and that such fireman shall receive a minimum monthly pension of twenty-five dollars increased by the sum of ~~((five))~~ seven dollars each month for each year the annual fee has been paid, but not to exceed the maximum monthly pension herein provided, for the balance of his life.

No pension herein provided may become payable before the sixty-fifth birthday of the fireman, nor for any service less than twenty-five years: PROVIDED, HOWEVER, That:

(1) Any fireman, upon completion of twenty-five years' service and attainment of age sixty, may irrevocably elect, in lieu of the pension to which he would be entitled hereunder at age sixty-five, to receive for the balance of his life a monthly pension equal to sixty percent of such pension.

(2) Any fireman, upon completion of twenty-five years' service and attainment of age sixty-two, may irrevocably elect, in lieu of the pension to which he would be entitled hereunder at age sixty-five, to receive for the balance of his life a monthly pension equal to seventy-five percent of such pension.

(3) Any fireman, upon completion of less than twenty-five years of service shall receive the applicable reduced pension provided below, according to the age at which he elects to begin to receive the pension. If receipt of the benefits begins at age sixty-five he shall receive one hundred percent of the reduced benefit; at age sixty-two he shall receive seventy-five percent of the reduced benefit; and at age sixty he shall receive sixty percent of the reduced benefit. The reduced benefit shall be computed as follows:

(a) Upon completion of ten years, but less than fifteen years of service, a monthly pension equal to fifteen percent of such pension as he would have been entitled to receive at age sixty-five after twenty-five years of service;

(b) Upon completion of fifteen years, but less than twenty years of service, a monthly pension equal to thirty percent of such pension as he would have been entitled to receive at age sixty-five after twenty-five years of service; and

(c) Upon completion of twenty years, but less than twenty-five years of service, a monthly pension equal to sixty percent of such pension as he would have been entitled to receive at age sixty-five after twenty-five years of service.

(4) Any monthly pension, payable to any fireman, which will not, under the provisions of this section, amount to twenty-five dollars, may be converted into a lump sum payment to the value of the annuity then remaining, as fixed and certified by the state insurance commissioner. Such conversion may be made either upon written application to the state board and shall rest at the discretion of the state board; or the state board may make, on its own motion, lump sum payments, equal or proportionate, as the case may

be, to the value of the annuity then remaining in full satisfaction of claims due. Any person receiving a monthly payment of less than twenty-five dollars at the time of September 1, 1979, may elect, within two years, to convert such payments into a lump sum payment as herein provided.

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 amendatory act shall take effect July 1, 1981.

Passed the Senate March 6, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 22

[Engrossed Senate Bill No. 3052]

DRIVER RECORDS—NEGATIVE FILE AVAILABILITY

AN ACT Relating to driver records; and amending section 5, chapter 155, Laws of 1969 ex. sess. as amended by section 149, chapter 158, Laws of 1979 and RCW 46.20.118.

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

Section 1. Section 5, chapter 155, Laws of 1969 ex. sess. as amended by section 149, chapter 158, Laws of 1979 and RCW 46.20.118 are each amended to read as follows:

The department shall maintain a negative file. It shall contain negatives of all pictures taken by the department of licensing as authorized by RCW 46.20.115 through 46.20.119. The negative file shall become a part of the driver record file maintained by the department. ~~((It shall be available as a reference file to assist))~~ Negatives in the file shall not be available for public inspection and copying under chapter 42.17 RCW. The department may make the file available to official governmental enforcement agencies to assist in the ((identification of persons suspected of committing crimes)) investigation by the agencies of suspected criminal activity. The department may also provide a print to the driver's next of kin in the event the driver is deceased.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 24, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 23

[Senate Bill No. 3058]

POSTSECONDARY EDUCATION—TERM PAPER SALES

AN ACT Relating to higher education; amending section 1, chapter 43, Laws of 1979 and RCW 28B.10.580; amending section 2, chapter 43, Laws of 1979 and RCW 28B.10.582; and creating a new section.

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

Section 1. Section 1, chapter 43, Laws of 1979 and RCW 28B.10.580 are each amended to read as follows:

(1) The legislature finds that commercial operations selling term papers, theses, and dissertations encourages academic dishonesty (~~((on the part of students attending Washington state institutions of higher learning))~~), and in so doing impairs the public confidence in the credibility of (~~((these))~~) institutions of higher education whether in this state or any other to function within their prime mission, that of providing a quality education to the citizens of (~~((the))~~) this or any other state.

(2) The legislature further finds that this problem, beyond the ability of these institutions to control effectively, is a matter of state concern, while at the same time recognizing the need for and the existence of legitimate research functions.

It is the declared intent of RCW 28B.10.580 through 28B.10.584, therefore, that the state of Washington prohibit the preparation for sale or commercial sale of term papers, theses and dissertations: PROVIDED, That such legislation shall not affect legitimate and proper research activities: PROVIDED FURTHER, That such legislation does not impinge on the rights, under the First Amendment, of freedom of speech, of the press, and of distributing information.

Sec. 2. Section 2, chapter 43, Laws of 1979 and RCW 28B.10.582 are each amended to read as follows:

Unless the context clearly indicates otherwise, the words used in RCW 28B.10.580 through 28B.10.584 shall have the meaning given in this section:

(1) "Person" means any individual, partnership, corporation, or association.

(2) "Assignment" means any specific written, recorded, pictorial, artistic, or other academic task, including but not limited to term papers, theses, dissertations, essays, and reports, that is intended for submission to any postsecondary institution in fulfillment of the requirements of a degree, diploma, certificate, or course of study at any such educational institution.

(3) "Prepare" means to create, write, or in any way produce in whole or substantial part a term paper, thesis, dissertation, essay, report, or other assignment for a monetary fee.

(4) "Postsecondary institution" means any university, college, or other postsecondary educational institution (~~which is chartered, incorporated, licensed, registered, or supervised by this state~~).

NEW SECTION. Sec. 3. If any provision of this amendatory 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 February 11, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 24

[Engrossed Substitute Senate Bill No. 3075]

SEWER AND WATER DISTRICT MONEYS—DEPOSIT OF

AN ACT Relating to local government; amending section 15, chapter 103, Laws of 1959 as amended by section 2, chapter 140, Laws of 1973 1st ex. sess. and RCW 56.16.160; amending section 16, chapter 108, Laws of 1959 as amended by section 3, chapter 140, Laws of 1973 1st ex. sess. and RCW 57.20.160; adding a new section to chapter 56.16 RCW; and adding a new section to chapter 57.20 RCW.

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

NEW SECTION. Section 1. There is added to chapter 56.16 RCW a new section to read as follows:

Sewer district moneys shall be deposited by the district in an account, which may be interest-bearing, subject to such requirements and conditions as may be prescribed by the state auditor. The account shall be in the name of the district except, upon request by the treasurer, the accounts shall be in the name of the " (name of county) county treasurer." The treasurer may instruct the financial institutions holding the deposits to transfer them to the treasurer at such times as the treasurer may deem appropriate, consistent with regulations governing and policies of the financial institution.

NEW SECTION. Sec. 2. There is added to chapter 57.20 RCW a new section to read as follows:

Water district moneys shall be deposited by the district in an account, which may be interest-bearing, subject to such requirements and conditions as may be prescribed by the state auditor. The account shall be in the name of the district except, upon request by the treasurer, the accounts shall be in the name of the "_____(name of county)_____ county treasurer." The treasurer may instruct the financial institutions holding the deposits to transfer them to the treasurer at such times as the treasurer may deem appropriate, consistent with regulations governing and policies of the financial institution.

Sec. 3. Section 15, chapter 103, Laws of 1959 as amended by section 2, chapter 140, Laws of 1973 1st ex. sess. and RCW 56.16.160 are each amended to read as follows:

Whenever there shall have accumulated in any general or special fund of a sewer district moneys, the disbursement of which is not yet due, the board of commissioners may, by resolution, authorize the county treasurer to deposit or invest such moneys in banks, mutual savings banks, or savings and loan associations in an amount in each institution no greater than the amount insured by any department or agency of the United States government, the federal deposit insurance corporation, or the federal savings and loan insurance corporation, or to invest such moneys in direct obligations of the United States government: PROVIDED, That the county treasurer may refuse to invest any district moneys (~~((for a period shorter than ninety days, or in an amount less than five thousand dollars, or any moneys))~~) the disbursement of which will be required during the period of investment to meet outstanding obligations of the district.

Sec. 4. Section 16, chapter 108, Laws of 1959 as amended by section 3, chapter 140, Laws of 1973 1st ex. sess. and RCW 57.20.160 are each amended to read as follows:

Whenever there shall have accumulated in any general or special fund of a water district moneys, the disbursement of which is not yet due, the board of water commissioners may, by resolution, authorize the county treasurer to deposit or invest such moneys in banks, mutual savings banks, or savings and loan associations in an amount in each institution no greater than the amount insured by any department or agency of the United States government, the federal deposit insurance corporation, or the federal savings and loan insurance corporation, or to invest such moneys in direct obligations of the United States government: PROVIDED, That the county treasurer may refuse to invest any district moneys (~~((for a period shorter than~~

~~ninety days, or in an amount less than five thousand dollars, or any mon-~~
~~eys,)) the disbursement of which will be required during the period of in-~~
~~vestment to meet outstanding obligations of the district.~~

Passed the Senate February 23, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 25

[Senate Bill No. 3098]

PUBLIC TRANSPORTATION SYSTEMS—FARE ADJUSTMENTS, USER CLASSIFICATION

AN ACT Relating to public transportation services; amending section 35.58.240, chapter 7, Laws of 1965 as last amended by section 8, chapter 303, Laws of 1971 ex. sess. and RCW 35.58.240; amending section 35.92.060, chapter 7, Laws of 1965 and RCW 35.92.060; amending section 4, chapter 167, Laws of 1974 ex. sess. and RCW 36.57.040; and amending section 19, chapter 270, Laws of 1975 1st ex. sess. as amended by section 3, chapter 44, Laws of 1977 ex. sess. and RCW 36.57A.090.

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

Section 1. Section 35.58.240, chapter 7, Laws of 1965 as last amended by section 8, chapter 303, Laws of 1971 ex. sess. and RCW 35.58.240 are each amended to read as follows:

If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan transportation, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare, adopt, and carry out a general comprehensive plan for public transportation service which will best serve the residents of the metropolitan area and to amend said plan from time to time to meet changed conditions and requirements.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the use of metropolitan transportation facilities and properties within or without the metropolitan area, including systems of surface, underground, or overhead railways, tramways, buses, or any other means of local transportation except taxis, and including escalators, moving sidewalks, or other people-moving systems, passenger terminal and parking facilities and properties, and such other facilities and properties as may be necessary for passenger and vehicular access to and from such people-moving systems, terminal and parking facilities and properties, together with all lands, rights of way, property, equipment, and accessories necessary for such systems and facilities. Public transportation facilities and properties which are owned by any city may be acquired or used by the metropolitan municipal corporation only with the consent of the city council of the city owning such facilities.

Cities are hereby authorized to convey or lease such facilities to metropolitan corporations or to contract for their joint use on such terms as may be fixed by agreement between the city council of such city and the metropolitan council, without submitting the matter to the voters of such city.

The facilities and properties of a metropolitan public transportation system whose vehicles will operate primarily within the rights of way of public streets, roads, or highways, may be acquired, developed and operated without the corridor and design hearings which are required by RCW 35.58.273 for mass transit facilities operating on a separate right of way.

(3) To fix rates, tolls, fares, and charges for the use of such facilities and to establish various routes and classes of service(~~(-PROVIDED, That))~~. Fares or charges may be adjusted or eliminated for any distinguishable class of users including, but not limited to, senior citizens, handicapped persons, and students. Classes of service and fares will be maintained in the several parts of the metropolitan area at such levels as will provide, insofar as reasonably practicable, that the portion of any annual transit operating deficit of the metropolitan municipal corporation attributable to the operation of all routes, taken as a whole, which are located within the central city is approximately in proportion to the portion of total taxes collected by or on behalf of the metropolitan municipal corporation for transit purposes within the central city, and that the portion of such annual transit operating deficit attributable to the operation of all routes, taken as a whole, which are located outside the central city, is approximately in proportion to the portion of such taxes collected outside the central city.

In the event any metropolitan municipal corporation shall extend its metropolitan transportation function to any area or service already offered by any company holding a certificate of public convenience and necessity from the Washington utilities and transportation commission(;) under RCW 81.68.040, it shall by purchase or condemnation acquire at the fair market value, from the person holding the existing certificate for providing the services, that portion of the operating authority and equipment representing the services within the area of public operation.

Sec. 2. Section 35.92.060, chapter 7, Laws of 1965 and RCW 35.92.060 are each amended to read as follows:

A city or town may also construct, condemn and purchase, purchase, acquire, add to, maintain, operate, or lease cable, electric, and other railways, automobiles, motor cars, motor buses, auto trucks, and any and all other forms or methods of transportation of freight or passengers within the corporate limits of the city or town for the transportation of freight and passengers above, upon, or underneath the ground(~~(; and))~~. It may also fix, alter, regulate, and control the fares and rates to be charged therefor; ((and)) and fares or rates may be adjusted or eliminated for any distinguishable class of users including, but not limited to, senior citizens, handicapped persons, and students. Without the payment of any license fee or

tax, or the filing of a bond with, or the securing of a permit from, the state, or any department thereof, ~~((and to))~~ the city or town may engage in, carry on, and operate the business of transporting and carrying passengers or freight for hire by any method or combination of methods that the legislative authority of any city or town may by ordinance provide, with full authority to regulate and control the use and operation of vehicles or other agencies of transportation used for such business.

Sec. 3. Section 4, chapter 167, Laws of 1974 ex. sess. and RCW 36.57-.040 are each amended to read as follows:

Every county transportation authority created to perform the function of public transportation pursuant to RCW 36.57.020 shall have the following powers:

(1) To prepare, adopt, carry out, and amend a general comprehensive plan for public transportation service.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the use of any transportation facilities and properties, including terminal and parking facilities, together with all lands, rights of way, property, equipment, and accessories necessary for such systems and facilities.

(3) To fix rates, tolls, fares, and charges for the use of such facilities and to establish various routes and classes of service. Fares or charges may be adjusted or eliminated for any distinguishable class of users including, but not limited to senior citizens, handicapped persons, and students.

(4) In the event a county transit authority shall extend its transportation function to any area in which service is already offered by any company holding a certificate of public convenience and necessity from the Washington utilities and transportation commission under RCW 81.68.040, it may acquire by purchase or condemnation at the fair market value, from the person holding the existing certificate for providing the services, that portion of the operating authority and equipment representing the services within the area of public operation, or it may contract with such person or corporation to continue to operate such service or any part thereof for time and upon such terms and conditions as provided by contract.

(5) (a) To contract with the United States or any agency thereof, any state or agency thereof, any metropolitan municipal corporation, any other county, city, special district, or governmental agency and any private person, firm, or corporation for the purpose of receiving gifts or grants or securing loans or advances for preliminary planning and feasibility studies, or for the design, construction, operation, or maintenance of transportation facilities; and

(b) To contract with any governmental agency or with any private person, firm, or corporation for the use by either contracting party of all or any part of the facilities, structures, lands, interests in lands, air rights over lands, and rights of way of all kinds which are owned, leased, or held by the

other party and for the purpose of planning, constructing, or operating any facility or performing any service related to transportation which the county is authorized to operate or perform, on such terms as may be agreed upon by the contracting parties: **PROVIDED**, That before any contract for the lease or operation of any transportation facilities shall be let to any private person, firm, or corporation, competitive bids shall first be called for and contracts awarded in accord with the procedures established in accord with RCW 36.32.240, 36.32.250, and 36.32.270.

(6) In addition to all other powers and duties, an authority shall have the power to own, construct, purchase, lease, add to, and maintain any real and personal property or property rights necessary for the conduct of the affairs of the authority. An authority may sell, lease, convey, or otherwise dispose of any authority real or personal property no longer necessary for the conduct of the affairs of the authority. An authority may enter into contracts to carry out the provisions of this section.

Sec. 4. Section 19, chapter 270, Laws of 1975 1st ex. sess. as amended by section 3, chapter 44, Laws of 1977 ex. sess. and RCW 36.57A.090 are each amended to read as follows:

A public transportation benefit area authority shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare, adopt, and carry out a general comprehensive plan for public transportation service which will best serve the residents of the public transportation benefit area and to amend said plan from time to time to meet changed conditions and requirements.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the use of transportation facilities and properties within or without the public transportation benefit area or the state, including systems of surface, underground, or overhead railways, tramways, buses, or any other means of local transportation except taxis, and including escalators, moving sidewalks, or other people-moving systems, passenger terminal and parking facilities and properties, and such other facilities and properties as may be necessary for passenger and vehicular access to and from such people-moving systems, terminal and parking facilities and properties, together with all lands, rights of way, property, equipment, and accessories necessary for such systems and facilities. Public transportation facilities and properties which are owned by any city may be acquired or used by the public transportation benefit area authority only with the consent of the city council of the city owning such facilities. Cities are hereby authorized to convey or lease such facilities to a public transportation benefit area authority or to contract for their joint use on such terms as may be fixed by agreement between the city council of such city and the public transportation benefit area authority, without submitting the matter to the voters of such city.

The facilities and properties of a public transportation benefit area system whose vehicles will operate primarily within the rights of way of public streets, roads, or highways, may be acquired, developed, and operated without the corridor and design hearings which are required by RCW 35.58-.273, as now or hereafter amended, for mass transit facilities operating on a separate right of way.

(3) To fix rates, tolls, fares, and charges for the use of such facilities and to establish various routes and classes of service. Fares or charges may be adjusted or eliminated for any distinguishable class of users including, but not limited to, senior citizens, handicapped persons, and students.

In the event any person holding a certificate of public convenience and necessity from the Washington utilities and transportation commission under RCW 81.68.040 has operated under such certificate for a continuous period of one year prior to the date of certification and is offering service within the public transportation benefit area on the date of the certification by the county canvassing board that a majority of votes cast authorize a tax to be levied and collected by the public transportation benefit area authority, such authority may by purchase or condemnation acquire at the fair market value, from the person holding the existing certificate for providing the services, that portion of the operating authority and equipment representing the services within the area of public operation. The person holding such existing certificate may require the public transportation benefit area authority to initiate such purchase of those assets of such person, existing as of the date of the county canvassing board certification, within sixty days after the date of such certification.

Passed the Senate February 27, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 26

[Engrossed Substitute Senate Bill No. 3150]

LIBRARY DISTRICTS—CITY AND TOWN ANNEXATION—TRUSTEE REMOVAL—1981 BOUNDARIES

AN ACT Relating to library districts; amending section 2, chapter 119, Laws of 1935 as last amended by section 5, chapter 353, Laws of 1977 ex. sess. and RCW 27.12.010; amending section 8, chapter 119, Laws of 1935 as last amended by section 3, chapter 122, Laws of 1965 and RCW 27.12.190; amending section 1, chapter 353, Laws of 1977 ex. sess. and RCW 27.12.360; amending section 84.09.030, chapter 15, Laws of 1961 and RCW 84-.09.030; and declaring an emergency.

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

Section 1. Section 2, chapter 119, Laws of 1935 as last amended by section 5, chapter 353, Laws of 1977 ex. sess. and RCW 27.12.010 are each amended to read as follows:

As used in this act, unless the context requires a different meaning:

(1) "Governmental unit" means any county, city, town, rural county library district or intercounty rural library district;

(2) "Legislative body" means the body authorized to determine the amount of taxes to be levied in a governmental unit; in rural county library districts and in intercounty rural library districts the legislative body shall be the board of library trustees of the district;

(3) "Library" means a free public library supported in whole or in part with money derived from taxation; and

(4) "Regional library" means a free public library maintained by two or more counties or other governmental units as provided in RCW 27.12.080; and

(5) "Rural county library district" means a library serving all the area of a county not included within the area of incorporated cities and towns: **PROVIDED**, That any city or town with a population of ~~((eight))~~ one hundred thousand ~~((five hundred))~~ or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390; and

(6) "Intercounty rural library district" means a municipal corporation organized to provide library service for all areas outside of incorporated cities and towns within two or more counties: **PROVIDED**, That any city or town with a population of ~~((eight))~~ one hundred thousand ~~((five hundred))~~ or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390.

Sec. 2. Section 8, chapter 119, Laws of 1935 as last amended by section 3, chapter 122, Laws of 1965 and RCW 27.12.190 are each amended to read as follows:

The management and control of a library shall be vested in a board of either five or seven trustees as hereinafter in this section provided. In cities and towns five trustees shall be appointed by the mayor with the consent of the legislative body. In counties and rural county library districts five trustees shall be appointed by the board of county commissioners. In a regional library district a board of either five or seven trustees shall be appointed by the joint action of the legislative bodies concerned. In intercounty rural library districts a board of either five or seven trustees shall be appointed by the joint action of the boards of county commissioners of each of the counties included in a district. The first appointments for boards comprised of but five trustees shall be for terms of one, two, three, four, and five years respectively, and thereafter a trustee shall be appointed annually to serve for five years. The first appointments for boards comprised of seven trustees shall be for terms of one, two, three, four, five, six, and seven years respectively, and thereafter a trustee shall be appointed annually to serve for seven years. No person shall be appointed to any board of trustees for more than two consecutive terms. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly

chosen. A library trustee shall not receive a salary or other compensation for services as trustee, but necessary expenses actually incurred shall be paid from the library funds. A library trustee in the case of a city or town may be removed only by vote of the legislative body. A trustee of a county library or a rural county library district library may be removed for just cause by the county commissioners after a public hearing upon a written complaint stating the ground for removal, which complaint, with a notice of the time and place of hearing, shall have been served upon the trustee at least fifteen days before the hearing. A trustee of an intercounty rural library district may be removed by the joint action of the board of county commissioners of the counties involved in the same manner as provided herein for the removal of a trustee of a county library.

Sec. 3. Section 1, chapter 353, Laws of 1977 ex. sess. and RCW 27.12-.360 are each amended to read as follows:

Any city or town with a population of (~~eight~~) one hundred thousand (~~five hundred~~) or less at the time of annexation may become a part of any rural county library district or intercounty rural library district lying contiguous thereto by annexation in the following manner: The inclusion of such a city or town may be initiated by the adoption of an ordinance by the legislative authority thereof stating its intent to join the library district and finding that the public interest will be served thereby. Before adoption, the ordinance shall be submitted to the library board of the city or town for its review and recommendations. If no library board exists in the city or town, the state librarian shall be notified of the proposed ordinance. If the board of trustees of the rural library district or intercounty rural library district concurs in the annexation, notification thereof shall be transmitted to the legislative authority or authorities of the counties in which the city or town is situated.

Sec. 4. Section 84.09.030, chapter 15, Laws of 1961 and RCW 84.09-.030 are each amended to read as follows:

For the purposes of property taxation and the levy of property taxes the boundaries of counties, cities and all other taxing districts shall be the established official boundaries of such districts existing on the first day of March of the year in which the levy is made, and no such levy shall be made for any taxing district whose boundaries were not duly established on the first day of March of such year: PROVIDED, That for the year 1981 only the boundaries of library districts shall be the established official boundaries existing on the first day of October. In any case where any instrument setting forth the official boundaries of any newly established taxing district, or setting forth any change in such boundaries, is required by law to be filed in the office of the county auditor or other county official, said instrument shall be filed in triplicate. The officer with whom such instrument is filed shall transmit two copies to the county assessor.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 13, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 27

[Engrossed Senate Bill No. 3158]

TORT ACTIONS—PRODUCT LIABILITY—CONTRIBUTORY NEGLIGENCE—CONTRIBUTION

AN ACT Relating to tort actions; amending section 2, chapter 138, Laws of 1973 1st ex. sess. and RCW 4.22.020; creating new sections; adding new sections to Title 7 RCW as a new chapter thereof; adding new sections to chapter 4.22 RCW as a part thereof; and repealing section 1, chapter 138, Laws of 1973 1st ex. sess. and RCW 4.22.010.

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

NEW SECTION. Section 1. PREAMBLE. Tort reform in this state has for the most part been accomplished in the courts on a case-by-case basis. While this process has resulted in significant progress and the harshness of many common law doctrines has to some extent been ameliorated by decisional law, the legislature has from time to time felt it necessary to intervene to bring about needed reforms such as those contained in the 1973 comparative negligence act.

The purpose of this amendatory act is to enact further reforms in the tort law to create a fairer and more equitable distribution of liability among parties at fault.

Of particular concern is the area of tort law known as product liability law. Sharply rising premiums for product liability insurance have increased the cost of consumer and industrial goods. These increases in premiums have resulted in disincentives to industrial innovation and the development of new products. High product liability premiums may encourage product sellers and manufacturers to go without liability insurance or pass the high cost of insurance on to the consuming public in general.

It is the intent of the legislature to treat the consuming public, the product seller, the product manufacturer, and the product liability insurer in a balanced fashion in order to deal with these problems.

It is the intent of the legislature that the right of the consumer to recover for injuries sustained as a result of an unsafe product not be unduly

impaired. It is further the intent of the legislature that retail businesses located primarily in the state of Washington be protected from the substantially increasing product liability insurance costs and unwarranted exposure to product liability litigation.

NEW SECTION. Sec. 2. DEFINITIONS. For the purposes of sections 2 through 7 of this amendatory act, unless the context clearly indicates to the contrary:

(1) **PRODUCT SELLER.** "Product seller" means any person or entity that is engaged in the business of selling products, whether the sale is for resale, or for use or consumption. The term includes a manufacturer, wholesaler, distributor, or retailer of the relevant product. The term also includes a party who is in the business of leasing or bailing such products. The term "product seller" does not include:

(a) A seller of real property, unless that person is engaged in the mass production and sale of standardized dwellings or is otherwise a product seller;

(b) A provider of professional services who utilizes or sells products within the legally authorized scope of the professional practice of the provider;

(c) A commercial seller of used products who resells a product after use by a consumer or other product user: **PROVIDED**, That when it is resold, the used product is in essentially the same condition as when it was acquired for resale; and

(d) A finance lessor who is not otherwise a product seller. A "finance lessor" is one who acts in a financial capacity, who is not a manufacturer, wholesaler, distributor, or retailer, and who leases a product without having a reasonable opportunity to inspect and discover defects in the product, under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(2) **MANUFACTURER.** "Manufacturer" includes a product seller who designs, produces, makes, fabricates, constructs, or remanufactures the relevant product or component part of a product before its sale to a user or consumer. The term also includes a product seller or entity not otherwise a manufacturer that holds itself out as a manufacturer.

A product seller acting primarily as a wholesaler, distributor, or retailer of a product may be a "manufacturer" but only to the extent that it designs, produces, makes, fabricates, constructs, or remanufactures the product for its sale. A product seller who performs minor assembly of a product in accordance with the instructions of the manufacturer shall not be deemed a manufacturer. A product seller that did not participate in the design of a product and that constructed the product in accordance with the design specifications of the claimant or another product seller shall not be deemed a manufacturer for the purposes of section 4(1)(a) of this amendatory act.

(3) **PRODUCT.** "Product" means any object possessing intrinsic value, capable of delivery either as an assembled whole or as a component part or parts, and produced for introduction into trade or commerce. Human tissue and organs, including human blood and its components, are excluded from this term.

The "relevant product" under sections 2 through 7 of this amendatory act is that product or its component part or parts, which gave rise to the product liability claim.

(4) **PRODUCT LIABILITY CLAIM.** "Product liability claim" includes any claim or action brought for harm caused by the manufacture, production, making, construction, fabrication, design, formula, preparation, assembly, installation, testing, warnings, instructions, marketing, packaging, storage or labeling of the relevant product. It includes, but is not limited to, any claim or action previously based on: Strict liability in tort; negligence; breach of express or implied warranty; breach of, or failure to, discharge a duty to warn or instruct, whether negligent or innocent; misrepresentation, concealment, or nondisclosure, whether negligent or innocent; or other claim or action previously based on any other substantive legal theory except fraud, intentionally caused harm or a claim or action under the consumer protection act, chapter 19.86 RCW.

(5) **CLAIMANT.** "Claimant" means a person or entity asserting a product liability claim, including a wrongful death action, and, if the claim is asserted through or on behalf of an estate, the term includes claimant's decedent. "Claimant" includes any person or entity that suffers harm. A claim may be asserted under sections 2 through 7 of this amendatory act even though the claimant did not buy the product from, or enter into any contractual relationship with, the product seller.

(6) **HARM.** "Harm" includes any damages recognized by the courts of this state: **PROVIDED,** That the term "harm" does not include direct or consequential economic loss under Title 62A RCW.

NEW SECTION. Sec. 3. **SCOPE.** (1) The previous existing applicable law of this state on product liability is modified only to the extent set forth in sections 2 through 7 of this amendatory act.

(2) Nothing in sections 2 through 7 of this amendatory act shall prevent the recovery of direct or consequential economic loss under Title 62A RCW.

NEW SECTION. Sec. 4. **LIABILITY OF MANUFACTURERS.** (1) A product manufacturer is subject to liability to a claimant if the claimant's harm was proximately caused by the negligence of the manufacturer in that the product was not reasonably safe as designed or not reasonably safe because adequate warnings or instructions were not provided.

(a) A product is not reasonably safe as designed, if, at the time of manufacture, the likelihood that the product would cause the claimant's harm or similar harms, and the seriousness of those harms, outweighed the burden

on the manufacturer to design a product that would have prevented those harms and the adverse effect that an alternative design that was practical and feasible would have on the usefulness of the product.

(b) A product is not reasonably safe because adequate warnings or instructions were not provided with the product, if, at the time of manufacture, the likelihood that the product would cause the claimant's harm or similar harms, and the seriousness of those harms, rendered the warnings or instructions of the manufacturer inadequate and the manufacturer could have provided the warnings or instructions which the claimant alleges would have been adequate.

(c) A product is not reasonably safe because adequate warnings or instructions were not provided after the product was manufactured where a manufacturer learned or where a reasonably prudent manufacturer should have learned about a danger connected with the product after it was manufactured. In such a case, the manufacturer is under a duty to act with regard to issuing warnings or instructions concerning the danger in the manner that a reasonably prudent manufacturer would act in the same or similar circumstances. This duty is satisfied if the manufacturer exercises reasonable care to inform product users.

(2) A product manufacturer is subject to strict liability to a claimant if the claimant's harm was proximately caused by the fact that the product was not reasonably safe in construction or not reasonably safe because it did not conform to the manufacturer's express warranty or to the implied warranties under Title 62A RCW.

(a) A product is not reasonably safe in construction if, when the product left the control of the manufacturer, the product deviated in some material way from the design specifications or performance standards of the manufacturer, or deviated in some material way from otherwise identical units of the same product line.

(b) A product does not conform to the express warranty of the manufacturer if it is made part of the basis of the bargain and relates to a material fact or facts concerning the product and the express warranty proved to be untrue.

(c) Whether or not a product conforms to an implied warranty created under Title 62A RCW shall be determined under that title.

(3) In determining whether a product was not reasonably safe under this section, the trier of fact shall consider whether the product was unsafe to an extent beyond that which would be contemplated by the ordinary consumer.

NEW SECTION. Sec. 5. LIABILITY OF PRODUCT SELLERS OTHER THAN MANUFACTURERS. (1) Except as provided in subsection (2) of this section, a product seller other than a manufacturer is liable to the claimant only if the claimant's harm was proximately caused by:

- (a) The negligence of such product seller; or
- (b) Breach of an express warranty made by such product seller; or

(c) The intentional misrepresentation of facts about the product by such product seller or the intentional concealment of information about the product by such product seller.

(2) A product seller, other than a manufacturer, shall have the liability of a manufacturer to the claimant if:

(a) No solvent manufacturer who would be liable to the claimant is subject to service of process under the laws of the claimant's domicile or the state of Washington; or

(b) The court determines that it is highly probable that the claimant would be unable to enforce a judgment against any manufacturer; or

(c) The product seller is a controlled subsidiary of a manufacturer, or the manufacturer is a controlled subsidiary of the product seller; or

(d) The product seller provided the plans or specifications for the manufacture or preparation of the product and such plans or specifications were a proximate cause of the defect in the product; or

(e) The product was marketed under a trade name or brand name of the product seller.

NEW SECTION. Sec. 6. RELEVANCE OF INDUSTRY CUSTOM, TECHNOLOGICAL FEASIBILITY, AND NONGOVERNMENTAL, LEGISLATIVE OR ADMINISTRATIVE REGULATORY STANDARDS. (1) Evidence of custom in the product seller's industry, technological feasibility or that the product was or was not, in compliance with nongovernmental standards or with legislative regulatory standards or administrative regulatory standards, whether relating to design, construction or performance of the product or to warnings or instructions as to its use may be considered by the trier of fact. (2) When the injury-causing aspect of the product was, at the time of manufacture, in compliance with a specific mandatory government contract specification relating to design or warnings, this compliance shall be an absolute defense. When the injury-causing aspect of the product was not, at the time of manufacture, in compliance with a specific mandatory government specification relating to design or warnings, the product shall be deemed not reasonably safe under Section 4(1) of this amendatory act.

NEW SECTION. Sec. 7. LENGTH OF TIME PRODUCT SELLERS ARE SUBJECT TO LIABILITY. (1) USEFUL SAFE LIFE. (a) Except as provided in subsection (1) (b) hereof, a product seller shall not be subject to liability to a claimant for harm under sections 2 through 7 of this amendatory act if the product seller proves by a preponderance of the evidence that the harm was caused after the product's "useful safe life" had expired.

"Useful safe life" begins at the time of delivery of the product and extends for the time during which the product would normally be likely to perform or be stored in a safe manner. For the purposes of sections 2 through 7 of this amendatory act, "time of delivery" means the time of delivery of a product to its first purchaser or lessee who was not engaged in

the business of either selling such products or using them as component parts of another product to be sold. In the case of a product which has been remanufactured by a manufacturer, "time of delivery" means the time of delivery of the remanufactured product to its first purchaser or lessee who was not engaged in the business of either selling such products or using them as component parts of another product to be sold.

(b) A product seller may be subject to liability for harm caused by a product used beyond its useful safe life, if:

(i) The product seller has warranted that the product may be utilized safely for such longer period; or

(ii) The product seller intentionally misrepresents facts about its product, or intentionally conceals information about it, and that conduct was a proximate cause of the claimant's harm; or

(iii) The harm was caused by exposure to a defective product, which exposure first occurred within the useful safe life of the product, even though the harm did not manifest itself until after the useful safe life had expired.

(2) **PRESUMPTION REGARDING USEFUL SAFE LIFE.** If the harm was caused more than twelve years after the time of delivery, a presumption arises that the harm was caused after the useful safe life had expired. This presumption may only be rebutted by a preponderance of the evidence.

(3) **STATUTE OF LIMITATION.** Subject to the applicable provisions of chapter 4.16 RCW pertaining to the tolling and extension of any statute of limitation, no claim under sections 2 through 7 of this amendatory act may be brought more than three years from the time the claimant discovered or in the exercise of due diligence should have discovered the harm and its cause.

NEW SECTION. Sec. 8. EFFECT OF CONTRIBUTORY FAULT. In an action based on fault seeking to recover damages for injury or death to person or harm to property, any contributory fault chargeable to the claimant diminishes proportionately the amount awarded as compensatory damages for an injury attributable to the claimant's contributory fault, but does not bar recovery. This rule applies whether or not under prior law the claimant's contributory fault constituted a defense or was disregarded under applicable legal doctrines, such as last clear chance.

NEW SECTION. Sec. 9. "FAULT" DEFINED. "Fault" includes acts or omissions, including misuse of a product, that are in any measure negligent or reckless toward the person or property of the actor or others, or that subject a person to strict tort liability or liability on a product liability claim. The term also includes breach of warranty, unreasonable assumption of risk, and unreasonable failure to avoid an injury or to mitigate damages. Legal requirements of causal relation apply both to fault as the basis for liability and to contributory fault.

A comparison of fault for any purpose under sections 8 through 14 of this amendatory act shall involve consideration of both the nature of the conduct of the parties to the action and the extent of the causal relation between such conduct and the damages.

Sec. 10. Section 2, chapter 138, Laws of 1973 1st ex. sess. and RCW 4.22.020 are each amended to read as follows:

The ~~((negligence))~~ contributory fault of one ~~((marital))~~ spouse shall not be imputed to the other spouse or the minor child of the spouse to ~~((the marriage so as to bar))~~ diminish recovery in an action by the other spouse ~~((to the marriage))~~ or the minor child of the spouse, or his or her legal representative, to recover damages ~~((from a third party))~~ caused by ~~((negligence))~~ fault resulting in death or in injury to the person or property, whether separate or community, of the spouse. In an action brought for wrongful death, the contributory fault of the decedent shall be imputed to the claimant in that action.

NEW SECTION. Sec. 11. NATURE OF LIABILITY. If more than one person is liable to a claimant on an indivisible claim for the same injury, death or harm, the liability of such persons shall be joint and several.

NEW SECTION. Sec. 12. RIGHT OF CONTRIBUTION. (1) A right of contribution exists between or among two or more persons who are jointly and severally liable upon the same indivisible claim for the same injury, death or harm, whether or not judgment has been recovered against all or any of them. It may be enforced either in the original action or by a separate action brought for that purpose. The basis for contribution among liable persons is the comparative fault of each such person. However, the court may determine that two or more persons are to be treated as a single person for purposes of contribution.

(2) Contribution is available to a person who enters into a settlement with a claimant only (a) if the liability of the person against whom contribution is sought has been extinguished by the settlement and (b) to the extent that the amount paid in settlement was reasonable at the time of the settlement.

(3) The common law right of indemnity between active and passive tortfeasors is abolished.

NEW SECTION. Sec. 13. ENFORCEMENT OF CONTRIBUTION. (1) If the comparative fault of the parties to a claim for contribution has been established previously by the court in the original action, a party paying more than that party's equitable share of the obligation, upon motion, may recover judgment for contribution.

(2) If the comparative fault of the parties to the claim for contribution has not been established by the court in the original action, contribution may be enforced in a separate action, whether or not a judgment has been

rendered against either the person seeking contribution or the person from whom contribution is being sought.

(3) If a judgment has been rendered, the action for contribution must be commenced within one year after the judgment becomes final. If no judgment has been rendered, the person bringing the action for contribution either must have (a) discharged by payment the common liability within the period of the statute of limitations applicable to the claimant's right of action against him and commenced the action for contribution within one year after payment, or (b) agreed while the action was pending to discharge the common liability and, within one year after the agreement, have paid the liability and commenced an action for contribution.

NEW SECTION. Sec. 14. EFFECT OF SETTLEMENT AGREEMENT. (1) A party prior to entering into a release, covenant not to sue, covenant not to enforce judgment, or similar agreement with a claimant shall give five days' written notice of such intent to all other parties and the court. The court may for good cause authorize a shorter notice period. The notice shall contain a copy of the proposed agreement. A hearing shall be held on the issue of the reasonableness of the amount to be paid with all parties afforded an opportunity to present evidence. A determination by the court that the amount to be paid is reasonable must be secured. If an agreement was entered into prior to the filing of the action, a hearing on the issue of the reasonableness of the amount paid at the time it was entered into may be held at any time prior to final judgment upon motion of a party.

(2) A release, covenant not to sue, covenant not to enforce judgment, or similar agreement entered into by a claimant and a person liable discharges that person from all liability for contribution, but it does not discharge any other persons liable upon the same claim unless it so provides. However, the claim of the releasing person against other persons is reduced by the amount paid pursuant to the agreement unless the amount paid was unreasonable at the time of the agreement in which case the claim shall be reduced by an amount determined by the court to be reasonable.

(3) A determination that the amount paid for a release, covenant not to sue, covenant not to enforce judgment, or similar agreement was unreasonable shall not affect the validity of the agreement between the released and releasing persons nor shall any adjustment be made in the amount paid between the parties to the agreement.

NEW SECTION. Sec. 15. APPLICABILITY. (1) This amendatory act shall apply to all claims arising on or after the effective date of this amendatory act.

(2) Notwithstanding subsection (1) of this section, sections 12 and 13 of this amendatory act shall also apply to all actions in which trial on the underlying action has not taken place prior to the effective date of this amendatory act, except that there is no right of contribution in favor of or

against any party who has, prior to the effective date of this amendatory act, entered into a release, covenant not to sue, covenant not to enforce judgment, or similar agreement with the claimant.

NEW SECTION. Sec. 16. LEGISLATIVE DIRECTIVE. (1) Sections 2 through 7 of this amendatory act are added to Title 7 RCW as a new chapter thereof.

(2) Sections 8 and 9 and 11 through 15 of this amendatory act are added to chapter 4.22 RCW.

NEW SECTION. Sec. 17. REPEALER. Section 1, chapter 138, Laws of 1973 1st ex. sess. and RCW 4.22.010 are each hereby repealed.

NEW SECTION. Sec. 18. SEVERABILITY. If any provision of this amendatory 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 3, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 28

[Senate Bill No. 3168]

FOREST FIRE SUPPRESSION—ASSESSMENT RATE—ACCOUNT BALANCE

AN ACT Relating to assessment of forest lands for fire suppression purposes; and amending section 8, chapter 207, Laws of 1971 ex. sess. as last amended by section 11, chapter 67, Laws of 1979 ex. sess. and RCW 76.04.515.

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

Section 1. Section 8, chapter 207, Laws of 1971 ex. sess. as last amended by section 11, chapter 67, Laws of 1979 ex. sess. and RCW 76.04.515 are each amended to read as follows:

There is created a landowner contingency forest fire suppression account which shall be a separate account in the general fund. This account shall be for the purpose of paying emergency fire costs incurred or approved by the department in the suppression of forest fires. When a determination is made that the fire was started by other than a participating landowner operation, moneys expended from this account in the suppression of such fire shall be recovered from such general fund appropriations as may be available for emergency fire suppression costs. Moneys spent from this account shall be by appropriation. The department shall transmit to the state treasurer for deposit in the landowner contingency forest fire suppression account any moneys paid out of said account which are later recovered, less reasonable costs of recovery, which moneys may be expended for purposes set forth herein during the current biennium, without reappropriation.

This account shall be established and renewed by a special forest fire suppression account assessment paid by participating forest landowners at rates to be established by the department, but not to exceed (~~five~~) ten cents per acre per year for such period of years as may be necessary to establish and thereafter reestablish a balance in said account of (~~one~~) two million dollars. The assessments with respect to forest lands in western and eastern Washington may differ to equitably distribute the assessment based on emergency fire suppression cost experience necessitated by participating landowner operations. Amounts assessed for this account shall be a lien upon the forest lands with respect to which the assessment is made, and may be collected as directed by the department in the same manner as forest patrol assessments. This account shall be held by the state treasurer who is authorized to invest so much of said account as is not necessary to meet current needs. Any interest earned on moneys from said account shall be deposited in and remain a part of the account, and shall be computed as part of the same in determining the balance thereof. Interfund loans to and from this account are authorized at the then current rate of interest as determined by the state treasurer, provided that the effect of the loan is considered for purposes of determining the assessments. Payment of emergency costs from this account shall in no way restrict the right of the department to recover costs pursuant to RCW 76.04.390 as now or hereafter amended, or other laws.

When the department determines that a forest fire was started in the course of or as a result of a participating landowner operation, it shall notify the forest fire advisory board of such determination. Such determination shall be final, unless, within ninety days of such notification, the forest fire advisory board or any interested party, serves a request for a hearing before the department. Such hearing shall constitute a contested case under chapter 34.04 RCW and any appeal therefrom shall be to the superior court of Thurston county.

Passed the Senate March 10, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 29

[Engrossed Senate Bill No. 3170]

BOND ANTICIPATION NOTES—REDEMPTION—INTEREST—PAYMENT, PLEDGE, ENFORCEMENT

AN ACT Relating to the support of state government; amending section 5, chapter 184, Laws of 1971 ex. sess. and RCW 39.42.050; creating a new section; and declaring an emergency.

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

Section 1. Section 5, chapter 184, Laws of 1971 ex. sess. and RCW 39-42.050 are each amended to read as follows:

When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". If, prior to the issuance of the bonds, it becomes necessary to redeem outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of ~~((and interest on))~~ such anticipation notes which have been issued. The interest on anticipation notes shall be paid from the revenue source and with the same priority of payment specified in the respective bond acts for payment of principal of and interest on the bonds against which anticipation notes are sold. The procedure for paying the interest on the notes, including the transfer of necessary funds for that purpose, shall be the same as prescribed for the bonds.

If the bonds shall constitute general obligations of the state and pledge the full faith and credit of the state to the payment thereof, then the notes issued in anticipation thereof 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. The owner and holder of any of the notes or the trustee for the owner and holder of any of the notes may, by a mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 2. This act shall apply to all outstanding bond anticipation notes of the state, and interest on the notes shall be paid as provided in RCW 39.42.050: **PROVIDED**, That in the event such interest is not paid as provided in RCW 39.42.050 it shall be paid from such source or sources as are specified in such notes.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 10, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 30

[Senate Bill No. 3234]

MOTOR VEHICLE ACCIDENTS—DRIVER REPORTS, COPY DISTRIBUTION—
INVESTIGATORS' REPORTS

AN ACT Relating to motor vehicle accident reports; and amending section 2, chapter 11, Laws of 1979 as amended by section 160, chapter 158, Laws of 1979 and RCW 46.52.030.

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

Section 1. Section 2, chapter 11, Laws of 1979 as amended by section 160, chapter 158, Laws of 1979 and RCW 46.52.030 are each amended to read as follows:

(1) 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 of three hundred dollars or more, shall, within twenty-four hours 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(;;).

(2) If such accident was not investigated by a law enforcement officer, the original of such report shall be immediately forwarded by the authority receiving such report to the chief of the Washington state patrol at Olympia, Washington, and the second copy of such report to be forwarded to the department of licensing at Olympia, Washington.

(3) If such accident was investigated by a law enforcement officer, the original of each driver's report required by subsection (1) of this section shall be retained by the local law enforcement agency where the accident occurred, and the second copy shall be forwarded to the department of licensing at Olympia, Washington.

(4) 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.

(5) 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 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, the conditions then existing, and the persons and vehicles involved, 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.

Passed the Senate February 24, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 31

[Senate Bill No. 3498]

HEALTH CARE FACILITIES AUTHORITY—SINGLE ISSUE BONDS, MULTIPLE PARTICIPANTS

AN ACT Relating to the Washington health care facilities authority; amending section 10, chapter 147, Laws of 1974 ex. sess. and RCW 70.37.100; and declaring an emergency.

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

Section 1. Section 10, chapter 147, Laws of 1974 ex. sess. and RCW 70.37.100 are each amended to read as follows:

The authority may make contracts, employ or engage engineers, architects, attorneys, and other technical or professional assistants, and such other personnel as are necessary. It may enter into contracts with the United States, accept gifts for its purposes, and exercise any other power reasonably required to implement the principal powers granted in this chapter. No provision of this chapter shall be construed so as to limit the power of the authority to provide bond financing to more than one participant and/or project by means of a single issue of revenue bonds utilizing a single bond fund and/or a single special fund into which proceeds of such bonds are deposited. ((†)) The authority shall have no power to levy any taxes of any kind or nature and no power to incur obligations on behalf of the state of Washington.

NEW SECTION. Sec. 2. This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of

the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 18, 1981.

Passed the House April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 32

[Substitute House Bill No. 49]

FORMS MANAGEMENT, PROGRAM PURPOSE, RESPONSIBILITY—PUBLIC RECORDS, DEFINITION, REPRODUCTION APPROVAL

AN ACT Relating to forms management; amending definitions of public records; amending and recodifying section 1, chapter 13, Laws of 1973 and RCW 43.19.510; amending section 1, chapter 246, Laws of 1957 as amended by section 1, chapter 102, Laws of 1971 ex. sess. and RCW 40.14.010; amending section 1, chapter 223, Laws of 1949 as amended by section 1, chapter 95, Laws of 1973 and RCW 40.20.020; and adding a new chapter to Title 40 RCW.

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

NEW SECTION. Section 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "State agency" means an office, department, board, commission, or other separate unit or division, however designated, of the state government. The term includes any unit of state government established by law of which the executive officer or each member is either elected or appointed, and upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature. It also includes every state-supported institution of higher education.

(2) "Director" means the director of the department of general administration.

(3) "Form" means a printed document providing entry space for variable information. Forms may include envelopes, tags, and other printed material to the extent required by the director for efficient and effective accomplishment of program objectives.

(4) "State forms" means all forms used or issued by a state agency, whether produced in state facilities or purchased, unless excluded by the director.

NEW SECTION. Sec. 2. It is the objective of the state forms management program to eliminate unnecessary forms, to simplify paperwork, increase efficiency, effect productivity improvements, and to reduce paperwork and forms costs including but not limited to costs related to forms procurement, printing, storage, use, and distribution.

Sec. 3. Section 1, chapter 13, Laws of 1973 and RCW 43.19.510 are each amended to read as follows and, as amended, shall be recodified as a new section of the chapter created by section 6 of this act:

The director of the department of general administration shall establish and staff an activity within the department to be known as the "forms management center" for the coordination, orderly design, implementation, and maintenance of a state-wide forms management program.

The director of general administration, through the forms management center, shall:

(1) Coordinate a forms management program for all state agencies(~~and educational institutions~~) and provide assistance in establishing internal forms management capabilities;

(2) Study, develop, coordinate, and initiate forms of interagency and common administrative usage that will be cost-effective, and establish basic state design and specification criteria to effect the standardization of state forms when cost-effective;

(3) Provide assistance, training, and instruction in forms management techniques to state agencies (~~and educational institutions for~~) including but not limited to economical forms design and forms ((art work)) composition ((and establish and supervise));

(4) Encourage state agency use of cost-effective control procedures to prevent the undue creation and reproduction of state forms;

~~((4) Provide assistance, training and instruction in forms management techniques to state agencies and educational institutions forms management representatives and departmental forms coordinators, and provide direct administrative and forms management assistance to new state organizations or institutions as they are created;))~~

(5) Establish and maintain ((a central)) such cross ((index)) indices and functional files of state forms ~~((to)) as are cost-effective and will facilitate the standardization of ((such)) forms, ((to)) eliminate redundant forms, and ((to)) provide ((a central source of)) forms usage and availability information;~~

(6) ~~((Utilize)) Encourage use of appropriate procurement techniques to take advantage of competitive bidding, consolidated orders and contract procurement of forms, and ((work directly with the public printer toward)) promote more efficient, economical, and timely procurement, receipt, storage, and distribution of state forms;~~

~~((Coordinate the forms management program with the existing state archives and records management program to insure timely disposition of outdated forms and related records;~~

~~((8))~~ Conduct periodic evaluations of the effectiveness of the overall forms management program and the forms management practices of ~~((the))~~

individual (~~((state educational institutions and))~~) state agencies(~~(, and maintain records which indicate net dollar savings which have been realized through centralized forms management))~~);

~~((9) Enter into agreements which delegate implementing action to state agencies or educational institutions where such mutually developed arrangements will result in the most timely and economical method of accomplishing the responsibilities set forth in this section; and~~

~~(10))~~ (8) Develop and promulgate rules and standards to implement the overall purposes of this section; and

(9) Maintain such records of the costs and benefits of the overall forms management program as may be necessary for executive and legislative program review and evaluation.

The governor, acting through the director of general administration, may delegate or assign program implementation responsibility under mutually developed agreements with various state agencies when such action will contribute to the economical, efficient, and effective accomplishment of the objectives of the overall state forms management program.

All (~~(educational institutions and agencies of the))~~ state agencies shall cooperate with and support the development and implementation of the state-wide forms management program. To assist in the coordination and implementation of the forms management program, each state (~~(educational institution and))~~ agency shall appoint (~~((a))~~) at least one forms management representative who within three months of appointment shall have completed a forms management training course approved by the forms management center.

Sec. 4. Section 1, chapter 246, Laws of 1957 as amended by section 1, chapter 102, Laws of 1971 ex. sess. and RCW 40.14.010 are each amended to read as follows:

As used in this chapter, the term "public records" shall include any paper, correspondence, completed form, bound record book, photograph, film, sound recording, map drawing, or other document, regardless of physical form or characteristics, and including (~~((a))~~) such copies thereof, that have been made by or received by any agency of the state of Washington in connection with the transaction of public business, and legislative records as described in RCW 40.14.100.

For the purposes of this chapter, public records shall be classified as follows:

(1) Official public records shall include all original vouchers, receipts, and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use, and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which the state of Washington or any agency thereof may be a party; all fidelity, surety, and performance bonds; all claims filed against the

state of Washington or any agency thereof; all records or documents required by law to be filed with or kept by any agency of the state of Washington; all legislative records as defined in RCW 40.14.100; and all other documents or records determined by the records committee, (~~hereinafter~~) created in RCW 40.14.050, to be official public records.

(2) Office files and memoranda (~~shall~~) include (~~all~~) such records, correspondence, exhibits, (~~books, booklets;~~) drawings, maps, (~~blank~~) completed forms, or documents not above defined and classified as official public records; (~~all~~) duplicate copies of official public records filed with any agency of the state of Washington; (~~all~~) documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with such agency; and (~~all~~) other documents or records(~~;~~) as determined by the records committee(~~(, hereinafter created;)~~) to be office files and memoranda.

Sec. 5. Section 1, chapter 223, Laws of 1949 as amended by section 1, chapter 95, Laws of 1973 and RCW 40.20.020 are each amended to read as follows:

The head of any business or the head of any state, county or municipal department, commission, bureau or board may cause any or all records required or authorized by law to be made or kept by such official, department, commission, bureau, board, or business to be photographed, microphotographed, (~~photostated or~~) reproduced on film, or photocopied for all purposes of recording documents, plats, files or papers, or copying or reproducing such records. Such film or reproducing material shall be of permanent material and the device used to reproduce such records on such film or material shall be such as to accurately reproduce and perpetuate the original records in all details, and shall be approved for the intended purpose: PROVIDED, That the (~~forms committee~~) state archivist shall approve such material for state records use: PROVIDED, FURTHER, That the state auditor shall approve such material for use by local governmental subdivisions.

*** NEW SECTION. Sec. 6. Sections 1 through 3 of this act shall constitute a new chapter in Title 40 RCW.**

*Sec. 6. was vetoed, see message at end of chapter.

Passed the House March 3, 1981.

Passed the Senate April 9, 1981.

Approved by the Governor April 17, 1981, with the exception of Section 6, which is vetoed.

Filed in Office of Secretary of State April 17, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section of Substitute House Bill No. 49 entitled:

AN ACT Relating to forms management.

I am vetoing Section 6 in order to allow the codification of this bill into RCW 43.19, which governs the duties of the Department of General Administration. (This bill relates to their duties.)

With the exception of Section 6, which I have vetoed, the remainder of Substitute House Bill No. 49 is approved."

CHAPTER 33

[Substitute House Bill No. 219]

ART DEALER, ARTIST RELATIONSHIP

AN ACT Relating to businesses and professions; adding a new chapter to Title 18 RCW; adding a new section to Title 62A RCW; and prescribing penalties.

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

NEW SECTION. Section 1. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Art dealer" means a person, partnership, firm, association, or corporation, other than a public auctioneer, which undertakes to sell a work of fine art created by another.

(2) "Artist" means the creator of a work of fine art.

(3) "On consignment" means delivered to an art dealer for the purpose of sale or exhibition, or both, to the public by the art dealer other than at a public auction.

(4) "Work of fine art" means an original art work which is:

(a) A visual rendition including a painting, drawing, sculpture, mosaic, or photograph;

(b) A work of calligraphy;

(c) A work of graphic art including an etching, lithograph, offset print, or silk screen;

(d) A craft work in materials including clay, textile, fiber, wood, metal, plastic, or glass; or

(e) A work in mixed media including a collage or a work consisting of any combination of works included in this subsection.

NEW SECTION. Sec. 2. If an art dealer accepts a work of fine art on a fee, commission, or other compensation basis, on consignment from the artist:

(1) The art dealer is, with respect to that work of fine art, the agent of the artist.

(2) The work of fine art is trust property and the art dealer is trustee for the benefit of the artist until the work of fine art is sold to a bona fide third party.

(3) The proceeds of the sale of the work of fine art are trust property and the art dealer is trustee for the benefit of the artist until the amount due the artist from the sale is paid. These trust funds shall be paid to the

artist within thirty days of receipt by the art dealer unless the parties expressly agree otherwise in writing. If the sale of the work of fine art is on installment, the funds from the installment shall first be applied to pay any balance due the artist on the sale, unless the artist expressly agrees in writing that the proceeds on each installment shall be paid according to a percentage established by the consignment agreement.

(4) The art dealer is strictly liable for the loss of or damage to the work of fine art while it is in the art dealer's possession. For the purpose of this subsection the value of the work of fine art is the value established in a written agreement between the artist and art dealer prior to the loss or damage or, if no written agreement regarding the value of the work of fine art exists, the fair market value of the work of fine art.

A work of fine art which is trust property when initially accepted by the art dealer remains trust property notwithstanding the subsequent purchase of the work of fine art by the art dealer directly or indirectly for the art dealer's own account until the purchase price is paid in full to the artist. No property which is trust property under this section is subject to the claims, liens, or security interests of the creditors of the art dealer.

NEW SECTION. Sec. 3. (1) An art dealer may accept a work of fine art on a fee, commission, or other compensation basis, on consignment from the artist only if prior to or at the time of acceptance the art dealer enters into a written contract with the artist which states:

- (a) The value of the work of fine art;
- (b) The minimum price for the sale of the work of fine art; and
- (c) The fee, commission, or other compensation basis of the art dealer.

(2) An art dealer who accepts a work of fine art on a fee, commission, or other compensation basis, on consignment from the artist may use or display the work of fine art or a photograph of the work of fine art or permit the use or display of the work or photograph only if:

- (a) Notice is given to users or viewers that the work of fine art is the work of the artist; and
 - (b) The artist gives prior written consent to the particular use or display.
- (3) Any portion of a contract which waives any provision of this chapter is void.

NEW SECTION. Sec. 4. An art dealer violating section 3 of this act is liable to the artist for fifty dollars plus actual damages, including incidental and consequential damages, sustained as a result of the violation. If an art dealer violates section 3 of this act, the artist's obligation for compensation to the art dealer is voidable. In an action under this section the court may, in its discretion, award the artist reasonable attorney's fees.

NEW SECTION. Sec. 5. This chapter applies to any work of fine art accepted on consignment on or after the effective date of this act. If a work of fine art is accepted on consignment on or after the effective date of this

act under a contract made before that date, this section applies only to the extent that it does not conflict with the contract.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act shall constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 7. There is added to Title 62A RCW a new section to read as follows:

Chapter 18.— RCW (Sections 1 through 5 of this act) shall control over any conflicting provision of this title.

Passed the House March 17, 1981.

Passed the Senate April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 34

[House Bill No. 163]

HANDICAPPED VOTERS ASSISTANCE

AN ACT Relating to voting; amending section 29.51.200, chapter 9, Laws of 1965 as amended by section 17, chapter 101, Laws of 1965 ex. sess. and RCW 29.51.200; amending section 29.51.215, chapter 9, Laws of 1965 and RCW 29.51.215; and repealing section 29.51.210, chapter 9, Laws of 1965 and RCW 29.51.210.

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

Section 1. Section 29.51.200, chapter 9, Laws of 1965 as amended by section 17, chapter 101, Laws of 1965 ex. sess. and RCW 29.51.200 are each amended to read as follows:

~~((The operation of))~~ Voting shall be secret except to the extent necessary to assist sensory or physically ~~((disabled))~~ handicapped voters.

If any voter declares in the presence of the election officers that ~~((by reason))~~ because of sensory or physical ~~((disability;))~~ handicap he is unable to register or record his vote ~~((upon the machine, (1)))~~, he may designate ~~((his spouse or any near relative who is also a registered voter to enter the voting machine booth with him and mark his ballot, or (2)))~~ a person of his choice or two election officers ~~((who must be of))~~ from opposite political parties ~~((in case of partisan elections or primaries, shall))~~ to enter the voting machine booth with him and ~~((register))~~ record his vote ~~((for such candidates and for or against such measures as he may designate))~~ as he directs.

Sec. 2. Section 29.51.215, chapter 9, Laws of 1965 and RCW 29.51.215 are each amended to read as follows:

Any person violating any provision of RCW ~~((29.51.210))~~ 29.51.200, as now or hereafter amended, shall be punished as for a misdemeanor.

NEW SECTION. Sec. 3. Section 29.51.210, chapter 9, Laws of 1965 and RCW 29.51.210 are each repealed.

Passed the House March 24, 1981.

Passed the Senate April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 35

[Substitute House Bill No. 307]

UNEMPLOYMENT COMPENSATION—ELIGIBILITY— DISQUALIFICATION—GOVERNMENTAL PAYMENT FINANCING— CORPORATE OFFICER EXEMPTION

AN ACT Relating to unemployment compensation; amending section 19, chapter 2, Laws of 1970 ex. sess. as last amended by section 1, chapter 74, Laws of 1980 and RCW 50.04.323; amending section 2, chapter 153, Laws of 1977 ex. sess. and RCW 50.13.020; amending section 68, chapter 35, Laws of 1945 as last amended by section 6, chapter 73, Laws of 1973 and RCW 50.20.010; amending section 73, chapter 35, Laws of 1945 as last amended by section 5, chapter 74, Laws of 1980 and RCW 50.20.050; amending section 80, chapter 35, Laws of 1945 as last amended by section 3, chapter 74, Laws of 1980 and RCW 50.20.120; amending section 87, chapter 35, Laws of 1945 as last amended by section 3, chapter 228, Laws of 1975 1st ex. sess. and RCW 50.20.190; amending section 2, chapter 1, Laws of 1971 as last amended by section 11, chapter 292, Laws of 1977 ex. sess. and RCW 50.22.010; amending section 3, chapter 1, Laws of 1971 and RCW 50.22.020; amending section 4, chapter 1, Laws of 1971 and RCW 50.22.030; amending section 120, chapter 35, Laws of 1945 as amended by section 8, chapter 73, Laws of 1973 and RCW 50.32.040; amending section 20, chapter 3, Laws of 1971 as last amended by section 14, chapter 292, Laws of 1977 ex. sess. and RCW 50.44.030; amending section 22, chapter 3, Laws of 1971 as last amended by section 2, chapter 74, Laws of 1980 and RCW 50.44.050; adding a new section to chapter 50.04 RCW; creating new sections; repealing section 10, chapter 33, Laws of 1977 ex. sess. and RCW 50.24.012; repealing section 22, chapter 292, Laws of 1977 ex. sess. and RCW 50.24.013; providing effective dates; and declaring an emergency.

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

Section 1. Section 19, chapter 2, Laws of 1970 ex. sess. as last amended by section 1, chapter 74, Laws of 1980 and RCW 50.04.323 are each amended to read as follows:

~~(((1) Any payments which an individual has claimed, is receiving or has received under a government or private retirement pension plan to which a base year employer has contributed on behalf of such individual shall reduce the unemployment compensation payable to him on the following basis:~~

~~(a) If such payment, prorated weekly, equals or exceeds the weekly benefit amount to which he would normally be entitled on the basis of his base year earnings then he shall be totally ineligible;~~

~~(b) If such payment, prorated weekly, is less than the weekly benefit amount to which he would normally be entitled on the basis of this title and regulations enacted pursuant thereto, his weekly benefit amount shall be reduced by the amount which his prorated weekly pension amount exceeds~~

twelve dollars. The reduced benefit amount so computed, if not a multiple of one dollar, shall be raised to the next higher multiple of one dollar.

(2) Any amounts deducted by reason of this section shall not be available for the payment of future benefits, that is, the individual's total benefit entitlement shall be reduced by the amount of benefits paid plus any amounts deducted pursuant to this section.

(3) Payments received under the old age and survivors insurance program contained in Title II of the federal social security act, as amended, payments received on account of disability rather than on account of age or length of service and, commencing with benefit years beginning on and after July 1, 1973, payments attributable to retirement pensions which are based in full on wages earned prior to the individual's base year shall not operate to reduce an individual's weekly benefit amount.

(4) Payments claimed or received under a government or a private pension plan shall not be considered wages subject to contributions under this title nor shall such payments be considered in determining base year wages.

(5) In the event that a retroactive pension or retirement plan covers a period in which an individual received benefits under the provisions of this title, the amount in excess of the amount to which such individual would have been entitled had such retirement or pension plan been considered as provided in this section shall be recoverable under RCW 50.20.190.

(6) A lump sum payment of funds, accumulated in an employer-participating government or private retirement pension plan paid to one eligible for retirement pension, shall be prorated over the life expectancy of the retiree as determined in such a manner as the commissioner may by regulation prescribe.

(7) Subsections (1), (2), and (3) of this section shall become inoperative and the weekly benefit amount payable to an individual shall be reduced by the entire prorated weekly amount of any governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on any previous work of such individual if such reduction is required under section 3302 of the United States Internal Revenue Code as a condition for employer credits against the tax imposed by section 3301 of the United States Internal Revenue Code:))

(1) The amount of benefits payable to an individual for any week which begins after October 3, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week: PROVIDED, That

(a) The requirements of this subsection shall apply to any pension, retirement or retired pay, annuity, or other similar periodic payment only if—

(i) Such pension, retirement or retired pay, annuity, or similar payment is under a plan maintained (or contributed to) by a base period employer; and

(ii) In the case of such a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 (or corresponding provisions of prior law), services performed for such employer by the individual after the beginning of the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar payment; and

(b) The amount of any such a reduction shall take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment, in accordance with regulations prescribed by the commissioner.

(2) In the event that a retroactive pension or retirement payment covers a period in which an individual received benefits under the provisions of this title, the amount in excess of the amount to which such individual would have been entitled had such retirement or pension payment been considered as provided in this section shall be recoverable under RCW 50.20.190.

(3) A lump sum payment accumulated in a plan described in this section paid to an individual eligible for such payment shall be prorated over the life expectancy of the individual computed in accordance with the commissioner's regulation.

(4) Any ambiguity in subsection (1) of this section should be construed in a manner consistent with 26 U.S.C. Sec. 3304 (a)(15) as last amended by P.L. 96-364.

Sec. 2. Section 2, chapter 153, Laws of 1977 ex. sess. and RCW 50.13-.020 are each amended to read as follows:

Any information or records concerning an individual or employing unit obtained by the department of employment security pursuant to the administration of this title or other programs for which the department has responsibility shall be private and confidential, except as otherwise provided in this chapter. This chapter does not create a rule of evidence. ~~((The))~~ Information or records may be released by the department of employment security when the release is required by the federal government in connection with, or as a condition of funding for, a program being administered by the department ~~((for the federal government))~~. The provisions of RCW 50.13-.060 (1)(a), (b) and (c) will not apply to such release.

Sec. 3. Section 68, chapter 35, Laws of 1945 as last amended by section 6, chapter 73, Laws of 1973 and RCW 50.20.010 are each amended to read as follows:

An unemployed individual shall be eligible to receive waiting period credits or benefits with respect to any week in his or her eligibility period only if the commissioner finds that

(1) He or she has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulation as the commissioner may prescribe, except that the commissioner may by regulation waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he or she finds that the compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title;

(2) He or she has filed an application for an initial determination and made a claim for waiting period credit or for benefits in accordance with the provisions of this title;

(3) He or she is able to work, and is available for work in any trade, occupation, profession, or business for which he or she is reasonably fitted. To be available for work an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or his agents; ~~((and))~~

(4) He or she has been unemployed for a waiting period of one week; and

(5) As to weeks beginning after March 31, 1981, which fall within an extended benefit period as defined in RCW 50.22.010(1), as now or hereafter amended, the individual meets the terms and conditions of RCW 50.22-.020, as now or hereafter amended, with respect to benefits claimed in excess of twenty-six times the individual's weekly benefit amount.

An individual's eligibility period for regular benefits shall be coincident to his or her established benefit year. An individual's eligibility period for additional or extended benefits shall be the periods prescribed elsewhere in this title for such benefits.

Sec. 4. Section 73, chapter 35, Laws of 1945 as last amended by section 5, chapter 74, Laws of 1980 and RCW 50.20.050 are each amended to read as follows:

(1) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter until he or she has obtained bona fide work and earned wages of not less than his or her suspended weekly benefit amount in each of five calendar weeks.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(a) The duration of the work;

(b) The extent of direction and control by the employer over the work;

and

(c) The level of skill required for the work in light of the individual's training and experience.

(2) An individual shall not be considered to have left work voluntarily without good cause when:

(a) He or she has left work to accept a bona fide ((job)) offer of bona fide work as described in subsection (1) of this section; or

(b) The separation was because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if the claimant took all reasonable precautions, in accordance with any regulations that the commissioner may prescribe, to protect his or her employment status by having promptly notified the employer of the reason for the absence and by having promptly requested reemployment when again able to assume employment: PROVIDED, That these precautions need not have been taken when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system.

(3) In determining whether an individual has left work voluntarily without good cause, the commissioner shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, the individual's ability to perform the work, and such other work connected factors as the commissioner may deem pertinent, including state and national emergencies. Good cause shall not be established for voluntarily leaving work because of its distance from an individual's residence where the distance was known to the individual at the time he or she accepted the employment and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, nor because of any other significant work factor which was generally known and present at the time he or she accepted employment, unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related circumstances would work an unreasonable hardship on the individual were he or she required to continue in the employment.

(4) Subsections (1) and (3) of this section shall not apply to an individual whose marital status or domestic responsibilities cause him or her to leave employment. Such an individual shall not be eligible for unemployment insurance benefits until he or she has requalified, either by obtaining bona fide work and earning wages of not less than the suspended weekly benefit amount in each of five calendar weeks or by reporting in person to the department during ten different calendar weeks and certifying on each occasion that he or she is ready, able, and willing to immediately accept any suitable work which may be offered, is actively seeking work pursuant to customary trade practices, and is utilizing such employment counseling and placement services as are available through the department.

Sec. 5. Section 80, chapter 35, Laws of 1945 as last amended by section 3, chapter 74, Laws of 1980 and RCW 50.20.120 are each amended to read as follows:

(1) Subject to the other provisions of this title, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of thirty times the weekly benefit amount (determined hereinafter) or one-third of the individual's base year wages under this title: PROVIDED, That as to any week beginning on and after March 31, 1981, which falls in an extended benefit period as defined in RCW 50.22.010(1), as now or hereafter amended, an individual's eligibility for maximum benefits in excess of twenty-six times his or her weekly benefit amount will be subject to the terms and conditions set forth in RCW 50.22.020, as now or hereafter amended.

(2) An individual's weekly benefit amount shall be an amount equal to one twenty-fifth of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest. The maximum and minimum amounts payable weekly shall be determined as of each June 30th to apply to benefit years beginning in the twelve-month period immediately following such June 30th. The maximum amount payable weekly shall be fifty-five percent of the "average weekly wage" for the calendar year preceding such June 30th: PROVIDED, That if as of any June 30th the unemployment compensation trust fund balance has improved so that the employer contribution as determined pursuant to RCW 50.24.010 is less than three percent, the maximum amount payable weekly for benefit years beginning with the first full calendar week in July next following shall be sixty percent of the "average weekly wage" for the calendar year preceding such June 30. The minimum amount payable weekly shall be fifteen percent of the "average weekly wage" for the calendar year preceding June 30th. If any weekly benefit, maximum benefit, or minimum benefit amount computed herein is not a multiple of one dollar, it shall be adjusted to the nearest multiple of one dollar, except that if the computed amount ends in fifty cents, it shall be adjusted to the next higher multiple of one dollar.

Sec. 6. Section 87, chapter 35, Laws of 1945 as last amended by section 3, chapter 228, Laws of 1975 1st ex. sess. and RCW 50.20.190 are each amended to read as follows:

An individual who is paid any amount as benefits under this title to which he or she is not entitled shall, unless otherwise relieved pursuant to this section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of the overpayment. The amount assessed, to the extent not collected, may be deducted from any future benefits payable to the individual: PROVIDED, That in the absence of fraud, misrepresentation, or wilful nondisclosure, every determination of liability shall be mailed or personally

served not later than two years after the close of the individual's benefit year in which the purported overpayment was made unless the merits of the claim are subjected to administrative or judicial review in which event the period for serving the determination of liability shall be extended to allow service of the determination of liability during the six-month period following the final decision affecting the claim.

The commissioner may waive an overpayment if he finds that said overpayment was not the result of fraud, misrepresentation, wilful nondisclosure, or fault attributable to the individual and that the recovery thereof would be against equity and good conscience: PROVIDED, HOWEVER, That the overpayment so waived shall be charged against the individual's applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

Any assessment herein provided shall constitute a determination of liability from which an appeal may be had in the same manner and to the same extent as provided for appeals relating to determinations in respect to claims for benefits: PROVIDED, That an appeal from any determination covering overpayment only, shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within ten days of the delivery of the notice of determination of liability, or within ten days of the mailing of the notice of determination, whichever is the earlier, said determination of liability shall be deemed conclusive and final(~~(, and the court shall, upon application of the commissioner, enter a judgment in the amount provided by the notice of determination, which judgment shall have and be given the same effect as if entered pursuant to civil action)~~). Whenever any such notice of determination of liability becomes conclusive and final, the commissioner upon giving at least twenty days notice by certified mail return receipt requested to the individual's last known address of the intended action may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee of five dollars. The clerk of the county where the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the person(s) mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person(s) against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. A warrant so docketed shall be sufficient to support the issuance of

writs of execution and writs of garnishment in favor of the state in the manner provided by law for a civil judgment. A copy of the warrant shall be mailed to the person(s) mentioned in the warrant by certified mail to the person's last known address within five days of its filing with the clerk.

On request of any agency which administers an employment security law of another state, the United States or a foreign government and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law by reason of having knowingly made a false statement or misrepresentation of a material fact with respect to a claim taken in this state as an agent for such agency, the commissioner may collect the amount of such benefits from such claimant to be refunded to such agency. In any case in which under this section a claimant is liable to repay any amount to the agency of another state, the United States or a foreign government, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency if the other state, the United States or the foreign government extends such collection rights to the employment security department of the state of Washington, and provided that the court costs be paid by the governmental agency benefiting from such collection.

Sec. 7. Section 2, chapter 1, Laws of 1971 as last amended by section 11, chapter 292, Laws of 1977 ex. sess. and RCW 50.22.010 are each amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after whichever of the following weeks occurs first:

(i) A week for which there is a national "on" indicator; or

(ii) A week for which there is a state "on" indicator; and

(b) Ends with the third week after the first week for which there is both a national "off" indicator and a state "off" indicator: PROVIDED, That no extended benefit period shall last for a period of less than thirteen consecutive weeks, and further that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this state.

(2) There is a "national 'on' indicator" for a week if the United States secretary of labor determines that for the period consisting of such week and the twelve weeks immediately preceding it, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded four and five-tenths percent (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of the period).

(3) There is a "national 'off' indicator" for a week if the United States secretary of labor determines that for the period consisting of such week

and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than four and five-tenths percent (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of the period).

(4) There is a "state 'on' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) either:

(a) Equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and equaled or exceeded four percent; or

(b) Equaled or exceeded five percent.

(5) There is a "state 'off' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) was either:

(a) Less than four percent; or

(b) Four percent or more but less than five percent and the rate of insured unemployment was less than one hundred twenty percent of the average of the rates for the corresponding thirteen week period ending in each of the two preceding calendar years.

(6) "Regular benefits" means benefits payable to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits or additional benefits.

(7) "Extended benefits" means benefits payable for weeks of unemployment beginning in an extended benefit period to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than regular or additional benefits.

(8) "Additional benefits" are benefits totally financed by the state and payable under this title to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(9) "Eligibility period" of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period that is in effect in this state and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(10) "Exhaustee" means an individual who, with respect to any week of unemployment in his or her eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were payable to him or her under this title or any other state law (including dependents' allowances and regular benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week; or

(b) Has received, prior to such week, all of the regular benefits that were available to him or her under this title or any other state law (including dependents' allowances and regular benefits available to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week, after the cancellation of some or all of his or her wage credits or the total or partial reduction of his or her rights to regular benefits: PROVIDED, That, for the purposes of (a) and (b), an individual shall be deemed to have received in his or her current benefit year all of the regular benefits that were payable to him or her, or available to him or her, as the case may be, even though:

(i) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to his or her current benefit year, he or she may subsequently be determined to be entitled to more regular benefits; or

(ii) By reason of the seasonal provisions of another state law, he or she is not entitled to regular benefits with respect to such week of unemployment (although he or she may be entitled to regular benefits with respect to future weeks of unemployment in the next season, as the case may be, in his or her current benefit year), and he or she is otherwise an exhaustee within the meaning of this section with respect to his or her right to regular benefits under such state law seasonal provisions during the season or off season in which that week of unemployment occurs; or

(iii) Having established a benefit year, no regular benefits are payable to him or her during such year because his or her wage credits were canceled or his or her right to regular benefits was totally reduced as the result of the application of a disqualification; or

(c) His or her benefit year having ended prior to such week, he or she has insufficient wages or employment, or both, on the basis of which he or she could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he or she is precluded from receiving regular benefits by reason of the provision in RCW 50.04.030 which meets the requirement of section 3304(a)(7) of the Federal Unemployment Tax Act, or the similar provision in any other state law; and

(d) (i) Has no right for such week to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, and such other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) Has not received and is not seeking for such week unemployment benefits under the unemployment compensation law of (~~the Virgin Islands or~~) Canada, unless the appropriate agency finally determines that he or she is not entitled to unemployment benefits under such law for such week.

(11) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the internal revenue code of 1954.

Sec. 8. Section 3, chapter 1, Laws of 1971 and RCW 50.22.020 are each amended to read as follows:

((Except)) When the result would not be inconsistent with the other provisions of this chapter, the provisions of this title and commissioner's regulations enacted pursuant thereto, which apply to claims for, or the payment of, regular benefits, shall apply to claims for, and the payment of, extended benefits: PROVIDED, That

(1) Payment of extended compensation under this chapter shall not be made to any individual for any week of unemployment in his or her eligibility period—

(a) During which he or she fails to accept any offer of suitable work (as defined in subsection (3) of this section) or fails to apply for any suitable work to which he or she was referred by the employment security department; or

(b) During which he or she fails to actively engage in seeking work.

(2) If any individual is ineligible for extended compensation for any week by reason of a failure described in subsections (1)(a) or (1)(b) of this section, the individual shall be ineligible to receive extended compensation for any week which begins during a period which—

(a) Begins with the week following the week in which such failure occurs; and

(b) Does not end until such individual has been employed during at least four weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of four multiplied by the individual's weekly benefit amount (as determined under RCW 50.20.120) for his or her benefit year.

(3) For purposes of this section, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities and which does not involve conditions described in RCW 50.20.110: PROVIDED, That if the individual furnishes evidence satisfactory to the employment security department that such individual's prospects for obtaining work in his or her customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with RCW 50.20.100.

(4) Extended compensation shall not be denied under subsection (1)(a) of this section to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work if:

(a) The gross average weekly remuneration payable to such individual for the position does not exceed the sum of—

(i) The individual's weekly benefit amount (as determined under RCW 50.20.120) for his or her benefit year; plus

(ii) The amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954, 26 U.S.C. Sec. 501(c)(17)(D)), payable to such individual for such week;

(b) The position was not offered to such individual in writing and was not listed with the employment security department;

(c) Such failure would not result in a denial of compensation under the provisions of RCW 50.20.080 and 50.20.100 to the extent such provisions are not inconsistent with the provisions of subsections (3) and (5) of this section; or

(d) The position pays wages less than the higher of—

(i) The minimum wage provided by section (6)(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

(ii) any applicable state or local minimum wage.

(5) For purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if:

(a) The individual has engaged in a systematic and sustained effort to obtain work during such week; and

(b) The individual provides tangible evidence to the employment security department that he or she has engaged in such an effort during such week.

(6) The employment security department shall refer applicants for benefits under this chapter to any suitable work to which subsections (4)(a) through (4)(d) of this section would not apply.

(7) No provisions of this title which terminates a disqualification for voluntarily leaving employment, being discharged for misconduct, or refusing suitable employment shall apply for purposes of determining eligibility for extended compensation unless such termination is based upon employment subsequent to the date of such disqualification.

(8) The provisions of subsections (1) through (7) of this section shall apply with respect to weeks of unemployment beginning after March 31, 1981.

Sec. 9. Section 4, chapter 1, Laws of 1971 and RCW 50.22.030 are each amended to read as follows:

(1) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the commissioner finds ((that)) with respect to such week that:

~~((1) He))~~ (a) The individual is an "exhaustee" as defined in RCW 50.22.010(13); and

~~((2))~~ (b) He or she has satisfied the requirements of this title for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

(2) An individual filing an interstate claim in any state under the interstate benefit payment plan shall not be eligible to receive extended benefits for any week beyond the first two weeks claimed for which extended benefits are payable unless an extended benefit period embracing such week is also in effect in the agent state.

Sec. 10. Section 120, chapter 35, Laws of 1945 as amended by section 8, chapter 73, Laws of 1973 and RCW 50.32.040 are each amended to read as follows:

In any proceeding before an appeal tribunal involving a dispute of an individual's initial determination, all matters covered by such initial determination shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal.

In any proceeding before an appeal tribunal involving a dispute of an individual's claim for waiting period credit or claim for benefits, all matters and provisions of this title relating to the individual's right to receive such credit or benefits for the period in question, including but not limited to the question and nature of the claimant's availability for work within the meaning of RCW 50.20.010(3) and 50.20.080, shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal in single claimant cases. The claimant's availability for work shall be determined apart from all other matters.

In any proceeding before an appeal tribunal involving an individual's right to benefits, all parties shall be afforded an opportunity for hearing after not less than seven days' notice. This provision supersedes the twenty-day notice provision of RCW 34.04.090 as to such cases.

In any proceeding involving an appeal relating to benefit determinations or benefit claims, the appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall render its decision affirming, modifying, or setting aside the determination or decisions of the unemployment compensation division. The parties shall be duly notified of such appeal tribunal's decision together with its reasons therefor, which shall be deemed to be the final decision on the initial determination or the claim for waiting period credit or the claim for benefits unless, within ten days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this title relating to review by the commissioner.

Sec. 11. Section 20, chapter 3, Laws of 1971 as last amended by section 14, chapter 292, Laws of 1977 ex. sess. and RCW 50.44.030 are each amended to read as follows:

(1) All services performed for any political subdivision or instrumentality of one or more political subdivisions of this state or one or more political subdivisions of this state and any other state after December 31, 1977, will be deemed to be services in employment to the extent coverage is not exempted under RCW 50.44.040.

(2) All such units of government shall file, before December 15, 1977, a written registration with the commissioner of the employment security department. Such registration shall specify the manner in which the unit of government will finance the payment of benefits. The elections available to counties, cities and towns are the local government tax, provided for in RCW 50.44.035, or payment in lieu of contributions, as described in RCW 50.44.060. The elections available to other units of government are the contributions plan in chapters 50.24 and 50.29 RCW, or payments in lieu of contributions, described in RCW 50.44.060. Under any election the governmental unit will be charged the full amount of regular ~~((and))~~, additional, and extended benefits attributable to its account ~~((plus one-half the amount of extended benefits so attributable. PROVIDED, HOWEVER, That beginning with weeks of unemployment commencing after January 1, 1979, the unit of government which is financing the payment of benefits under the payment in lieu of contributions option shall, in addition to paying the full amount of regular and additional benefits attributable to its account, pay the full amount of extended benefits so attributable))~~.

(3) A unit of government may switch from its current method of financing the payment of benefits by electing any other method which it would be authorized to select pursuant to the terms of subsection (2) of this section. Notification of such election must be filed with the commissioner no less than thirty days prior to the taxable year for which the new method of financing the payment of benefits is to be effective. An election under this section shall remain in effect for no less than two taxable years.

(4) Any political subdivision or instrumentality of more than one political subdivision of this state is hereby authorized to enter into agreements with other political subdivisions or instrumentalities of more than one political subdivision of this state to form pool accounts for the purpose of making payments in lieu of contributions. These accounts shall be formed and administered in accordance with applicable regulations. The formation of such accounts shall not relieve the governmental unit of the responsibility for making required payments in the event that the pool account does not make the payments.

Sec. 12. Section 22, chapter 3, Laws of 1971 as last amended by section 2, chapter 74, Laws of 1980 and RCW 50.44.050 are each amended to read as follows:

(1) Except as otherwise provided in subsections (1), (2) and (3) of this section, benefits based on services in employment covered by or pursuant to this chapter shall be payable on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this title. Benefits based on service in an instructional, research or principal administrative capacity in an educational institution shall not be paid to an individual for any week of unemployment which commences during the period between two successive academic years or terms (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to an individual if such individual performs such services in the first of such academic years or terms and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms. Any employee of a common school district who is presumed to be reemployed pursuant to RCW 28A.67.070 shall be deemed to have a contract for the ensuing term.

(2) Benefits shall not be paid based on services in any other capacity for an educational institution (other than an institution of higher education as defined in RCW 50.44.037) for any week of unemployment which commences during the period between two successive academic years or during a period between two successive academic years or terms, if such individual performs such services in the first of such academic years or terms and there is an individual contract or an individual written notice to the employee that the individual will perform such services in the second of such academic years or terms.

(3) Benefits shall not be paid based on any services described in subsections (1) and (2) of this section for any week of unemployment which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(4) Benefits shall not be paid (as specified in subsections (1), (2), or (3) of this section) based on any services described in subsections (1) or (2) of this section to any individual who performed such services in an educational institution while in the employ of an educational service district which is established pursuant to chapter 28A.21 RCW and exists to provide services to local school districts.

NEW SECTION. Sec. 13. There is added to chapter 50.04 RCW a new section to be codified as RCW 50.04.165 to read as follows:

At the discretion of the employer, services performed after September 30, 1981, in the capacity of corporate officers may not be considered services in employment. This exemption shall not apply to services performed by corporate officers that are covered by chapter 50.44 RCW.

NEW SECTION. Sec. 14. The following acts or parts of acts are each hereby repealed:

(1) Section 10, chapter 33, Laws of 1977 ex. sess. and RCW 50.24.012; and

(2) Section 22, chapter 292, Laws of 1977 ex. sess. and RCW 50.24.013.

NEW SECTION. Sec. 15. Sections 3, 5, and 8 of this 1981 amendatory act are being enacted to comply with the provisions of Pub. L. 96-499. Ambiguities in those sections should be interpreted in accordance with provisions of that federal law. Section 9 of this 1981 amendatory act is enacted pursuant to Pub. L. 96-364. Any ambiguities in that section should be construed in accordance with that federal law.

NEW SECTION. Sec. 16. Sections 1, 2, 3, 5, 8, and 12 of this amendatory act are necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall take effect immediately; section 9 of this amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall take effect with weeks beginning on and after June 1, 1981.

NEW SECTION. Sec. 17. If any provision of this amendatory 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 16, 1981.

Passed the Senate April 13, 1981.

Approved by the Governor April 20, 1981.

Filed in Office of Secretary of State April 20, 1981.

CHAPTER 36

[House Bill No. 52]

SCHOOLS—VALID ORDERS TO LEAVE

AN ACT Relating to school districts; and amending section 1, chapter 100, Laws of 1975-'76 2nd ex. sess. and RCW 28A.87.055.

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

Section 1. Section 1, chapter 100, Laws of 1975-'76 2nd ex. sess. and RCW 28A.87.055 are each amended to read as follows:

(1) It shall be unlawful for any person to wilfully 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 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.

Passed the House February 20, 1981.

Passed the Senate April 11, 1981.

Approved by the Governor April 20, 1981.

Filed in Office of Secretary of State April 20, 1981.

CHAPTER 37

[House Bill No. 172]

PUBLIC UTILITY DISTRICT OBLIGATIONS—REGISTRATION AND SIGNING

AN ACT Relating to the registration and signing of public utility district obligations; amending section 6, chapter 182, Laws of 1941 as amended by section 8, chapter 218, Laws of

1959 and RCW 54.24.070; and amending section 9, chapter 182, Laws of 1941 as amended by section 11, chapter 218, Laws of 1959 and RCW 54.24.100.

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

Section 1. Section 6, chapter 182, Laws of 1941 as amended by section 8, chapter 218, Laws of 1959 and RCW 54.24.070 are each amended to read as follows:

~~((Prior to the issue and delivery of any revenue obligations, such obligations and a certified copy of the resolution authorizing the issuance thereof shall if the revenue obligation mature in whole in more than six years from date thereof, and may if the revenue obligations mature in whole in not more than six years from date thereof, be forwarded by the commission to the state auditor together with any additional information that he may require, and when such revenue obligations have been examined they shall be registered by the state auditor in books to be kept by him for the purpose and a certificate of such registration shall be endorsed upon each revenue obligation and signed by the state auditor or a deputy appointed by him for the purpose. Such))~~ The state auditor need not register, certify, nor sign revenue obligations~~((, after having been so registered and bearing such certificate,))~~ after the effective date of this 1981 act. These obligations shall be held in every action, suit, or proceeding in which their validity is or may be brought into question prima facie valid and binding obligations of the districts in accordance with their terms, notwithstanding any defects or irregularities in the proceedings for the organization of the district and the election of the commissioners thereof or for the authorization and issuance of such revenue obligations or in the sale, execution, or delivery thereof.

Sec. 2. Section 9, chapter 182, Laws of 1941 as amended by section 11, chapter 218, Laws of 1959 and RCW 54.24.100 are each amended to read as follows:

All revenue obligations, including funding and refunding revenue obligations, shall be executed in such manner as the commission may determine: ~~PROVIDED, That~~ ~~((at least one signature on each such revenue obligation shall be a manual signature of a member of the commission: PROVIDED, That))~~ warrants may be signed as provided in RCW 54.24.010. The interest coupons attached to any revenue obligations may be executed with facsimile or lithographed signatures, or otherwise, as the commission may determine.

Passed the House February 18, 1981.

Passed the Senate April 11, 1981.

Approved by the Governor April 22, 1981.

Filed in Office of Secretary of State April 22, 1981.

CHAPTER 38

[House Bill No. 186]

STATE BOARD OF EDUCATION—PRIVATE SCHOOL MEMBER, ELECTION

AN ACT Relating to the state board of education; amending section 28A.04.020, chapter 223, Laws of 1969 ex. sess. and RCW 28A.04.020; amending section 28A.04.050, chapter 223, Laws of 1969 ex. sess. and RCW 28A.04.050; amending section 28A.04.060, chapter 223, Laws of 1969 ex. sess. as last amended by section 5, chapter 179, Laws of 1980 and RCW 28A.04.060; creating new sections; repealing section 2, chapter 179, Laws of 1980 and RCW 28A.04.025; and repealing section 3, chapter 179, Laws of 1980 and RCW 28A.04.063.

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

Section 1. Section 28A.04.020, chapter 223, Laws of 1969 ex. sess. and RCW 28A.04.020 are each amended to read as follows:

Not later than the twenty-fifth day of August of each year, the superintendent of public instruction shall call for the following elections to be held: An election ((to be held)) in each congressional district within which resides a member of the state board of education whose term of membership will end on the second Monday of January next following, ((and shall give)) and an election of the nonvoting member of the state board of education if the term of membership will end on the second Monday of January next following. The superintendent of public instruction shall give written notice thereof to each member of the board of directors of each common school district in such congressional district, and to the chairperson of the board of directors of each private school who shall distribute said notice to each member of the private school board. Such notice shall include ((instructions;)) the election calendar and rules and regulations established by the superintendent of public instruction for the conduct of the election.

Sec. 2. Section 28A.04.050, chapter 223, Laws of 1969 ex. sess. and RCW 28A.04.050 are each amended to read as follows:

Each member of the board of directors of each school district in each congressional district shall be eligible to vote for the candidates who reside in his congressional district. Each chairperson of the board of directors of each eligible private school shall cast a vote for the candidate receiving a majority in an election to be held as follows: Each member of the board of directors of each eligible private school shall vote for candidates representing the private schools in an election of the board, the purpose of which is to determine the board's candidate for the nonvoting member of the state board. Not later than the first day of October the superintendent of public instruction shall mail to each member of each common school district board of directors and to each chairperson of the board of directors of each private school, the proper ballot and voting instructions for his congressional district together with biographical data concerning each candidate listed on such ballot, which data shall have been prepared by the candidate.

Sec. 3. Section 28A.04.060, chapter 223, Laws of 1969 ex. sess. as last amended by section 5, chapter 179, Laws of 1980 and RCW 28A.04.060 are each amended to read as follows:

Each member of the state board of education shall be elected by a majority of the electoral points accruing from all the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the superintendent of public instruction and no votes shall be accepted for counting if postmarked after the sixteenth day of October, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of October following the call of the election. The superintendent of public instruction and an election board comprised of three persons appointed by the state board of education shall count and tally the votes and the electoral points accruing therefrom not later than the twenty-fifth day of October. The votes shall be counted and tallied and electoral points determined in the following manner for the ballot cast by common school district board directors: Each vote cast by a school director shall be accorded as many electoral points as there are enrolled students in that director's school district as determined by the enrollment reports forwarded to the state superintendent of public instruction for apportionment purposes for the month of September of the year of election: **PROVIDED,** That school directors from a school district which has more than five directors shall have their electoral points based upon enrollment recomputed by multiplying such number by a fraction, the denominator of which shall be the number of directors in such district, and the numerator of which shall be five; the electoral points shall then be tallied for each candidate as the votes are counted; and it shall be the majority of electoral points which determines the winning candidate. The votes shall be counted and electoral points determined in the following manner for the ballots cast by chairpersons of the board of directors of each private school: Each vote cast by a private school board shall be accorded as many electoral points as the number of enrolled students in the respective school as determined by enrollment reports forwarded to the superintendent of public instruction for the month of September in the year previous to the year of election and it shall be the majority of electoral points which determines the winning candidate. If no candidate receives a majority of the electoral points cast, then, not later than the first day of November, the superintendent of public instruction shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of electoral points accruing from such votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of electoral points accruing

from the votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the superintendent of public instruction. Within ten days following the count of votes in an election at which a member of the state board of education is elected, the superintendent of public instruction shall certify to the secretary of state the name or names of the persons elected to be members of the state board of education.

NEW SECTION. Sec. 4. The following acts or parts thereof are each hereby repealed:

- (1) Section 2, chapter 179, Laws of 1980 and RCW 28A.04.025; and
- (2) Section 3, chapter 179, Laws of 1980 and RCW 28A.04.063.

NEW SECTION. Sec. 5. If any provision of this amendatory 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 February 13, 1981.

Passed the Senate April 11, 1981.

Approved by the Governor April 22, 1981.

Filed in Office of Secretary of State April 22, 1981.

CHAPTER 39

[House Bill No. 191]

LOCAL GOVERNMENTS—TRANSFER OF MONEYS BETWEEN FUNDS

AN ACT Relating to the transfer of moneys between funds of a unit of local government; and adding a new section to chapter 39.58 RCW.

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

NEW SECTION. Section 1. There is added to chapter 39.58 RCW a new section to read as follows:

Except as otherwise provided by law, amounts charged by a county, city, or other municipal or quasi municipal corporation for providing services or furnishing materials to or for another fund within the same county, city, or other municipal or quasi municipal corporation pursuant to RCW 43.09.210 or other law shall be repaid and credited to the fund or appropriation against which the expenditure originally was charged. Amounts representing a return of expenditures from an appropriation shall be considered as returned loans of services or goods, supplies, or other materials furnished and may be expended as part of the original appropriation to which they belong, without further or additional appropriation.

Except as otherwise provided by law, this section shall not apply to the furnishing of materials or services by one fund to another when other funds have been provided specifically for that purpose pursuant to law.

Passed the House February 19, 1981.

Passed the Senate April 11, 1981.

Approved by the Governor April 22, 1981.

Filed in Office of Secretary of State April 22, 1981.

CHAPTER 40

[House Bill No. 190]

BUDGETS OF CITIES AND TOWNS—ACCOUNTING TERMS

AN ACT Relating to budgets of cities and towns; and amending section 1, chapter 95, Laws of 1969 ex. sess. and RCW 35.33.011.

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

Section 1. Section 1, chapter 95, Laws of 1969 ex. sess. and RCW 35-.33.011 are each amended to read as follows:

Unless the context clearly indicates otherwise, the following words as used in this chapter shall have the meaning herein prescribed:

(1) "Clerk" as used in this chapter includes the officer performing the functions of a finance or budget director, comptroller, auditor, or by whatever title he may be known in any city or town.

(2) "Department" as used in this chapter includes each office, division, service, system or institution of the city or town for which no other statutory or charter provision is made for budgeting and accounting procedures or controls.

(3) "Legislative body" as used in this chapter includes council, commission or any other group of officials serving as the legislative body of a city or town.

(4) "Chief administrative officer" as used in this chapter includes the mayor of cities or towns having a mayor-council form of government, the commissioners in cities or towns having a commission form of government, the city manager, or any other city or town official designated by the charter or ordinances of such city or town under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.

(5) "Fiscal year" as used in this chapter means that fiscal period set by the city or town pursuant to authority given under RCW 1.16.030.

(6) "Fund", as used in this chapter and "funds" where clearly used to indicate the plural of "fund", shall mean the budgeting or accounting entity authorized to provide a sum of money for specified activities or purposes.

(7) "Funds" as used in this chapter where not used to indicate the plural of "fund" shall mean money in hand or available for expenditure or payment of a debt or obligation.

(8) Except as otherwise defined herein, municipal accounting terms used in this chapter shall have the meaning prescribed (~~(in "Governmental Accounting, Auditing, and Financial Reporting," prepared by the National Committee on Governmental Accounting, 1968)~~ by the state auditor pursuant to RCW 43.09.200.

Passed the House February 13, 1981.

Passed the Senate April 11, 1981.

Approved by the Governor April 22, 1981.

Filed in Office of Secretary of State April 22, 1981.

CHAPTER 41

[Substitute House Bill No. 222]

UNIFORM COMMERCIAL CODE

AN ACT Relating to the uniform commercial code; amending section 1-105, chapter 157, Laws of 1965 ex. sess. and RCW 62A.1-105; amending section 1-201, chapter 157, Laws of 1965 ex. sess. and RCW 62A.1-201; amending section 2-107, chapter 157, Laws of 1965 ex. sess. and RCW 62A.2-107; amending section 2-702, chapter 157, Laws of 1965 ex. sess. and RCW 62A.2-702; amending section 5-116, chapter 157, Laws of 1965 ex. sess. and RCW 62A.5-116; amending section 9-102, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-102; amending section 9-103, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-103; amending section 9-104, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-104; amending section 9-105, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-105; amending section 9-106, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-106; amending section 9-203, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-203; amending section 9-204, chapter 157, Laws of 1965 ex. sess. as amended by section 1, chapter 102, Laws of 1974 ex. sess. and RCW 62A.9-204; amending section 9-205, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-205; amending section 9-301, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-301; amending section 9-302, chapter 157, Laws of 1965 ex. sess. as last amended by section 210, chapter 158, Laws of 1979 and RCW 62A.9-302; amending section 9-304, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-304; amending section 9-305, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-305; amending section 9-306, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-306; amending section 9-307, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-307; amending section 9-308, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-308; amending section 9-312, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-312; amending section 9-313, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-313; amending section 9-318, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-318; amending section 9-401, chapter 157, Laws of 1965 ex. sess. as last amended by section 211, chapter 158, Laws of 1979 and RCW 62A.9-401; amending section 9-402, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-402; amending section 9-403, chapter 157, Laws of 1965 ex. sess. as last amended by section 212, chapter 158, Laws of 1979 and RCW 62A.9-403; amending section 9-404, chapter 157, Laws of 1965 ex. sess. as last amended by section 213, chapter 158, Laws of 1979 and RCW 62A.9-404; amending section 9-405, chapter 157, Laws of 1965 ex. sess. as last amended by section 214, chapter 158, Laws of 1979 and RCW 62A.9-405; amending section 9-406, chapter 157, Laws of 1965 ex. sess. as last amended by section 215, chapter 158, Laws of 1979 and RCW 62A.9-406; amending section 9-407, chapter 157, Laws of 1965 ex. sess. as amended by section 10, chapter 114, Laws of 1967 and RCW 62A.9-407; amending section 9-501, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-501; amending section 9-502, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-502; amending section 9-504,

chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-504; amending section 9-505, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-505; adding new sections to Article 9 of Title 62A RCW; adding a new article to Title 62A RCW; repealing section 81.36.140, chapter 14, Laws of 1961 and RCW 81.36.140; repealing section 81.36.150, chapter 14, Laws of 1961 and RCW 81.36.150; repealing section 81.36.160, chapter 14, Laws of 1961 and RCW 81.36.160; recodifying RCW 62A.9-408; and providing an effective date.

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

Section 1. Section 1-105, chapter 157, Laws of 1965 ex. sess. and RCW 62A.1-105 are each amended to read as follows:

(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 Bank Deposits and Collections. RCW 62A.4-102.

Bulk transfers subject to the Article on Bulk Transfers. RCW 62A.6-102.

Applicability of the Article on Investment Securities. RCW 62A.8-106.

~~((Policy and scope))~~ Perfection provisions of the Article on Secured Transactions. RCW ~~((62A.9-102 and RCW))~~ 62A.9-103.

Sec. 2. Section 1-201, chapter 157, Laws of 1965 ex. sess. and RCW 62A.1-201 are each amended to read as follows:

Subject to additional definitions contained in the subsequent Articles of this Title which are applicable to specific Articles or Parts thereof, and unless the context otherwise requires, in this Title:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Title (RCW 62A.1-205 and RCW 62A.2-208). Whether an agreement has legal consequences is determined by the provisions of this Title, if applicable; otherwise by the law of contracts (RCW 62A.1-103). (Compare "Contract".)

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NON-NEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this Title and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To

be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this Title to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or an investment security drawn, issued or indorsed to him or to his order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when (a) he has actual knowledge of it; or

(b) he has received a notice or notification of it; or

(c) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this Title.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) it comes to his attention; or

(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party", as distinct from "third party", means a person who has engaged in a transaction or made an agreement within this Title.

(30) "Person" includes an individual or an organization (See RCW 62A.1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or re-issue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (RCW 62A.2-401) is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts(;) or chattel paper(, or contract rights) which is subject to Article 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under RCW 62A.2-401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with Article 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a "security interest" but a consignment is in

any event subject to the provisions on consignment sales (RCW 62A.2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (RCW 62A.3-303, RCW 62A.4-208 and RCW 62A.4-209) a person gives "value" for rights if he acquires them

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(b) as security for or in total or partial satisfaction of a preexisting claim; or

(c) by accepting delivery pursuant to a pre-existing contract for purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

Sec. 3. Section 2-107, chapter 157, Laws of 1965 ex. sess. and RCW 62A.2-107 are each amended to read as follows:

(1) A contract for the sale of (~~(timber,)~~) minerals or the like including oil and gas or a structure or its materials to be removed from realty is a contract for the sale of goods within this Article if they are to be severed by the seller but until severance a purported present sale thereof which is not effective as a transfer of an interest in land is effective only as a contract to sell.

(2) A contract for the sale apart from the land of growing crops or other things attached to realty and capable of severance without material harm thereto but not described in subsection (1) or of timber to be cut is a contract for the sale of goods within this Article whether the subject matter is to be severed by the buyer or by the seller even though it forms part of the realty at the time of contracting, and the parties can by identification effect a present sale before severance.

(3) The provisions of this section are subject to any third party rights provided by the law relating to realty records, and the contract for sale may be executed and recorded as a document transferring an interest in land and shall then constitute notice to third parties of the buyer's rights under the contract for sale.

Sec. 4. Section 2-702, chapter 157, Laws of 1965 ex. sess. and RCW 62A.2-702 are each amended to read as follows:

(1) Where the seller discovers the buyer to be insolvent he may refuse delivery except for cash including payment for all goods theretofore delivered under the contract, and stop delivery under this Article (RCW 62A.2-705).

(2) Where the seller discovers that the buyer has received goods on credit while insolvent he may reclaim the goods upon demand made within ten days after the receipt, but if misrepresentation of solvency has been made to the particular seller in writing within three months before delivery the ten day limitation does not apply. Except as provided in this subsection the seller may not base a right to reclaim goods on the buyer's fraudulent or innocent misrepresentation of solvency or of intent to pay.

(3) The seller's right to reclaim under subsection (2) is subject to the rights of a buyer in ordinary course or other good faith purchaser (~~(or lien creditor)~~) under this Article (RCW 62A.2-403). Successful reclamation of goods excludes all other remedies with respect to them.

Sec. 5. Section 5-116, chapter 157, Laws of 1965 ex. sess. and RCW 62A.5-116 are each amended to read as follows:

(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 (~~(a contract right)~~) 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.

Sec. 6. Section 9-102, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-102 are each amended to read as follows:

(1) Except as otherwise provided (~~in RCW 62A.9-103 on multiple state transactions and~~) in RCW 62A.9-104 on excluded transactions, this Article applies (~~so far as concerns any personal property and fixtures within the jurisdiction of this state~~)

(a) to any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper~~(-)~~ or accounts (~~or contract rights~~); and also

(b) to any sale of accounts~~(- contract rights)~~ or chattel paper.

(2) This Article applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This Article does not apply to statutory liens except as provided in RCW 62A.9-310.

(3) The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

Sec. 7. Section 9-103, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-103 are each amended to read as follows:

~~((1) If the office where the assignor of accounts or contract rights keeps his records concerning them is in this state, the validity and perfection of a security interest therein and the possibility and effect of proper filing is governed by this Article; otherwise by the law (including the conflict of laws rules) of the jurisdiction where such office is located.~~

~~(2) If the chief place of business of a debtor is in this state, this Article governs the validity and perfection of a security interest and the possibility and effect of proper filing with regard to general intangibles or with regard to goods of a type which are normally used in more than one jurisdiction~~

~~(such as automotive equipment, rolling stock, airplanes, road building equipment, commercial harvesting equipment, construction machinery and the like) if such goods are classified as equipment or classified as inventory by reason of their being leased by the debtor to others. Otherwise, the law (including the conflict of laws rules) of the jurisdiction where such chief place of business is located shall govern. If the chief place of business is located in a jurisdiction which does not provide for perfection of the security interest by filing or recording in that jurisdiction, then the security interest may be perfected by filing in this state. For the purpose of determining the validity and perfection of a security interest in an airplane, the chief place of business of a debtor who is a foreign air carrier under the Federal Aviation Act of 1958, as amended, is the designated office of the agent upon whom service of process may be made on behalf of the debtor.~~

~~(3) If personal property other than that governed by subsections (1) and (2) is already subject to a security interest when it is brought into this state, the validity of the security interest in this state is to be determined by the law (including the conflict of laws rules) of the jurisdiction where the property was when the security interest attached. However, if the parties to the transaction understood at the time that the security interest attached that the property would be kept in this state and it was brought into this state within thirty days after the security interest attached for purposes other than transportation through this state, then the validity of the security interest in this state is to be determined by the law of this state. If the security interest was already perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, the security interest continues perfected in this state for four months and also thereafter if within the four month period it is perfected in this state. The security interest may also be perfected in this state after the expiration of the four month period; in such case perfection dates from the time of perfection in this state. If the security interest was not perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, it may be perfected in this state; in such case perfection dates from the time of perfection in this state.~~

~~(4) Notwithstanding subsections (2) and (3), if personal property is covered by a certificate of title issued under a statute of this state or any other jurisdiction which requires indication on a certificate of title of any security interest in the property as a condition of perfection, then the perfection is governed by the law of the jurisdiction which issued the certificate.~~

~~(5) Notwithstanding subsection (1) and RCW 62A.9-302, if the office where the assignor of accounts or contract rights keeps his records concerning them is not located in a jurisdiction which is a part of the United States, its territories or possessions, and the accounts or contract rights are within~~

~~the jurisdiction of this state or the transaction which creates the security interest otherwise bears an appropriate relation to this state, this Article governs the validity and perfection of the security interest and the security interest may only be perfected by notification to the account debtor.))~~

(1) Documents, instruments and ordinary goods.

(a) This subsection applies to documents and instruments 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).

(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 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.

Sec. 8. Section 9-104, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-104 are each amended to read as follows:

This Article does not apply

(a) to a security interest subject to any statute of the United States (~~((such as the Ship Mortgage Act, 1920,))~~) 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 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 an equipment trust covering railway rolling stock or to a security interest on railroad equipment or rolling stock perfected under the provisions of RCW 81.36.140, 81.36.150 and 81.36.160))~~ to a transfer by a government or governmental subdivision or agency; or

(f) to a sale of accounts(~~(; contract rights))~~) or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts(~~(; contract rights))~~) or chattel paper which is for the purpose of collection only, or a transfer of a (~~(contract))~~ 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 of the following:))~~ any claim arising out of tort; (~~(any deposit, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization))~~)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).

Sec. 9. Section 9-105, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-105 are each amended to read as follows:

(1) In this Article unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper(~~(; contract right))~~) 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(~~(; contract rights))~~) 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(~~(; contract rights))~~) 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;

~~((ff))~~ (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, accounts, chattel paper, general intangibles, ~~((contract rights and other things in action))~~ 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;

~~((fg))~~ (i) "Instrument" means a negotiable instrument (defined in RCW 62A.3-104), or a security (defined in RCW 62A.8-102) 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;

(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;

~~((fh))~~ (l) "Security agreement" means an agreement which creates or provides for a security interest;

~~((fi))~~ (m) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts~~((, contract rights))~~ 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.

"Construction mortgage". RCW 62A.9-313(1).

"Consumer goods". RCW 62A.9-109(1).

((~~"Contract right". RCW 62A.9-106.~~))

"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).

"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:

"Check". RCW 62A.3-104.

"Contract for sale". RCW 62A.2-106.

"Holder in due course". RCW 62A.3-302.

"Note". RCW 62A.3-104.

"Sale". RCW 62A.2-106.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 10. Section 9-106, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-106 are each amended to read as follows:

"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(~~(: "Contract right" means any right to payment under a contract not yet earned by performance and 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, (~~(contract rights,)~~) chattel paper, documents (~~(and)~~), instruments 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.

NEW SECTION. Sec. 11. There is added to Article 9 of Title 62A RCW a new section to be codified as RCW 62A.9-114 to read as follows:

(1) A person who delivers goods under a consignment which is not a security interest and who would be required to file under this Article by paragraph (3)(c) of RCW 62A.2-326 has priority over a secured party who is or becomes a creditor of the consignee and who would have a perfected security interest in the goods if they were the property of the consignee, and also has priority with respect to identifiable cash proceeds received on or before delivery of the goods to a buyer, if

(a) the consignor complies with the filing provision of the Article on Sales with respect to consignments (paragraph (3)(c) of RCW 62A.2-326) before the consignee receives possession of the goods; and

(b) the consignor gives notification in writing to the holder of the security interest if the holder has filed a financing statement covering the same types of goods before the date of the filing made by the consignor; and

(c) the holder of the security interest receives the notification within five years before the consignee receives possession of the goods; and

(d) the notification states that the consignor expects to deliver goods on consignment to the consignee, describing the goods by item or type.

(2) In the case of a consignment which is not a security interest and in which the requirements of the preceding subsection have not been met, a person who delivers goods to another is subordinate to a person who would have a perfected security interest in the goods if they were the property of the debtor.

Sec. 12. Section 9-203, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-203 are each amended to read as follows:

~~(1) ((Subject to the provisions of RCW 62A.4-208 on the security interest of a collecting bank and RCW 62A.9-113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties unless~~

~~(a) the collateral is in the possession of the secured party; or~~

~~(b) the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops or oil, gas or minerals to be extracted or timber to be cut, a description of the land concerned. In describing collateral, the word "proceeds" is sufficient without further description to cover proceeds of any character.~~

(2)) Subject to the provisions of RCW 62A.4-208 on the security interest of a collecting bank and RCW 62A.9-113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless

(a) the collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; and

(b) value has been given; and

(c) the debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by RCW 62A.9-306.

(4) A transaction, although subject to this Article, is also subject to chapters 31.04, 31.08, 31.12, 31.16, 31.20, and 31.24 RCW, and in the case of conflict between the provisions of this Article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

Sec. 13. Section 9-204, chapter 157, Laws of 1965 ex. sess. as amended by section 1, chapter 102, Laws of 1974 ex. sess. and RCW 62A.9-204 are each amended to read as follows:

~~((1) A security interest cannot attach until there is agreement (subsection (3) of RCW 62A.1-201) that it attach and value is given and the debtor has rights in the collateral. It attaches as soon as all of the events in the preceding sentence have taken place unless explicit agreement postpones the time of attaching.~~

~~(2) For the purposes of this section the debtor has no rights~~

~~(a) in crops until they are planted or otherwise become growing crops, in the young of livestock until they are conceived;~~

~~(b) in fish until caught, in oil, gas or minerals until they are extracted, in timber until it is cut;~~

~~(c) in a contract right until the contract has been made;~~

~~(d) in an account until it comes into existence.~~

~~(3) Except as provided in subsection (4) a security agreement may provide that collateral, whenever acquired, shall secure all obligations covered by the security agreement.~~

~~(4) No security interest attaches under an after-acquired property clause~~

~~(a) to crops which become such more than one year after the security agreement is executed except that a security interest in crops which is given in conjunction with a lease or a land purchase or improvement transaction evidenced by a contract, mortgage or deed of trust may if so agreed attach to crops to be grown on the land concerned during the period of such real estate transaction;~~

~~(b) to consumer goods other than accessions (RCW 62A.9-314) when given as additional security unless the debtor acquires rights in them within ten days after the secured party gives value.~~

(5)) (1) Except as provided in subsection (2), a security agreement may provide that any or all obligations covered by the security agreement are to be secured by after-acquired collateral.

(2) No security interest attaches under an after-acquired property clause to consumer goods other than accessions (RCW 62A.9-314) when given as additional security unless the debtor acquires rights in them within ten days after the secured party gives value.

(3) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment (subsection (1) of RCW 62A.9-105).

~~((6) A security interest cannot attach to livestock or to meat or meat products made from such livestock, where (a) the livestock was sold to the debtor by another party, (b) this other party has been paid by draft or check, and (c) the draft or check remains outstanding. PROVIDED, That a security interest may attach when the draft or check has been outstanding more than ten days.))~~

Sec. 14. Section 9-205, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-205 are each amended to read as follows:

A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts(~~(-contract rights)~~) or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee.

Sec. 15. Section 9-301, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-301 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2), an unperfected security interest is subordinate to the rights of

(a) persons entitled to priority under RCW 62A.9-312;

(b) a person who becomes a lien creditor (~~((without knowledge of the security interest and))~~) before ((it)) the security interest is perfected;

(c) in the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business, or is a buyer of farm products in ordinary course of business, to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

(d) in the case of accounts(~~(-contract rights;))~~ and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within ten days after the debtor receives possession of the collateral (~~((comes into possession of the debtor))~~), he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee

for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment. (~~Unless all the creditors represented had knowledge of the security interest such a representative of creditors is a lien creditor without knowledge even though he personally has knowledge of the security interest:))~~)

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within forty-five days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien.

Sec. 16. Section 9-302, chapter 157, Laws of 1965 ex. sess. as last amended by section 210, chapter 158, Laws of 1979 and RCW 62A.9-302 are each amended to read as follows:

(1) A financing statement must be filed to perfect all security interests except the following:

(a) a security interest in collateral in possession of the secured party under RCW 62A.9-305;

(b) a security interest temporarily perfected in instruments or documents without delivery under RCW 62A.9-304 or in proceeds for a ten day period under RCW 62A.9-306;

(c) ((a purchase money security interest in farm equipment having a purchase price not in excess of two thousand five hundred dollars; but filing is required for a fixture under RCW 62A.9-313 or for a motor vehicle required to be licensed)) a security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) a purchase money security interest in consumer goods; but filing is required ((for a fixture under RCW 62A.9-313 or for a motor vehicle required to be licensed)) for a motor vehicle required to be registered and other property subject to subsection (3) of this section; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in RCW 62A.9-313;

~~(e) ((an assignment of accounts or contract rights which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts or contract rights of the assignor;~~

~~(f)) a security interest of a collecting bank (RCW 62A.4-208) or arising under the Article on Sales (RCW 62A.9-113) or covered in subsection (3) of this section;~~

(f) an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(2) If a secured party assigns a perfected security interest, no filing under this Article is required in order to continue the perfected status of the

security interest against creditors of and transferees from the original debtor.

~~(3) ((The filing provisions of this Article do not apply to a security interest in property subject to a statute~~

~~(a) of the United States which provides for a national registration or filing of all security interests in such property; or~~

~~(b) of this state which provides for central filing of, or which requires indication on a certificate of title of, such security interests in such property.~~

~~(4) A security interest in property covered by a statute described in subsection (3) can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate thereof by a public official)) The filing of a financing statement otherwise required by this Article is not necessary or effective to perfect a security interest in property subject to~~

(a) a statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this Article for filing of the security interest; or

(b) the following statute of this state: RCW 46.12.095; but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this Article (Part 4) apply to a security interest in that collateral created by him as debtor; or

(c) a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of RCW 62A.9-103).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this Article, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in RCW 62A.9-103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this Article.

(5) Part 4 of this Article does not apply to a security interest in property of any description created by a deed of trust or mortgage made by any corporation primarily engaged in the railroad or street railway business, the furnishing of telephone or telegraph service, the transmission of oil, gas or petroleum products by pipe line, or the production, transmission or distribution of electricity, steam, gas or water, but such security interest may be perfected under this Article by filing such deed of trust or mortgage with the department of licensing. When so filed, such instrument shall remain effective until terminated, without the need for filing a continuation statement. Assignments and releases of such instruments may also be filed with

the department of licensing. The director of licensing shall be a filing officer for the foregoing purposes, and the uniform fee for filing, indexing, and furnishing filing data pursuant to this subsection shall be five dollars.

Sec. 17. Section 9-304, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-304 are each amended to read as follows:

(1) A security interest in chattel paper or negotiable documents may be perfected by filing. 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 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 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 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. 18. Section 9-305, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-305 are each amended to read as follows:

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. 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.

Sec. 19. Section 9-306, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-306 are each amended to read as follows:

(1) "Proceeds" includes whatever is received (~~((when collateral or proceeds is sold, exchanged, collected or otherwise disposed of. The term also includes the account arising when the right to payment is earned under a contract right))~~) upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Money, checks, deposit accounts, and the like are "cash proceeds". All other proceeds are "non-cash proceeds".

(2) Except where this Article otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof (~~((by the debtor))~~) unless (~~((his action))~~) the disposition was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected ten days after receipt of the proceeds by the debtor unless

(a) ~~((a filed financing statement covering the original collateral also covers proceeds; or~~

~~(b))~~) a filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds; or

(b) a filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds or instruments; or

(c) the security interest in the proceeds is perfected before the expiration of the ten day period.

Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances permitted in this Article for original collateral of the same type.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest only in the following proceeds:

(a) in identifiable non-cash proceeds and in separate deposit accounts containing only proceeds;

(b) in identifiable cash proceeds in the form of money which is ~~((not))~~ neither commingled with other money ~~((or))~~ nor deposited in a ~~((bank))~~ deposit account prior to the insolvency proceedings;

(c) in identifiable cash proceeds in the form of checks and the like which are not deposited in a ~~((bank))~~ deposit account prior to the insolvency proceedings; and

(d) in all cash and ~~((bank))~~ deposit accounts of the debtor~~((, if other cash))~~ in which proceeds have been commingled ~~((or deposited in a bank account))~~ with other funds, but the perfected security interest under this paragraph (d) is

(i) subject to any right of set-off; and

(ii) limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten days before the institution of the insolvency proceedings ~~((and commingled or deposited in a bank account prior to the insolvency proceedings less the amount of cash proceeds received by the debtor and paid over to the secured party during the ten day period))~~ less the sum of (I) the payments to the secured party on account of cash proceeds received by the debtor during such period and (II) the cash proceeds received by the debtor during such period to which the secured party is entitled under paragraphs (a) through (c) of this subsection (4).

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) If the goods were collateral at the time of sale for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under RCW 62A.9-308.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a).

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods.

Sec. 20. Section 9-307, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-307 are each amended to read as follows:

(1) A buyer in ordinary course of business (subsection (9) of RCW 62A.1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) In the case of consumer goods (~~and in the case of farm equipment having an original purchase price not in excess of two thousand five hundred dollars (other than fixtures, see RCW 62A.9-313))~~), a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes (~~or his own farming operations~~) unless prior to the purchase the secured party has filed a financing statement covering such goods.

(3) A buyer other than a buyer in ordinary course of business (subsection (1) of this section) takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, unless made pursuant to a commitment entered into without knowledge of the purchase.

Sec. 21. Section 9-308, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-308 are each amended to read as follows:

~~((A purchaser of chattel paper or a non-negotiable instrument who gives new value and takes possession of it in the ordinary course of his business and without knowledge that the specific paper or instrument is subject to a security interest has priority over a security interest which is perfected under RCW 62A.9-304 (permissive filing and temporary perfection). A purchaser of chattel paper who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in chattel paper which is claimed merely as proceeds of inventory subject to a security interest (RCW 62A.9-306), even though he knows that the specific paper is subject to the security interest))~~ A purchaser of chattel paper or an instrument who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in the chattel paper or instrument

(a) which is perfected under RCW 62A.9-304 (permissive filing and temporary perfection) or under RCW 62A.9-306 (perfection as to proceeds) if he acts without knowledge that the specific paper or instrument is subject to a security interest; or

(b) which is claimed merely as proceeds of inventory subject to a security interest (RCW 62A.9-306) even though he knows that the specific paper or instrument is subject to the security interest.

Sec. 22. Section 9-312, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-312 are each amended to read as follows:

(1) ~~((The rules of priority stated in the following sections shall govern where applicable: RCW 62A.4-208 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds; RCW 62A.9-301 on certain priorities; RCW 62A.9-304 on goods covered by documents; RCW 62A.9-306 on proceeds and repossessions; RCW 62A.9-307 on buyers of goods; RCW 62A.9-308 on possessory against non-possessory interests in chattel paper or non-negotiable instruments; RCW 62A.9-309 on security interests in negotiable instruments, documents or securities; RCW 62A.9-310 on priorities between perfected security interests and liens by operation of law; RCW 62A.9-313 on security interests in fixtures as against interests in real estate; RCW 62A.9-314 on security interests in accessions as against interest in goods; RCW 62A.9-315 on conflicting security interests where goods lose their identity or become part of a product; and RCW 62A.9-316 on contractual subordination))~~ The rules of priority stated in other sections of this Part and in the following sections shall govern when applicable: RCW 62A.4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; RCW 62A.9-103 on security interests related to other jurisdictions; RCW 62A.9-114 on consignments.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) ~~((A purchase money security interest in inventory collateral has priority over a conflicting security interest in the same collateral if~~

~~(a) the purchase money security interest is perfected at the time the debtor receives possession of the collateral; and~~

~~(b) any secured party whose security interest is known to the holder of the purchase money security interest or who, prior to the date of the filing made by the holder of the purchase money security interest, had filed a financing statement covering the same items or type of inventory, has received notification of the purchase money security interest before the debtor receives possession of the collateral covered by the purchase money security interest; and~~

~~(c) such notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type))~~ A perfected purchase money security interest in inventory has priority over a conflicting security

interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the twenty-one day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of RCW 62A.9-304); and

(c) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(d) the notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within ten days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined ((as follows:

~~(a) in the order of filing if both are perfected by filing, regardless of which security interest attached first under RCW 62A.9-204(1) and whether it attached before or after filing;~~

~~(b) in the order of perfection unless both are perfected by filing, regardless of which security interest attached first under RCW 62A.9-204(1) and, in the case of a filed security interest, whether it attached before or after filing; and~~

~~(c) in the order of attachment under RCW 62A.9-204(1) so long as neither is perfected;~~

~~(6) For the purpose of the priority rules of the immediately preceding subsection, a continuously perfected security interest shall be treated at all times as if perfected by filing if it was originally so perfected and it shall be treated at all times as if perfected otherwise than by filing if it was originally perfected otherwise than by filing)) according to the following rules:~~

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing or the taking of possession, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

Sec. 23. Section 9-313, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-313 are each amended to read as follows:

~~((1) The rules of this section do not apply to goods incorporated into a structure in the manner of lumber, bricks, tile, cement, glass, metal work and the like and no security interest in them exists under this Article unless the structure remains personal property under applicable law. The law of this state other than this Title determines whether and when other goods become fixtures. This Title does not prevent creation of an encumbrance upon fixtures or real estate pursuant to the law applicable to real estate.~~

~~(2) A security interest which attaches to goods before they become fixtures takes priority as to the goods over the claims of all persons who have an interest in the real estate except as stated in subsection (4).~~

~~(3) A security interest which attaches to goods after they become fixtures is valid against all persons subsequently acquiring interests in the real estate except as stated in subsection (4) but is invalid against any person with an interest in the real estate at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as fixtures.~~

~~(4) The security interests described in subsections (2) and (3) do not take priority over~~

~~(a) a subsequent purchaser for value of any interest in the real estate, or~~

~~(b) a creditor with a lien on the real estate subsequently obtained by judicial proceedings, or~~

~~(c) a creditor with a prior encumbrance of record on the real estate to the extent that he makes subsequent advances~~

~~if the subsequent purchase is made, the lien by judicial proceedings is obtained, or the subsequent advance under the prior encumbrance is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the real estate at a foreclosure sale other than an encumbrancer purchasing at his own foreclosure sale is a subsequent purchaser within this section.~~

(5)) (1) In this section and in the provisions of Part 4 of this Article referring to fixture filing, unless the context otherwise requires

(a) goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) a "fixture filing" is the filing in the office where a mortgage on the real estate would be filed or recorded of a financing statement covering goods which are or are to become fixtures and conforming to the requirements of subsection (5) of RCW 62A.9-402;

(c) a mortgage is a "construction mortgage" to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.

(2) A security interest under this Article may be created in goods which are fixtures or may continue in goods which become fixtures, but no security interest exists under this Article in ordinary building materials incorporated into an improvement on land.

(3) This Article does not prevent creation of an encumbrance upon fixtures pursuant to real estate law.

(4) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) the security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods become fixtures, the security interest is perfected by a fixture filing before the goods become fixtures or within ten days thereafter, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(b) the security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the security interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(c) the fixtures are readily removable factory or office machines or readily removable replacements of domestic appliances which are consumer goods, and before the goods become fixtures the security interest is perfected by any method permitted by this Article; or

(d) the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this Article.

(5) A security interest in fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) the encumbrancer or owner has consented in writing to the security interest or has disclaimed an interest in the goods as fixtures; or

(b) the debtor has a right to remove the goods as against the encumbrancer or owner. If the debtor's right terminates, the priority of the security interest continues for a reasonable time.

(6) Notwithstanding paragraph (a) of subsection (4) but otherwise subject to subsections (4) and (5), a security interest in fixtures is subordinate

to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent that it is given to refinance a construction mortgage, a mortgage has this priority to the same extent as the construction mortgage.

(7) In cases not within the preceding subsections, a security interest in fixtures is subordinate to the conflicting interest of an encumbrancer or owner of the related real estate who is not the debtor.

(8) When (~~under subsections (2) or (3) and (4) a~~) the secured party has priority over (~~the claims of all persons who have interests in~~) all owners and encumbrancers of the real estate, he may, on default, subject to the provisions of Part 5, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

Sec. 24. Section 9-318, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-318 are each amended to read as follows:

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims arising out of a sale as provided in RCW 62A.9-206 the rights of an assignee are subject to

(a) all the terms of the contract between the account debtor and assignor and any defense or claim arising therefrom; and

(b) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives notification of the assignment.

(2) So far as the right to payment or a part thereof under an assigned contract (~~(right has not already become an account)~~) has not been fully earned by performance, and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that such modification or substitution is a breach by the assignor.

(3) The account debtor is authorized to pay the assignor until the account debtor receives notification that the (~~account~~) amount due or to become due has been assigned and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the account debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the account debtor may pay the assignor.

(4) A term in any contract between an account debtor and an assignor ~~((which)) is ineffective if it prohibits assignment of an account or ((contract right to which they are parties is ineffective)) prohibits creation of a security interest in a general intangible for money due or to become due or requires the account debtor's consent to such assignment or security interest.~~

Sec. 25. Section 9-401, chapter 157, Laws of 1965 ex. sess. as last amended by section 211, chapter 158, Laws of 1979 and RCW 62A.9-401 are each amended to read as follows:

(1) The proper place to file in order to perfect a security interest is as follows:

~~(a) ((when the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the auditor in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the auditor in the county where the goods are kept, and in addition when the collateral is crops in the office of the auditor in the county where the land on which the crops are growing or to be grown is located;~~

~~(b) when the collateral is goods which at the time the security interest attaches are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;~~

~~(c) in all other cases, with the department of licensing)) when the collateral is timber to be cut or is minerals or the like (including oil and gas) or accounts subject to subsection (5) of RCW 62A.9-103, or when the financing statement is filed as a fixture filing (RCW 62A.9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded;~~

(b) in all other cases, in the office of the department of licensing.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this Article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

~~(4) ((If collateral is brought into this state from another jurisdiction,))~~
The rules stated in RCW 62A.9-103 determine whether filing is necessary in this state.

(5) Notwithstanding the preceding subsections, and subject to subsection (3) of RCW 62A.9-302, the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is

with the department of licensing. This filing constitutes a fixture filing (RCW 62A.9-313) as to the collateral described therein which is or is to become fixtures.

(6) For the purposes of this section, the residence of an organization is its place of business if it has one or its chief executive office if it has more than one place of business.

Sec. 26. Section 9-402, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-402 are each amended to read as follows:

(1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor ((and the secured party)), gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers ((crops growing or to be grown or goods which are or are to become fixtures, the statement must also contain a description of the real estate concerned)) timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of RCW 62A.9-103, or when the financing statement is filed as a fixture filing (RCW 62A.9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by ((both parties)) the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient ((although)) when it is signed ((only)) by the secured party ((when)) instead of the debtor if it is filed to perfect a security interest in

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances((-)); or

(b) proceeds under RCW 62A.9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) collateral as to which the filing has lapsed; or

(d) collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)).

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor)
 ((Mailing)) Address ((of debtor))
 Name of secured party (or assignee)
 ((Mailing)) Address ((of secured party))

1. This financing statement covers the following types (or items) of property:

((Description of collateral))
 (Describe)

2. ((If collateral is crops) The above described crops are growing or are to be grown on or are standing on:

(Description of real property)

3.) (If applicable) The above goods are to become fixtures on*
 (Describe Real Estate)

and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is

*Where appropriate substitute either "The above timber is standing on" or "The above minerals or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on"

3. (If ((proceeds or)) products of collateral are claimed)
 ((Proceeds—))Products of the collateral are also covered

((Signature of debtor
 —Signature of secured party

(If the transaction consists of the sale of accounts, contract rights or chattel paper, the term "seller" or "assignor" may be substituted for "debtor" and the term "buyer" or "assignee" may be substituted for "secured party")

(use
 whichever Signature of Debtor (or Assignor)
 is
 applicable) Signature of Secured Party (or Assignee)

(4) ((The term "financing statement" as used in this Article means the original financing statement and any amendments but)) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this Article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of RCW 62A.9-103, or a financing statement filed as a fixture filing (RCW 62A.9-313) where the debtor is not a transmitting utility, must show that it

covers this type of collateral, must recite that it is to be filed for record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (a) the goods are described in the mortgage by item or type, (b) the goods are or are to become fixtures related to the real estate described in the mortgage, (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records, and (d) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

Sec. 27. Section 9-403, chapter 157, Laws of 1965 ex. sess. as last amended by section 212, chapter 158, Laws of 1979 and RCW 62A.9-403 are each amended to read as follows:

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

(2) Except as provided in subsection (6) a filed financing statement ((which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement)) is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses ((on the expiration of such sixty day period after a stated maturity date or)) on the expiration of ((such)) the five year period((, as the case may be,)) unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings

are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five year period, whichever occurs later. Upon ~~((such))~~ lapse the security interest becomes unperfected ~~((: A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing))~~, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party ~~((i) within six months before and sixty days after a stated maturity date of five years or less, and (ii) otherwise))~~ within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of RCW 62A.9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained.

(4) Except as provided in subsection (7) a filing officer shall mark each statement with a ~~((consecutive))~~ file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fee for filing ~~((: indexing, and furnishing filing data for an original or a continuation statement on a form conforming to standards prescribed by the department of licensing shall be three dollars))~~ and indexing and for stamping a copy furnished by the secured party to show the

date and place of filing for an original financing statement or for a continuation statement shall be four dollars if the statement is in the standard form prescribed by the department of licensing, but if the form of the statement does not conform to the standards prescribed by the department the uniform fee shall be ~~((five))~~ seven dollars. The secured party may at his option show a trade name for any person.

(6) If the debtor is a transmitting utility (subsection (5) of RCW 62A.9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of RCW 62A.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of RCW 62A.9-103, or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

Sec. 28. Section 9-404, chapter 157, Laws of 1965 ex. sess. as last amended by section 213, chapter 158, Laws of 1979 and RCW 62A.9-404 are each amended to read as follows:

(1) If a financing statement covering consumer goods is filed on or after the effective date of this 1981 act, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must file with each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number. In other cases whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must ~~((include or))~~ be accompanied by ~~((the assignment or))~~ a separate written statement of assignment signed by the secured party of record ~~((that he has assigned the security interest to the signer of the termination statement. The uniform~~

~~fee for filing and indexing such an assignment or statement thereof on a form conforming to standards prescribed by the department of licensing shall be one dollar, but if the form of the statement does not conform to the standards prescribed by the department the uniform fee shall be two dollars~~) complying with subsection (2) of RCW 62A.9-405, including payment of the required fee. If the affected secured party fails to file such a termination statement as required by this subsection, or to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the index. ~~((The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto))~~ If he has received the termination statement in duplicate, he shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof. If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, he may remove the originals from the files at any time after receipt of the termination statement, or if he has no such record, he may remove them from the files at any time after one year after receipt of the termination statement.

(3) There shall be no fee for filing and indexing a termination statement including sending or delivering the financing statement.

Sec. 29. Section 9-405, chapter 157, Laws of 1965 ex. sess. as last amended by section 214, chapter 158, Laws of 1979 and RCW 62A.9-405 are each amended to read as follows:

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. ~~((Either the original secured party or the assignee may sign this statement as the secured party:))~~ On presentation to the filing officer of such a financing statement, the filing officer shall mark ~~((, hold, and index))~~ the same as provided in RCW 62A.9-403(4) ~~((, and shall note the assignment on the index of the financing statement))~~. The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment on a form conforming to standards prescribed by the department of licensing shall be ~~((three))~~ four dollars, but if the form of the financing statement does not conform to the standards prescribed by the department the uniform fee shall be ~~((five))~~ seven dollars.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of RCW 62A.9-103, he shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment on a form conforming to standards prescribed by the department shall be ~~((one))~~ four dollars, but if the form of the financing statement does not conform to the standards prescribed by the department the uniform fee shall be ~~((two))~~ seven dollars. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of RCW 62A.9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this Title.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

Sec. 30. Section 9-406, chapter 157, Laws of 1965 ex. sess. as last amended by section 215, chapter 158, Laws of 1979 and RCW 62A.9-406 are each amended to read as follows:

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of RCW 62A.9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index

of the filing of the financing statement. The uniform fee for filing and noting such a statement of release on a form conforming to standards prescribed by the department of licensing shall be ~~((one))~~ four dollars, but if the form of the statement does not conform to the standards prescribed by the department the uniform fee shall be ~~((two))~~ seven dollars.

Sec. 31. Section 9-407, chapter 157, Laws of 1965 ex. sess. as amended by section 10, chapter 114, Laws of 1967 and RCW 62A.9-407 are each amended to read as follows:

(1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the ~~((filing officer))~~ department of licensing shall issue ~~((his))~~ its certificate showing whether there is on file with the department of licensing on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be ~~((two))~~ four dollars if the request for the certificate is in the standard form prescribed by the department of licensing and otherwise shall be five dollars. Upon request the ~~((filing officer))~~ department of licensing shall issue its certificate and shall furnish a copy of any filed financing statements or statements of assignment for a uniform fee of ~~((four))~~ eight dollars for each particular debtor's statements requested.

NEW SECTION. Sec. 32. There is added to Article 9 of Title 62A RCW a new section to be codified as RCW 62A.9-408 to read as follows:

A consignor or lessor of goods may file a financing statement using the terms specified in RCW 62A.9-402 or the terms "consignor," "consignee," "lessor," "lessee" or the like. The provisions of this Part shall apply as appropriate to such a financing statement but its filing shall not of itself be a factor in determining whether or not the consignment or lease is intended as security (RCW 62A.1-201(37)). However, if it is determined for other reasons that the consignment or lease is so intended, a security interest of the consignor or lessor which attaches to the consigned or leased goods is perfected by such filing.

NEW SECTION. Sec. 33. Section 11, chapter 114, Laws of 1967 which was codified pursuant to legislative direction as RCW 62A.9-408 shall be recodified as RCW 62A.9-420.

It is the intent of the legislature by recodifying this section to preserve the uniformity of the Uniform Commercial Code.

Sec. 34. Section 9-501, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-501 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) those provided in the security agreement. He may reduce his 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 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 may proceed as to both the real and the personal property in accordance with his 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 claim to judgment the lien of any levy which may be made upon his 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.

Sec. 35. Section 9-502, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-502 are each amended to read as follows:

(1) When so agreed and in any event on default the secured party is entitled to notify an account debtor or the obligor on an instrument to make payment to him whether or not the assignor was theretofore making collections on the collateral, and also to take control of any proceeds to which he is entitled under RCW 62A.9-306.

(2) A secured party who by agreement is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor and who undertakes to collect from the account debtors or obligors must proceed in a commercially reasonable manner and may deduct his reasonable expenses of realization from the collections. If the security agreement secures an indebtedness, the secured party must account to the debtor for any surplus, and unless otherwise agreed, the debtor is liable for any deficiency. But, if the underlying transaction was a sale of accounts(=contract rights;) or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

Sec. 36. Section 9-504, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-504 are each amended to read as follows:

(1) A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing. Any sale of goods is subject to the Article on Sales (Article 2). The proceeds of disposition shall be applied in the order following to

(a) the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) the satisfaction of indebtedness secured by the security interest under which the disposition is made;

(c) the satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus, and, unless otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts(~~(, contract rights,)~~) or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor, ~~((and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or who is known by the secured party to have a security interest in the collateral))~~ if he has not signed after default a statement renouncing or modifying his right to notification of sale and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state. The secured party may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

(4) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the secured party fails to comply with the requirements of this Part or of any judicial proceedings

(a) in the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the secured party, other bidders or the person conducting the sale; or

(b) in any other case, if the purchaser acts in good faith.

(5) A person who is liable to a secured party under a guaranty, indorsement, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under this Article.

Sec. 37. Section 9-505, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-505 are each amended to read as follows:

(1) If the debtor has paid sixty percent of the cash price in the case of a purchase money security interest in consumer goods or sixty percent of the loan in the case of another security interest in consumer goods, and has not signed after default a statement renouncing or modifying his rights under this Part a secured party who has taken possession of collateral must dispose of it under RCW 62A.9-504 and if he fails to do so within ninety days after he takes possession the debtor at his option may recover in conversion or under RCW 62A.9-507(1) on secured party's liability.

(2) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor (~~and except in the case of consumer goods to any other secured party who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or is known by the secured party in possession to have a security interest in it. If the debtor or other person entitled to receive notification objects in writing within thirty days from the receipt of the notification or if any other secured party objects in writing within thirty days after the secured party obtains possession the secured party must dispose of the collateral under RCW 62A.9-504~~) if he has not signed after default a statement renouncing or modifying his rights under this subsection and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state. If the secured party receives objection in writing from a person entitled to receive notification within twenty-one days after the notice was sent, the secured party must dispose of the collateral under RCW 62A.9-504. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor's obligation.

NEW SECTION. Sec. 38. There is added to Title 62A RCW a new section to be codified as RCW 62A.11-102 to read as follows:

The provisions of Article 10 shall continue to apply to the Uniform Commercial Code as amended by this act and for this purpose the Uniform Commercial Code before the effective date of this act and the Uniform Commercial Code as amended by this act shall be considered one continuous statute.

NEW SECTION. Sec. 39. There is added to Title 62A RCW a new section to be codified as RCW 62A.11-103 to read as follows:

Transactions validly entered into after June 30, 1967 and before the effective date of this act, and which were subject to the provisions of the Uniform Commercial Code as it existed before the effective date of this act and which would be subject to the Uniform Commercial Code as amended if they had been entered into after the effective date of this act and the rights, duties and interests flowing from such transactions remain valid after

the effective date of this act and may be terminated, completed, consummated or enforced as required or permitted by the Uniform Commercial Code as amended by this act. Security interests arising out of such transactions which are perfected by the effective date of this act shall remain perfected until they lapse as provided in the Uniform Commercial Code as amended by this act, and may be continued as permitted by the Uniform Commercial Code as amended by this act, except as stated in RCW 62A.11-105.

NEW SECTION. Sec. 40. There is added to Title 62A RCW a new section to be codified as RCW 62A.11-104 to read as follows:

A security interest for the perfection of which filing or the taking of possession was required under the Uniform Commercial Code as it existed before the effective date of this act and which attached prior to the effective date of this act but was not perfected shall be deemed perfected on the effective date of this act if the Uniform Commercial Code as amended by this act permits perfection without filing or authorizes filing in the office or offices where a prior ineffective filing was made.

NEW SECTION. Sec. 41. There is added to Title 62A RCW a new section to be codified as RCW 62A.11-105 to read as follows:

(1) A financing statement or continuation statement filed prior to the effective date of this act which shall not have lapsed prior to the effective date of this act shall remain effective for the period provided in the Uniform Commercial Code as it existed before the effective date of this act, but not less than five years after the filing.

(2) With respect to any collateral acquired by the debtor subsequent to the effective date of this act, any effective financing statement or continuation statement described in this section shall apply only if the filing or filings are in the office or offices that would be appropriate to perfect the security interests in the new collateral under this act.

(3) The effectiveness of any financing statement or continuation statement filed prior to the effective date of this act may be continued by a continuation statement as permitted by the Uniform Commercial Code as amended by this act, except that if the Uniform Commercial Code as amended by this act requires a filing in an office where there was no previous financing statement, a new financing statement conforming to RCW 62A.11-106 shall be filed in that office.

(4) If the record of a mortgage of real estate would have been effective as a fixture filing of goods described therein if the Uniform Commercial Code as amended by this act had been in effect on the date of recording the mortgage, the mortgage shall be deemed effective as a fixture filing as to such goods under subsection (6) of RCW 62A.9-402 as amended by this act on the effective date of this act.

NEW SECTION. Sec. 42. There is added to Title 62A RCW a new section to be codified as RCW 62A.11-106 to read as follows:

(1) If a security interest is perfected or has priority on the effective date of this act, as to all persons or as to certain persons without any filing or recording, and if the filing of a financing statement would be required for the perfection or priority of the security interest against those persons under the Uniform Commercial Code as amended by this act, the perfection and priority rights of the security interest continue until three years after the effective date of this act. The perfection will then lapse unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing.

(2) If a security interest is perfected when the Uniform Commercial Code as amended by this act takes effect under a law other than the Uniform Commercial Code which requires no further filing, refiling or recording to continue its perfection, perfection continues until and will lapse three years after the Uniform Commercial Code as amended by this act takes effect, unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing, or unless under subsection (3) of RCW 62A.9-302 the other law continues to govern filing.

(3) If a security interest is perfected by a filing, refiling or recording under a law repealed by this act which required further filing, refiling or recording to continue its perfection, perfection continues and will lapse on the date provided by the law so repealed for such further filing, refiling or recording unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing.

(4) A financing statement may be filed within six months before the perfection of a security interest would otherwise lapse. Any such financing statement may be signed by either the debtor or the secured party. It must identify the security agreement, statement or notice (however denominated in any statute or other law repealed or modified by this act), state the office where and the date when the last filing, refiling or recording, if any, was made with respect thereto, and the filing number, if any, or book and page, if any, of recording and further state that the security agreement, statement or notice, however denominated, in another filing office under the Uniform Commercial Code or under any statute or other law repealed or modified by this act is still effective. RCW 62A.9-401 and 62A.9-103 determine the proper place to file such a financing statement. Except as specified in this subsection, the provisions of RCW 62A.9-403(3) for continuation statements apply to such a financing statement.

NEW SECTION. Sec. 43. There is added to Title 62A RCW a new section to be codified as RCW 62A.11-108 [62A.11-107] to read as follows:

Except as otherwise provided in this article, the Uniform Commercial Code as it existed before the effective date of this act shall apply to any questions of priority if the positions of the parties were fixed prior to the effective date of this act. In other cases questions of priority shall be determined by the Uniform Commercial Code as amended by this act.

NEW SECTION. Sec. 44. There is added to Title 62A RCW a new section to be codified as RCW 62A.11-108 to read as follows:

Unless a change in law has clearly been made, the provisions of the Uniform Commercial Code as amended by this act shall be deemed declaratory of the meaning of the Uniform Commercial Code as it existed before the effective date of this act.

NEW SECTION. Sec. 45. There is added to Title 62A RCW a new section to be codified as RCW 62A.11-109 to read as follows:

From and after the effective date of this act, upon request of any person, the county auditor shall issue his certificate showing whether there is on file with the county auditor's office on the date and hour stated therein, any presently effective financing statement filed with the county auditor's office before the effective date of this act, naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be four dollars. Upon request the county auditor shall issue his certificate and shall furnish a copy of any filed financing statements or statements of assignment for a uniform fee of ten dollars for each particular debtor's statements requested.

NEW SECTION. Sec. 46. The following acts or parts of acts are each repealed:

(1) Section 81.36.140, chapter 14, Laws of 1961 and RCW 81.36.140;

(2) Section 81.36.150, chapter 14, Laws of 1961 and RCW 81.36.150;
and

(3) Section 81.36.160, chapter 14, Laws of 1961 and RCW 81.36.160.

NEW SECTION. Sec. 47. This act shall take effect at midnight on June 30, 1982.

Passed the House February 20, 1981.

Passed the Senate April 13, 1981.

Approved by the Governor April 22, 1981.

Filed in Office of Secretary of State April 22, 1981.

CHAPTER 42

[Substitute House Bill No. 290]

STATE SCHOOL FOR THE DEAF—SUPERINTENDENT, QUALIFICATIONS,
DISCIPLINE OF

AN ACT Relating to the board of trustees for the state school for the deaf; and amending section 4, chapter 96, Laws of 1972 ex. sess. and RCW 72.42.040.

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

Section 1. Section 4, chapter 96, Laws of 1972 ex. sess. and RCW 72.42.040 are each amended to read as follows:

Subject to the direction and control of the secretary of the department of social and health services, the board of trustees of the state school for the deaf:

(1) Shall monitor and inspect all existing facilities of the state school for the deaf, and report its findings to the secretary;

(2) Shall study and recommend comprehensive programs of education and training and review the admission policy as set forth in RCW 72.40.040 and 72.40.050, and make appropriate recommendations to the secretary;

(3) Shall advise the secretary in selection of qualified candidates for superintendent, members of the faculty and such other administrative officers and other employees, who shall all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law. The board in consultation with the secretary shall establish qualifications for the position of superintendent. The board shall evaluate the superintendent annually and when necessary may recommend disciplinary action in respect to the superintendent. All employees and personnel classified under chapter 41.06 RCW shall continue, after May 23, 1972, to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law;

(4) May recommend to the secretary the establishment of new facilities as needs demand;

(5) May recommend to the secretary rules and regulations for the government, management, and operation of such housing facilities deemed necessary or advisable;

(6) May make recommendations to the secretary concerning classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for the school for the deaf;

(7) May make recommendations to the secretary for adoption of rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the school for the deaf;

(8) Shall recommend to the secretary, with the assistance of the faculty, the course of study including vocational training in the school for the deaf, in accordance with other applicable provisions of law and rules and regulations;

(9) May grant to every student, upon graduation or completion of a program or course of study, a suitable diploma, nonbaccalaureate degree, or certificate.

(10) Shall participate in the development of, and monitor the enforcement of the rules and regulations pertaining to the school for the deaf;

(11) Shall perform any other duties and responsibilities prescribed by the secretary.

Passed the House March 27, 1981.

Passed the Senate April 11, 1981.

Approved by the Governor April 22, 1981.

Filed in Office of Secretary of State April 22, 1981.

CHAPTER 43

[Substitute House Bill No. 308]

EMBALMERS AND FUNERAL DIRECTORS—LICENSURE

AN ACT Relating to embalmers and funeral directors; amending section 1, chapter 108, Laws of 1937 as last amended by section 39, chapter 158, Laws of 1979 and RCW 18.39.010; amending section 2, chapter 108, Laws of 1937 and RCW 18.39.020; amending section 6, chapter 108, Laws of 1937 as last amended by section 42, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.39.050; amending section 5, chapter 108, Laws of 1937 as amended by section 4, chapter 107, Laws of 1965 ex. sess. and RCW 18.39.070; amending section 10, chapter 108, Laws of 1937 as amended by section 43, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.39.120; amending section 15, chapter 108, Laws of 1937 as amended by section 44, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.39.130; amending section 4, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.148; amending section 8, chapter 108, Laws of 1937 as amended by section 45, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.39.150; amending section 9, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.175; amending section 5, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.181; amending section 9, chapter 108, Laws of 1937 and RCW 18.39.190; amending section 13, chapter 108, Laws of 1937 and RCW 18.39.220; amending section 6, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.223; amending section 7, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.225; adding new sections to chapter 18.39 RCW; creating new sections; repealing section 2, chapter 52, Laws of 1955, section 2, chapter 107, Laws of 1965 ex. sess., section 23, chapter 292, Laws of 1971 ex. sess. and RCW 18.39.030; repealing section 4, chapter 108, Laws of 1937, section 1, chapter 150, Laws of 1945, section 2, chapter 105, Laws of 1947, section 3, chapter 107, Laws of 1965 ex. sess., section 24, chapter 292, Laws of 1971 ex. sess., section 1, chapter 120, Laws of 1972 ex. sess., section 40, chapter 158, Laws of 1979 and RCW 18.39.040; repealing section 3, chapter 52, Laws of 1955 and RCW 18.39.080; repealing section 10, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.177; repealing section 11, chapter 108, Laws of 1937, section 2, chapter 93, Laws of 1977 ex. sess., section 41, chapter 158, Laws of 1979 and RCW 18.39.180; repealing section 15, chapter 215, Laws of 1909 and RCW 18.39.210; repealing section 17, chapter 108, Laws of 1937 and RCW 18.39.230; repealing section 13, chapter 99, Laws of 1979 and RCW 43.131.173; repealing section 55, chapter 99, Laws of 1979 and RCW 43.131.174; providing an effective date; providing an expiration date; and declaring an emergency.

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

Section 1. Section 1, chapter 108, Laws of 1937 as last amended by section 39, chapter 158, Laws of 1979 and RCW 18.39.010 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

~~((The term))~~ (1) "Funeral director" ~~((as used herein is))~~ means a person engaged in the profession or business of conducting funerals and supervising or directing the burial and disposal of dead human bodies.

~~((The term))~~ (2) "Embalmer" ~~((as used herein is))~~ means a person engaged in the profession or business of disinfecting, preserving or preparing for disposal or transportation of dead human bodies.

~~((A))~~ (3) "Two-year college course" ~~((as used herein))~~ means the completion of sixty semester hours or ninety quarter hours of ~~((collegiate))~~ college credit ~~((from a college or university approved by the director and the state board of funeral directors and embalmers))~~, including the satisfactory completion of certain college courses, as set forth in this chapter.

(4) "Funeral establishment" means a place of business licensed in accordance with RCW 18.39.145, conducted at a specific street address or location, and devoted to the care and preparation for burial or disposal of dead human bodies and includes all areas of such business premises and all tools, instruments, and supplies used in preparation and embalming of dead human bodies for burial or disposal.

(5) "Director" means the director of licensing.

(6) "Board" means the state board of funeral directors and embalmers created pursuant to RCW 18.39.173.

Words used in this chapter importing the singular may be applied to the plural of the person or thing, words importing the plural may be applied to the singular, and words importing the masculine gender may be applied to the female.

Sec. 2. Section 2, chapter 108, Laws of 1937 and RCW 18.39.020 are each amended to read as follows:

~~((On and after the first day of January, 1938,))~~ It ~~((shall be))~~ is unlawful for any person to act or hold himself out as a funeral director or embalmer or discharge any of the duties of a funeral director or embalmer as defined in this chapter unless ~~((he shall have first obtained and be the possessor of))~~ the person has a valid ~~((and subsisting))~~ license ~~((so to do granted pursuant to the provisions of))~~ under this chapter ~~((, or)).~~ It is unlawful for any person to open up, maintain or operate ~~((more than one place of business for directing or supervising the burial or disposal of dead human bodies,))~~ a funeral establishment without having ~~((or employing))~~ at all times at least one funeral director to supervise and direct the business conducted therefrom.

NEW SECTION. Sec. 3. There is added to chapter 18.39 RCW a new section to read as follows:

(1) An applicant for a license as a funeral director shall be at least eighteen years of age, of good moral character, and must have completed a course of not less than two years in an accredited college, and a one-year course of training under a licensed funeral director in this state. The applicant must also pass an examination which shall include the following subjects: Funeral directing, psychology, the signs of death, sanitary science, the preparation, burial, and disposal of dead human bodies, and the shipment of bodies of persons dying of contagious or infectious diseases.

(2) An applicant for a license as an embalmer must be at least eighteen years of age, of good moral character, and have completed two years at an accredited college, a two-year course of training under a licensed embalmer in this state, and a full course of instruction in an embalming school approved by the board. No portion of the course of instruction in the embalming school can be applied towards satisfaction of the two-year college course. The applicant must also pass an examination in each of the following subjects: Embalming, anatomy and physiology including histology, embryology, and dissection, pathology, bacteriology, public health including sanitation and hygiene, chemistry including toxicology, restorative art including plastic surgery and demi-surgery, the care, disinfection, preservation, transportation, burial, and disposal of dead human bodies and the contents of this chapter and of the law of the state relating to infectious diseases and quarantine.

NEW SECTION. Sec. 4. There is added to chapter 18.39 RCW a new section to read as follows:

(1) The two-year college course required under this chapter shall consist of sixty semester or ninety quarter hours of instruction at a school, college, or university accredited by the Northwest Association of Schools and Colleges, with a minimum 2.0 grade point average in each subject.

(2) Credits shall include one course in each of the following subjects: Psychology, mathematics, chemistry, and biology or zoology. Instruction shall also include two courses in English composition and rhetoric, two courses in social science, and three courses selected from the following subjects: Behavioral sciences, public speaking, counseling, business administration and management, and first aid.

Sec. 5. Section 6, chapter 108, Laws of 1937 as last amended by section 42, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.39.050 are each amended to read as follows:

Every application for ~~((a))~~ an initial license ~~((hereunder, whether for an initial issue or for a renewal of one already granted;))~~ or a license renewal under this chapter shall be made in writing on a form prescribed by the director ~~((and be verified by oath or affirmation before some person authorized by law to administer the same. The original application shall be accompanied by a natural photo of applicant. Every person making application for an initial issue of a license when an examination is required shall~~

pay to the state treasurer a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended and, in case such application is granted he shall pay the further fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended prior to the issuance of such license. Every licensed embalmer or licensed funeral director shall make an application for a renewal of his license for the succeeding year, on or before the 31st day of December of the current year, and pay to the state treasurer a fee to be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, and upon the payment thereof shall be entitled to a renewal of his license) with such information as the director requires. The director shall set license fees in accordance with RCW 43.24.080 as now existing or hereafter amended.

Sec. 6. Section 5, chapter 108, Laws of 1937 as amended by section 4, chapter 107, Laws of 1965 ex. sess. and RCW 18.39.070 are each amended to read as follows:

(1) ~~((An examination for))~~ License ~~((hereunder))~~ examinations shall be held by the director ~~((of licensing))~~ at least once each year at a time and place to be designated by ~~((him))~~ the director. Application to take an examination ~~((may))~~ shall be filed with ~~((said))~~ the director ~~((at any time, and the director))~~ at least forty-five days prior to the examination date and the department shall give each applicant notice of the time and place of the next ~~((ensuing))~~ examination by written notice mailed to ~~((such))~~ the applicant's address as given upon his application not later than ~~((thirty))~~ fifteen days ~~((prior to))~~ before the examination, but no person ~~((shall be eligible to))~~ may take ~~((such))~~ an examination unless his application ~~((shall have))~~ has been on file for ~~((a period of))~~ at least ~~((thirty))~~ fifteen days ~~((prior thereto))~~ before the examination. The applicant shall be deemed to have passed an examination ~~((successfully whenever he shall have attained))~~ if the applicant attains a grade of not less than seventy-five percent in each subject of ~~((said))~~ the examination. Any applicant who ~~((shall))~~ fails ~~((to make the required grade in))~~ any subject ~~((or subjects))~~ in ~~((his))~~ the first examination shall be entitled, at no additional fee, to a second examination ~~((upon such))~~ in the subject or subjects at the next regular examination ~~((held, and no fee shall be required for said second examination)).~~

(2) An applicant for a license hereunder may take his written examination after completing the educational requirements and before completing the course of training required under ~~((RCW 18.39.030 and 18.39.040. The license to a successful examinee shall be issued only when such a course of training has been completed. PROVIDED, That if an applicant is otherwise qualified, the director of licensing shall issue a license to such applicant if he has made application to five licensed funeral directors for the one year course of training required by RCW 18.39.030 and has been turned down by said five licensed funeral directors))~~ section 3 of this 1981 act.

Sec. 7. Section 10, chapter 108, Laws of 1937 as amended by section 43, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.39.120 are each amended to read as follows:

Every person engaged in the business of funeral directing or embalming, who ~~((staff))~~ employs an apprentice ~~((or apprentices))~~ to assist ~~((him))~~ in the conduct of ~~((such))~~ the business, shall register the name of each apprentice ~~((so employed))~~ with ~~((said))~~ the director at the ~~((time of the))~~ beginning of ~~((said))~~ the apprenticeship, and ~~((such person))~~ shall also forward ~~((to the said director))~~ notice of the termination of ~~((such))~~ the apprenticeship. ~~((Such))~~ The registration shall ~~((also be made in the month of January of every year thereafter by the employer of such apprentice during the continuance of such apprenticeship))~~ be renewed annually and shall expire on the anniversary of the apprentice's birthdate. ~~((A))~~ Fees determined ~~((by the director as provided in))~~ under RCW 43.24.085 as now or hereafter amended shall be paid ~~((to the state treasurer))~~ for the initial registration of ~~((such))~~ the apprentice, and ~~((thereafter a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall be paid to the state treasurer))~~ for each annual renewal ~~((of the same))~~.

Sec. 8. Section 15, chapter 108, Laws of 1937 as amended by section 44, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.39.130 are each amended to read as follows:

The director may recognize licenses issued to funeral directors or embalmers from other states ~~((and;)).~~ Upon presentation of ~~((such))~~ the license ~~((s may, upon the))~~ and payment by the holder of a fee determined ~~((by the director as provided in))~~ under RCW 43.24.085 as now or hereafter amended, the director may issue ~~((to the lawful holder thereof the))~~ a funeral director's or embalmer's license ~~((herein provided for: PROVIDED; HOWEVER, That such))~~ under this chapter. Recognition shall not be extended to funeral directors or embalmers holding licenses from other states unless reciprocal rights are granted to holders of funeral directors' or embalmers' licenses granted in the state of Washington. ~~((Such))~~ Reciprocal licenses may be renewed annually upon payment of the renewal license fee as herein provided ~~((in the case of))~~ by license holders residing in the state of Washington. No person ~~((shall be))~~ is entitled to ~~((such))~~ a reciprocal license as a funeral director or embalmer unless he ~~((shall))~~ furnishes proof that he has, in the state in which he is regularly licensed, complied with requirements substantially equal to those ~~((set out in))~~ imposed by this chapter.

Sec. 9. Section 4, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.148 are each amended to read as follows:

~~((1))~~ ~~In the event~~ If a licensed funeral establishment ~~((ceases to))~~ does not have a licensed funeral director and embalmer in its employ at its place of business, its license shall be canceled immediately by the director ~~((; except as provided in subsection (2) of this section))~~ or the board.

~~((2) If a licensed funeral establishment constitutes any part of the assets of an estate of a deceased person upon whom such license was dependent because the deceased was a licensed funeral director, then the legal representative of the estate shall be entitled to appoint someone other than a licensed funeral director to act in the capacity of a funeral director and shall be entitled to continue to operate the licensed funeral establishment under the existing license or renewals thereof for a period not to exceed two years without the necessity of employing a licensed funeral director in addition to the required licensed embalmer.))~~

Sec. 10. Section 8, chapter 108, Laws of 1937 as amended by section 45, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.39.150 are each amended to read as follows:

~~((When a licensee has, for any reason, allowed his license to lapse, he may be granted a license upon application therefor made to the director, upon payment to the state treasurer of the fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. PROVIDED, Such))~~ Any licensed funeral director or embalmer whose license has lapsed shall reapply for a license and pay a fee as determined under RCW 43.24.085 as now or hereafter amended before the license may be issued. Applications ~~((is))~~ under this section shall be made within one year after the expiration of ~~((his))~~ the previous license. If ~~((such))~~ the application is not made within ~~((such one))~~ three years ~~((period))~~, ~~((as in this section provided, then))~~ the applicant shall be required to take an examination ~~((before the director))~~ or submit other satisfactory proof of continued competency approved by the director and pay the license fee, as required by ~~((the provisions of))~~ this chapter in the case of initial applications, together with all unpaid license fees and penalties.

Sec. 11. Section 9, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.175 are each amended to read as follows:

Each member of the board of funeral directors and embalmers shall receive compensation of twenty-five dollars for each board meeting attended, together with travel expenses in connection with board duties in accordance with RCW 43.03.050 and 43.03.060.

The state board of funeral directors and embalmers shall have the following duties and responsibilities:

- (1) To be responsible for the preparation, conducting, and grading of examinations of applicants for funeral director and embalmer licenses;
- (2) To certify to the director the results of examinations of applicants and certify the applicant as having "passed" or "failed";
- (3) To make findings and recommendations to the director on any and all matters relating to the enforcement of ~~((the provisions of))~~ this chapter; ~~((and))~~

(4) To ((perform all other duties and responsibilities under this chapter, the laws of the state of Washington, and the rules and regulations promulgated in support thereof:)) adopt, promulgate, and enforce reasonable rules; and

(5) To suspend or revoke any license, after proper hearing and notice to the licensee, if the licensee has committed any of the following:

(a) A crime involving moral turpitude and resulting in a conviction;

(b) Unprofessional conduct, which includes:

(i) Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer;

(ii) False or misleading advertising as a funeral director or embalmer;

(iii) Solicitation of human dead bodies by the licensee, his agents, assistants or employees, whether the solicitation occurs after death or while death is impending. This chapter does not prohibit general advertising or the sale of pre-need funeral plans;

(iv) Employment by the licensee of persons known as "cappers," "steerers," or "solicitors" or other persons to obtain funeral directing or embalming business;

(v) Employment directly or indirectly of any person for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;

(vi) The buying of business by the licensee, his agents, assistants or employees, or the direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants, or employees, for the purpose of securing business;

(vii) Aiding or abetting an unlicensed person to practice funeral directing or embalming;

(viii) Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum, or cemetery;

(ix) Using any casket or part of a casket which has previously been used as a receptacle for, or in connection with, the burial or other disposition of a dead human body without the written consent of next of kin;

(x) Violation of any of the provisions of this chapter or the rules in support thereof;

(xi) Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies;

(xii) Fraud or misrepresentation in obtaining a license;

(xiii) Refusing to promptly surrender the custody of a dead human body upon the express order of the person lawfully entitled to its custody;

(xiv) Selling, or offering for sale, a share, certificate, or an interest in the business of any funeral director or embalmer, or in any corporation, firm, or association owning or operating a funeral establishment, which

promises or purports to give to purchasers a right to the services of the funeral director, embalmer, or corporation, firm, or association at a charge or cost less than that offered or given to the public; or

(xv) Knowingly concealing information concerning a violation of this chapter.

NEW SECTION. Sec. 12. There is added to chapter 18.39 RCW a new section to read as follows:

If the board finds an applicant or licensed funeral director or embalmer has committed a violation of this chapter, it may enter an order imposing one or more of the following penalties:

- (1) Denial of a license;
- (2) Revocation or suspension of a license;
- (3) A fine not to exceed one thousand dollars for each separate offense;
- (4) Issuance of a reprimand;
- (5) Placement of the licensed funeral director or embalmer on probation for a period of time; or
- (6) Restriction of the authorized scope of practice.

Sec. 13. Section 5, chapter 93, Laws of 1977 ex. sess. and RCW 18.39-.181 are each amended to read as follows:

The director(~~(, in addition to other powers and duties,)~~) shall have the following powers and duties (~~((under this chapter))~~):

- (1) To determine the qualifications of applicants for all licenses under this chapter;
- (2) To issue all licenses provided for under (~~(the provisions of)~~) this chapter;
- (3) To annually renew licenses under this chapter;
- (4) To collect all fees prescribed and required under this chapter; 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.

Sec. 14. Section 9, chapter 108, Laws of 1937 and RCW 18.39.190 are each amended to read as follows:

It (~~(shall be)~~) is unlawful for any person (~~(or persons in this state)~~) to use the name of any company, association, corporation, trade name, or business name, in the advertisement or operation of any (~~((business of funeral directing or embalming where services are rendered or contracted for or advertised to be rendered))~~) funeral establishment, unless (~~(said)~~) the person (~~(or persons shall)~~) displays in a conspicuous place upon or near the entrance, or in a conspicuous place in the office, if any, maintained for the transaction of business with the public, a printed statement (~~((in a form to be prescribed by the director of licensing, in plain English letters of not less than one inch in height,))~~) containing the name of every funeral director or embalmer (~~(who shall be)~~) engaged in the rendering of service within the

office or establishment operated under ~~((said))~~ the company, association, corporation, trade, or business name.

NEW SECTION. Sec. 15. No licensed embalmer shall embalm a deceased body without first having obtained authorization from a family member or representative of the deceased.

Notwithstanding the above prohibition a licensee may embalm without such authority when after due diligence no authorized person can be contacted and embalming is in accordance with legal or accepted standards of care in the community, or the licensee has good reason to believe that the family wishes embalming. If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the provisions of this section.

The funeral director or embalmer shall inform the family member or representative of the deceased that embalming is not required by state law, except that embalming is required under certain conditions as determined by rule by the state board of health.

Sec. 16. Section 13, chapter 108, Laws of 1937 and RCW 18.39.220 are each amended to read as follows:

Every funeral director or embalmer who ~~((shall))~~ pays, or causes to be paid, directly or indirectly, ~~((any sum of))~~ money, or other valuable consideration, for the securing of business, and every person who ~~((shall))~~ accepts ~~((any sum of))~~ money, or other valuable consideration, directly or indirectly, from a funeral director or from an embalmer, in order that the latter may obtain business~~((, and))~~ is guilty of a gross misdemeanor. Every person who ~~((shall))~~ sells, or offers for sale, any share, certificate, or interest in the business of any funeral director or embalmer, or in any corporation, firm, or association owning or ~~((conducting the business of funeral directing or embalming, under promise or representation that))~~ operating a funeral establishment, which promises or purports to give to the purchaser ~~((thereof shall receive or be entitled))~~ a right to the services of ~~((such))~~ the funeral director, embalmer, or corporation, firm, or association at a ~~((price))~~ charge or cost less than that ~~((open))~~ offered or given to the ~~((general))~~ public, ~~((shall be))~~ is guilty of a gross misdemeanor.

Sec. 17. Section 6, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.223 are each amended to read as follows:

~~((†))~~ The director or board may initiate and conduct investigations as may be reasonably necessary to establish the existence of ~~((any alleged))~~ violations of or noncompliance with ~~((the provisions of))~~ this chapter or any rules ~~((and regulations))~~ issued hereunder. For the purpose of any investigation or proceeding under this chapter, the director, the board, or any officer designated by ~~((him))~~ either, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements,

or other documents or records which the director or the board deems relevant or material to the inquiry. Subpoenas issued under this section are enforceable in any court of competent jurisdiction.

~~((2) If any individual fails to obey a subpoena or obeys a subpoena but refuses to give evidence, any court of competent jurisdiction, upon application by the director, may issue to that person an order requiring him to appear before the court, to show cause why he should not be compelled to obey the subpoena and give evidence material to the matter under investigation. The failure to obey an order of the court may be punishable as contempt:))~~

Sec. 18. Section 7, chapter 93, Laws of 1977 ex. sess. and RCW 18.39-.225 are each amended to read as follows:

The director or the board may refer ~~((such))~~ evidence ~~((as may be available to him))~~ concerning violations of this chapter, or of any rule ~~((or regulation))~~ adopted hereunder, to the attorney general or the prosecuting attorney of the county wherein the alleged violation arose~~((, who may, in their discretion, with or without such a reference, in addition to any other action they might commence, bring an action in the name of the state against any person to restrain and prevent the doing of any act or practice prohibited by this chapter. PROVIDED, That))~~. This chapter shall be considered in conjunction with chapters 9.04 and 19.86 RCW, as now or hereafter amended, and the powers and duties of the attorney general and the prosecuting attorney as they ~~((may))~~ appear in ~~((the aforementioned))~~ these chapters, ~~((shall))~~ apply against all persons subject to this chapter.

NEW SECTION. Sec. 19. The regulation of funeral directors and embalmers, chapter 18.39 RCW, shall terminate on June 30, 1987 and shall be subject to all of the processes provided in RCW 43.131.010 through 43.131.110 as now existing or hereafter amended.

NEW SECTION. Sec. 20. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) Section 2, chapter 52, Laws of 1955, section 2, chapter 107, Laws of 1965 ex. sess., section 23, chapter 292, Laws of 1971 ex. sess. and RCW 18.39.030;

(2) Section 4, chapter 108, Laws of 1937, section 1, chapter 150, Laws of 1945, section 2, chapter 105, Laws of 1947, section 3, chapter 107, Laws of 1965 ex. sess., section 24, chapter 292, Laws of 1971 ex. sess., section 1, chapter 120, Laws of 1972 ex. sess., section 40, chapter 158, Laws of 1979 and RCW 18.39.040;

(3) Section 3, chapter 52, Laws of 1955 and RCW 18.39.080;

- (4) Section 10, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.177;
- (5) Section 11, chapter 108, Laws of 1937, section 2, chapter 93, Laws of 1977 ex. sess., section 41, chapter 158, Laws of 1979 and RCW 18.39.180;
- (6) Section 15, chapter 215, Laws of 1909 and RCW 18.39.210;
- (7) Section 17, chapter 108, Laws of 1937 and RCW 18.39.230;
- (8) Section 13, chapter 99, Laws of 1979 and RCW 43.131.173; and
- (9) Section 55, chapter 99, Laws of 1979 and RCW 43.131.174.

Passed the House February 20, 1981.

Passed the Senate April 11, 1981.

Approved by the Governor April 22, 1981.

Filed in Office of Secretary of State April 22, 1981.

CHAPTER 44

[House Bill No. 334]

ANATOMICAL GIFTS, PACEMAKERS, ARTIFICIAL PARTS

AN ACT Relating to anatomical gifts; and amending section 2, chapter 80, Laws of 1969 and RCW 68.08.500.

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

Section 1. Section 2, chapter 80, Laws of 1969 and RCW 68.08.500 are each amended to read as follows:

(1) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof including pacemakers.

(2) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(3) "Donor" means an individual who makes a gift of all or part of his body.

(4) "Hospital" means a hospital licensed, accredited, or approved under the laws of any state; includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws.

(5) "Part" means pacemakers, organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body including artificial parts.

(6) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(7) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.

(8) "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

Passed the House March 24, 1981.

Passed the Senate April 11, 1981.

Approved by the Governor April 22, 1981.

Filed in Office of Secretary of State April 22, 1981.

CHAPTER 45

[Substitute House Bill No. 352]

SEWER AND WATER DISTRICTS—SERVICE AND BONDING AUTHORITY

AN ACT Relating to special purpose districts; amending section 9, chapter 189, Laws of 1967 as last amended by section 12, chapter 5, Laws of 1979 ex. sess. and RCW 36.93.090; amending section 5, chapter 210, Laws of 1941 and RCW 56.04.070; amending section 48, chapter 210, Laws of 1941 as last amended by section 3, chapter 103, Laws of 1959 and RCW 56.08.060; amending section 4, chapter 58, Laws of 1974 ex. sess. as last amended by section 1, chapter 12, Laws of 1980 and RCW 56.20.015; amending section 4, chapter 148, Laws of 1969 ex. sess. and RCW 56.36.040; amending section 6, chapter 148, Laws of 1969 ex. sess. and RCW 56.36.060; amending section 4, chapter 114, Laws of 1929 and RCW 57.04.070; amending section 3, chapter 251, Laws of 1953 as amended by section 4, chapter 108, Laws of 1959 and RCW 57.08.045; amending section 1, chapter 111, Laws of 1963 as last amended by section 69, chapter 141, Laws of 1979 and RCW 57.08.065; amending section 4, chapter 146, Laws of 1971 ex. sess. and RCW 57.40.130; amending section 6, chapter 146, Laws of 1971 ex. sess. and RCW 57.40.150; adding a new section to chapter 56.36 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Section 1. It is declared to be the public policy of the state of Washington to provide for the orderly growth and development of those areas of the state requiring public water service or sewer service and to secure the health and welfare of the people residing therein. The growth of urban population and the movement of people into suburban areas has required the performance of such services by water districts and sewer districts and the development of such districts has created problems of conflicting jurisdiction and potential double taxation.

It is the purpose of this act to reduce the duplication of service and the conflict among jurisdictions by establishing the principle that the first in time is the first in right where districts overlap and by encouraging the consolidation of districts. It is also the purpose of this act to prevent the imposition of double taxation upon the same property by establishing a general classification of property which will be exempt from property taxation by a district when such property is within the jurisdiction of an established district duly authorized to provide service of like character.

Unless the context clearly requires otherwise, as used in this act, the term "district" means either a water district organized under Title 57 RCW or a sewer district organized under Title 56 RCW or a merged water and sewer district organized pursuant to chapter 57.40 or 56.36 RCW.

Sec. 2. Section 9, chapter 189, Laws of 1967 as last amended by section 12, chapter 5, Laws of 1979 ex. sess. and RCW 36.93.090 are each amended to read as follows:

Whenever any of the following described actions are proposed in a county in which a board has been established, the initiators of the action shall file a notice of intention with the board, which may review any such proposed actions pertaining to:

(1) The creation, dissolution, incorporation, disincorporation, consolidation, or change in the boundary of any city, town, or special purpose district, except that a board may not review the dissolution or disincorporation of a special purpose district which was dissolved or disincorporated pursuant to the provisions of chapter 36.96 RCW; or

(2) The assumption by any city or town of all or part of the assets, facilities, or indebtedness of a special purpose district which lies partially within such city or town; or

(3) The establishment of or change in the boundaries of a mutual water and sewer system or separate sewer system by a water district pursuant to RCW 57.08.065 or chapter 57.40 RCW, as now or hereafter amended; or

(4) The establishment of or change in the boundaries of a mutual sewer and water system or separate water system by a sewer district pursuant to RCW 56.20.015 or chapter 56.36 RCW, as now or hereafter amended; or

(5) The extension of permanent water or sewer service outside of its existing corporate boundaries by a city, town, or special purpose district.

Sec. 3. Section 5, chapter 210, Laws of 1941 and RCW 56.04.070 are each amended to read as follows:

Whenever two or more petitions for the formation of a sewer district shall be filed as ~~((herein))~~ provided in this chapter, the petition describing the greater area shall supersede all others, and an election shall first be held thereunder, and no lesser sewer district shall ever be created within the limits in whole or in part of any other sewer district, except as provided in RCW 56.36.060, as now or hereafter amended.

Sec. 4. Section 48, chapter 210, Laws of 1941 as last amended by section 3, chapter 103, Laws of 1959 and RCW 56.08.060 are each amended to read as follows:

A sewer district may enter into contracts with any county, city, town, sewer district, water district, or any other municipal corporation, or with any private person, firm or corporation, for the acquisition, ownership, use, and operation of any property, facilities, or services, within or without the sewer district and necessary or desirable to carry out the purposes of the sewer district, and a sewer district or a water district duly authorized to exercise sewer district powers may provide sewer service to property owners ~~((outside))~~ in areas within or without the limits of the ~~((sewer))~~ district: PROVIDED, That if any such area is located within another existing district duly authorized to exercise sewer district powers in such area, then

sewer service may not be so provided by contract or otherwise without the consent by resolution of the board of commissioners of such other district.

Sec. 5. Section 4, chapter 58, Laws of 1974 ex. sess. as last amended by section 1, chapter 12, Laws of 1980 and RCW 56.20.015 are each amended to read as follows:

In addition to all of the powers and authorities set forth in Title 56 RCW, any sewer district shall have all of the powers of cities as set forth in chapter 35.44 RCW. Sewer districts may also exercise all of the powers permitted to a water district under Title 57 RCW, except that a sewer district may not exercise water district powers in any area within its boundaries which is part of an existing district which previously shall have been duly authorized to exercise water district powers in such area without the consent by resolution of the board of commissioners of such district.

A sewer district shall have the power to issue general obligation bonds for water system purposes: PROVIDED, That a proposition to authorize general obligation bonds payable from excess tax levies for water system purposes pursuant to chapters 57.16 and 57.20 RCW shall be submitted to all of the qualified voters within that part of the sewer district which is not contained within another existing district duly authorized to exercise water district powers, and the taxes to pay the principal of and interest on the bonds approved by such voters shall be levied only upon all of the taxable property within such part of the sewer district.

Sec. 6. Section 4, chapter 148, Laws of 1969 ex. sess. and RCW 56.36-.040 are each amended to read as follows:

If at such election a majority of the voters in the water district or all or either of the water districts involved, shall vote in favor of the merger, the county election canvassing board shall so declare in its canvass, and the return of the election shall be made within ten days after the date of such election. Upon completion of the return the merger shall be effective as to the sewer district and each water district in which the majority of voters voted in favor of the merger, and each such water district shall cease to exist as a separate entity and the area within such water district shall become a part of the sewer district. The water commissioners of any water district so merged shall cease to hold office, and the affairs of the merged districts shall be managed and conducted by the board of sewer commissioners of the sewer district, the members of which shall thereafter be elected in the manner provided in RCW 56.12.030.

Sec. 7. Section 6, chapter 148, Laws of 1969 ex. sess. and RCW 56.36-.060 are each amended to read as follows:

Following merger, the sewer district and the board of commissioners thereof shall have all powers granted sewer districts by RCW 56.08.060 and 56.20.015 and shall have all other powers granted sewer districts by Title 56 RCW in any area within its boundaries which is not part of another existing

district duly authorized to exercise sewer district powers in such area and shall have all powers granted water districts by RCW 57.08.045 and 57.08-.065 and shall have all other powers granted water districts by Title 57 RCW in any area within its boundaries which is not part of another existing district duly authorized to exercise water district powers in such area. The sewer district shall have the power to issue revenue bonds to which are pledged water revenue, sewer revenue, or both water and sewer revenue, as well as the power to levy assessments against property specially benefited in ~~((the manner levied by))~~ local improvement districts or utility local improvement districts, for improvements to the water system or the sewer system or both.

NEW SECTION. Sec. 8. There is added to chapter 56.36 RCW a new section to read as follows:

Each and all of the respective areas of land organized as a water district and heretofore attempted to be merged into a sewer district under chapter 148 of the Laws of 1969, and amendments thereto, and which have maintained their organization as part of a sewer district since the date of such attempted merger, are hereby validated and declared to be a proper merger of a water district into a sewer district. Such district shall have the respective boundaries set forth in their merger proceedings as shown by the official files of the legislative authority of the county in which such merged district is located. All debts, contracts, bonds, and other obligations heretofore executed in connection with or in pursuance of such attempted organization, and any and all assessments or levies and all other actions taken by such districts or by their respective officers acting under such attempted organization, are hereby declared legal and valid and of full force and effect. Such districts may hereafter exercise their powers only to the extent permitted by and in accordance with the provisions of RCW 56.36.060, as now or hereafter amended.

Sec. 9. Section 4, chapter 114, Laws of 1929 and RCW 57.04.070 are each amended to read as follows:

Whenever two or more petitions for the formation of a water district shall be filed as ~~((herein))~~ provided in this chapter, the petition describing the greater area shall supersede all others and an election shall first be held thereunder, and no lesser water district shall ever be created within the limits in whole or in part of any water district, except as provided in RCW 57.40.150, as now or hereafter amended.

Sec. 10. Section 3, chapter 251, Laws of 1953 as amended by section 4, chapter 108, Laws of 1959 and RCW 57.08.045 are each amended to read as follows:

A water district may enter into contracts with any county, city, town, sewer district, water district, or any other municipal corporation, or with any private person or corporation, for the acquisition, ownership, use and

operation of any property, facilities, or services, within or without the water district and necessary or desirable to carry out the purposes of the water district, and a water district or sewer district duly authorized to exercise water district powers may provide water services to property owners (~~outside~~) in areas within or without the limits of the (~~water~~) district: PROVIDED, That if such area is located within another existing district duly authorized to exercise water district powers in such area, then water service may not be so provided by contract or otherwise without the consent by resolution of the board of commissioners of such other district.

Sec. 11. Section 1, chapter 111, Laws of 1963 as last amended by section 69, chapter 141, Laws of 1979 and RCW 57.08.065 are each amended to read as follows:

In addition to the powers now given water districts by law, they shall also have power to establish, maintain and operate a mutual water and sewer system or a separate sewer system within their water district area in the same manner as provided by law for the doing thereof in connection with water supply systems.

In addition thereto, a water district constructing, maintaining and operating a sanitary sewer system may exercise all the powers permitted to a sewer district under Title 56 RCW, including, but not limited to, the right to compel connections to the district's system, liens for delinquent sewer connection charges or sewer service charges, and all other powers presently exercised by or which may be hereafter granted to such sewer districts: PROVIDED, That a water district may not exercise sewer district powers in any area within its boundaries which is part of an existing district which previously shall have been duly authorized to exercise sewer district powers in such area without the consent by resolution of the board of commissioners of such other district: PROVIDED FURTHER, That no water district shall proceed to exercise the powers herein granted to establish, maintain, construct and operate any sewer system without first obtaining written approval and certification of necessity so to do from the department of ecology and department of social and health services. Any comprehensive plan for a system of sewers or addition thereto or betterment thereof shall be approved by the same county and state officials as are required to approve such plans adopted by a sewer district.

A water district shall have the power to issue general obligation bonds for sewer system purposes: PROVIDED, That a proposition to authorize general obligation bonds payable from excess tax levies for sewer system purposes pursuant to chapter 56.16 RCW shall be submitted to all of the qualified voters within that part of the water district which is not contained within another existing district duly authorized to exercise sewer district powers, and the taxes to pay the principal of and interest on the bonds approved by such voters shall be levied only upon all of the taxable property within such part of the water district.

Sec. 12. Section 4, chapter 146, Laws of 1971 ex. sess. and RCW 57-40.130 are each amended to read as follows:

If at such election a majority of the voters in the sewer district or all or either of the sewer districts involved, shall vote in favor of the merger, the county election canvassing board shall so declare in its canvass, and the return of the election shall be made within ten days after the date of such election. Upon completion of the return the merger shall be effective as to the water district and each sewer district in which the majority of voters voted in favor of the merger, and each such sewer district shall cease to exist as a separate entity and the area within such sewer district shall become a part of the water district. The sewer commissioners of any sewer district so merged shall cease to hold office, and the affairs of the merged districts shall be managed and conducted by the board of water commissioners of the water district, the members of which shall thereafter be elected in the manner provided by RCW 57.12.020.

Sec. 13. Section 6, chapter 146, Laws of 1971 ex. sess. and RCW 57-40.150 are each amended to read as follows:

Following merger, the water district and the board of commissioners thereof shall have all powers granted water districts by RCW 57.08.045 and 57.08.065 and shall have all other powers granted water districts by Title 57 RCW in any area within its boundaries which is not part of another existing district duly authorized to exercise water district powers in such area and shall have all powers granted sewer districts by RCW 56.08.060 and 56.20-.015 and shall have all other power granted sewer districts by Title 56 RCW in any area within its boundaries which is not part of another existing district duly authorized to exercise sewer district powers in such area. The water district shall have the power to issue revenue bonds to which are pledged sewer revenue, water revenue, or both sewer and water revenue, as well as the power to levy assessments against property specially benefited in ~~((the manner levied by))~~ local improvement districts or utility local improvement districts, for improvements to the sewer system or the water system or both.

NEW SECTION. Sec. 14. 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. 15. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House March 17, 1981.

Passed the Senate April 13, 1981.

Approved by the Governor April 22, 1981.

Filed in Office of Secretary of State April 22, 1981.

CHAPTER 46

[House Bill No. 438]

PUBLIC WORKS CONTRACTORS—PREVAILING WAGE STATEMENTS

AN ACT Relating to public works; amending section 1, chapter 63, Laws of 1945 as amended by section 1, chapter 14, Laws of 1967 ex. sess. and RCW 39.12.020; and amending section 4, chapter 63, Laws of 1945 as last amended by section 1, chapter 49, Laws of 1975-'76 2nd ex. sess. and RCW 39.12.040.

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

Section 1. Section 1, chapter 63, Laws of 1945 as amended by section 1, chapter 14, Laws of 1967 ex. sess. and RCW 39.12.020 are each amended to read as follows:

The hourly wages to be paid to laborers, workmen or mechanics, upon all public works and under all public building service maintenance contracts of the state or any county, municipality or political subdivision created by its laws, shall be not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality within the state where such labor is performed. For a contract in excess of ten thousand dollars, a contractor required to pay the prevailing rate of wage shall post in a location readily visible to workers at the job site:

(1) A copy of a statement of intent to pay prevailing wages approved by the industrial statistician of the department of labor and industries under RCW 39.12.040; and

(2) The address and telephone number of the industrial statistician of the department of labor and industries where a complaint or inquiry concerning prevailing wages may be made.

This chapter shall not apply to workmen or other persons regularly employed on monthly or per diem salary by the state, or any county, municipality, or political subdivision created by its laws.

Sec. 2. Section 4, chapter 63, Laws of 1945 as last amended by section 1, chapter 49, Laws of 1975-'76 2nd ex. sess. and RCW 39.12.040 are each amended to read as follows:

Before payment is made by or on behalf of the state, or any county, municipality, or political subdivision created by its laws, of any sum or sums due on account of a public works contract, it shall be the duty of the officer or person charged with the custody and disbursement of public funds to require the contractor and each and every subcontractor from the contractor

or a subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages". For a contract in excess of ten thousand dollars, the statement of intent to pay prevailing wages shall include:

(1) The contractor's registration certificate number; and

(2) The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the number of workers in each classification.

Each statement of intent to pay prevailing wages must be approved by the industrial statistician of the department of labor and industries before it is submitted to said officer. Unless otherwise authorized by the department of labor and industries, each voucher claim submitted by a contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a public works project, it shall be the duty of the officer charged with the disbursement of public funds, to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer an "Affidavit of Wages Paid" before the funds retained according to the provisions of RCW 60.28.010 are released to the contractor. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to said officer.

Passed the House March 30, 1981.

Passed the Senate April 13, 1981.

Approved by the Governor April 22, 1981.

Filed in Office of Secretary of State April 22, 1981.

CHAPTER 47

[House Bill No. 551]

PORT DISTRICTS—EXTRATERRITORIAL RAIL SERVICE

AN ACT Relating to port districts; amending section 2, chapter 110, Laws of 1980 and RCW 53.08.290; and declaring an emergency.

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

Section 1. Section 2, chapter 110, Laws of 1980 and RCW 53.08.290 are each amended to read as follows:

In addition to the other powers under this chapter, a port district, in connection with the operation of facilities and improvements of the district, may perform all necessary activities related to the intermodal movement of interstate and foreign cargo: PROVIDED, That nothing contained herein shall authorize a port district to engage in the transportation of commodities by motor vehicle for compensation outside the boundaries of the port

district. A port district may, by itself or in conjunction with public or private entities, acquire, construct, purchase, lease, contract for, provide, and operate rail services, equipment, and facilities inside or outside the port district: PROVIDED, That such authority may only be exercised outside the boundaries of the port district if such extraterritorial rail services, equipment, or facilities are found, by resolution of the commission of the port district exercising such authority, to be reasonably necessary to link the rail services, equipment, and facilities within the port district to an interstate railroad system; however, if such extraterritorial rail services, equipment, or facilities are in or are to be located in one or more other port districts, the commission of such other port district or districts must consent by resolution to the proposed plan of the originating port district which consent shall not be unreasonably withheld: PROVIDED FURTHER, That no port district shall engage in the manufacture of rail cars for use off port property.

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

Passed the House March 17, 1981.

Passed the Senate April 11, 1981.

Approved by the Governor April 22, 1981.

Filed in Office of Secretary of State April 22, 1981.

CHAPTER 48

[House Bill No. 42]

DRUG PARAPHERNALIA—PROHIBITED ACTS, PENALTIES

AN ACT Relating to drug-related paraphernalia; amending section 69.50.505, chapter 308, Laws of 1971 ex. sess. as amended by section 1, chapter 77, Laws of 1977 ex. sess. and RCW 69.50.505; adding new sections to chapter 308, Laws of 1971 ex. sess. and to chapter 69.50 RCW; and prescribing penalties.

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

NEW SECTION. Section 1. There is added to chapter 308, Laws of 1971 ex. sess. and to chapter 69.50 RCW a new section to be designated as RCW 69.50.102 to read as follows:

DEFINITIONS. (a) As used in this chapter, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips: Meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(vi) Miniature cocaine spoons, and cocaine vials;

(vii) Chamber pipes;

- (viii) Carburetor pipes;
- (ix) Electric pipes;
- (x) Air-driven pipes;
- (xi) Chillums;
- (xii) Bongs; and
- (xiii) Ice pipes or chillers.

(b) In determining whether an object is drug paraphernalia under this section, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

(3) The proximity of the object, in time and space, to a direct violation of this chapter;

(4) The proximity of the object to controlled substances;

(5) The existence of any residue of controlled substances on the object;

(6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended or designed for use as drug paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use;

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning its use;

(10) The manner in which the object is displayed for sale;

(11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(13) The existence and scope of legitimate uses for the object in the community; and

(14) Expert testimony concerning its use.

NEW SECTION. Sec. 2. There is added to chapter 308, Laws of 1971 ex. sess. and to chapter 69.50 RCW a new section to be designated as RCW 69.50.412 to read as follows:

PROHIBITED ACTS E—PENALTIES. (1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise

introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

Sec. 3. Section 69.50.505, chapter 308, Laws of 1971 ex. sess. as amended by section 1, chapter 77, Laws of 1977 ex. sess. and RCW 69.50.505 are each amended to read as follows:

(a) The following are subject to seizure and forfeiture:

(1) all controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;

(2) all raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) all property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) all conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraphs (1) or (2), but:

(i) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is 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) no conveyance is 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 his knowledge or consent;

(iii) a conveyance is not subject to forfeiture for a violation of RCW 69.50.401(c); and,

(iv) 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~~)

(5) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter; and

(6) All drug paraphernalia.

(b) Property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) 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;

(3) a board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b), proceedings for forfeiture shall be 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, 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.

(d) 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 (a)(4) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(e) 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 (a)(4) of this section within forty-five 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 the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee,

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 article or articles involved is more than five hundred dollars. A hearing before the seizing agency and any appeal therefrom shall be under chapter 34.04 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 attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of items specified in subsection (a)(4) of this section. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the hearing officer or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (a)(4) of this section.

(f) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(1) retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(2) sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;

(3) request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(4) forward it to the Bureau for disposition.

(g) Controlled substances listed in Schedule I, II, III, IV and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(h) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(i) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

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 January 30, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 23, 1981.

Filed in Office of Secretary of State April 23, 1981.

CHAPTER 49

[House Bill No. 66]

AUBURN GAME FARM—DEPARTMENTAL TRANSFER

AN ACT Relating to urban area state parks; creating a new section; declaring an emergency; and providing an effective date.

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

NEW SECTION. Section 1. (1) The powers, functions, and duties heretofore exercised by the game commission, department of game, or its director, respecting the management, control, and operation of the approximately 165-acre tract of land bordering the White/Stuck Rivers in or near the city of Auburn, are, except as provided under this section, terminated as of the effective date of this act, and the powers, functions, and duties with respect to such land are vested in the parks and recreation commission to be exercised in accordance with chapter 43.51 RCW for the purposes specified therein.

(2) On the effective date of this act, the state treasurer shall transfer from the outdoor recreation account in the general fund to the game fund the sum of one million five hundred thousand dollars to compensate the game fund for the transfer of the land to the parks and recreation commission.

(3) Further development of this tract of land shall take place only after an agreement is reached between the state parks and recreation commission and the city of Auburn. The agreement shall include the responsibilities of each party for the operation and development of this site.

(4) This act is necessary for the public peace, health, and safety, the support of the state government and its existing public institutions, shall take effect on July 1, 1981, at which time the transfer of powers, functions, and duties provided for in subsection (1) of this section and the transfer of funds provided for in subsection (2) of this section shall occur.

Passed the House April 2, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 23, 1981.

Filed in Office of Secretary of State April 23, 1981.

CHAPTER 50

[Substitute House Bill No. 88]

DMSO—SALES, USE

AN ACT Relating to health; adding a new section to chapter 69.04 RCW; and adding a new section to chapter 70.54 RCW.

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

NEW SECTION. Section 1. There is added to chapter 69.04 RCW a new section to read as follows:

Notwithstanding any other provision of state law, DMSO (dimethyl sulfoxide) may be introduced into intrastate commerce as long as (1) it is manufactured or distributed by persons licensed pursuant to chapter 18.64 RCW or chapter 18.92 RCW, and (2) it is used, or intended to be used, in the treatment of human beings or animals for any ailment or adverse condition: **PROVIDED**, That DMSO intended for topical application, consistent with rules governing purity and labeling promulgated by the state board of pharmacy, shall not be considered a legend drug and may be sold by any retailer.

NEW SECTION. Sec. 2. There is added to chapter 70.54 RCW a new section to read as follows:

No hospital or health facility may interfere with the physician/patient relationship by restricting or forbidding the use of DMSO (dimethyl sulfoxide) when prescribed or administered by a physician licensed pursuant to chapter 18.57 or 18.71 RCW and requested by a patient under his/her care who has requested the substance after having been given sufficient information in writing to make an informed decision.

No physician may be subject to disciplinary action by any entity of either the state of Washington or a professional association for prescribing or administering DMSO (dimethyl sulfoxide) to a patient under his/her care who has requested the substance after having been given sufficient information in writing to make an informed decision.

It is not the intent of this section to shield a physician from acts or omissions which otherwise would constitute unprofessional conduct as defined in RCW 18.57.170 and 18.72.030.

Passed the House March 30, 1981.

Passed the Senate April 13, 1981.

Approved by the Governor April 23, 1981.

Filed in Office of Secretary of State April 23, 1981.

CHAPTER 51

[Substitute House Bill No. 112]

LIMITED PARTNERSHIPS

AN ACT Relating to limited partnerships; adding a new chapter to Title 25 RCW; repealing section 25.08.010, chapter 15, Laws of 1955 and RCW 25.08.010; repealing section 25.08.020, chapter 15, Laws of 1955, section 1, chapter 113, Laws of 1972 ex. sess. and RCW 25.08.020; repealing section 25.08.030, chapter 15, Laws of 1955 and RCW 25.08.030; repealing section 25.08.040, chapter 15, Laws of 1955 and RCW 25.08.040; repealing section 25.08.050, chapter 15, Laws of 1955 and RCW 25.08.050; repealing section 25.08.060, chapter 15, Laws of 1955 and RCW 25.08.060; repealing section 25.08.070, chapter 15, Laws of 1955, section 2, chapter 113, Laws of 1972 ex. sess. and RCW 25.08.070; repealing section 25.08.080, chapter 15, Laws of 1955 and RCW 25.08.080; repealing section 25.08.090, chapter 15, Laws of 1955, section 3, chapter 113, Laws of 1972 ex. sess. and RCW 25.08.090; repealing section 25.08.100, chapter 15, Laws of 1955 and RCW 25.08.100; repealing section 25.08.110, chapter 15, Laws of 1955 and RCW 25.08.110; repealing section 25.08.120, chapter 15, Laws of 1955 and RCW 25.08.120; repealing section 25.08.130, chapter 15, Laws of 1955 and RCW 25.08.130; repealing section 25.08.140, chapter 15, Laws of 1955 and RCW 25.08.140; repealing section 25.08.150, chapter 15, Laws of 1955 and RCW 25.08.150; repealing section 25.08.160, chapter 15, Laws of 1955 and RCW 25.08.160; repealing section 25.08.170, chapter 15, Laws of 1955 and RCW 25.08.170; repealing section 25.08.180, chapter 15, Laws of 1955 and RCW 25.08.180; repealing section 25.08.190, chapter 15, Laws of 1955, section 4, chapter 113, Laws of 1972 ex. sess. and RCW 25.08.190; repealing section 25.08.200, chapter 15, Laws of 1955 and RCW 25.08.200; repealing section 25.08.210, chapter 15, Laws of 1955 and RCW 25.08.210; repealing section 25.08.220, chapter 15, Laws of 1955 and RCW 25.08.220; repealing section 25.08.230, chapter 15, Laws of 1955 and RCW 25.08.230; repealing section 25.08.240, chapter 15, Laws of 1955, section 5, chapter 113, Laws of 1972 ex. sess. and RCW 25.08.240; repealing section 25.08.250, chapter 15, Laws of 1955, section 2, chapter 22, Laws of 1979 ex. sess. and RCW 25.08.250; repealing section 25.08.260, chapter 15, Laws of 1955 and RCW 25.08.260; repealing section 25.08.270, chapter 15, Laws of 1955 and RCW 25.08.270; repealing section 25.08.280, chapter 15, Laws of 1955 and RCW 25.08.280; repealing section 25.08.290, chapter 15, Laws of 1955 and RCW 25.08.290; repealing section 25.08.300, chapter 15, Laws of 1955 and RCW 25.08.300; repealing section 25.08.310, chapter 15, Laws of 1955 and RCW 25.08.310; repealing section 25.98.010, chapter 15, Laws of 1955 and RCW 25.98.010; repealing section 25.98.020, chapter 15, Laws of 1955 and RCW 25.98.020; repealing section 25.98.030, chapter 15, Laws of 1955 and RCW 25.98.030; repealing section 25.98.040, chapter 15, Laws of 1955 and RCW 25.98.040; repealing section 25.98.050, chapter 15, Laws of 1955 and RCW 25.98.050; making an appropriation; and providing effective dates.

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

ARTICLE 1

GENERAL PROVISIONS

NEW SECTION. Section 1. DEFINITIONS. As used in this act, unless the context otherwise requires:

(1) "Certificate of limited partnership" or "certificate" means the certificate referred to in section 8 of this act, and the certificate as amended.

(2) "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

(3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in section 23 of this act.

(4) "Foreign limited partnership" means a partnership formed under laws other than the laws of this state and having as partners one or more general partners and one or more limited partners.

(5) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

(6) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement and named in the certificate of limited partnership as a limited partner.

(7) "Limited partnership" and "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(8) "Partner" means a limited or general partner.

(9) "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

(10) "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

(11) "Person" means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.

(12) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

NEW SECTION. Sec. 2. NAME. The name of each limited partnership formed pursuant to this chapter as set forth in its certificate of limited partnership:

(1) Shall contain without abbreviation the words "limited partnership";

(2) May not contain the name of a limited partner unless (a) it is also the name of a general partner, or the corporate name of a corporate general partner, or (b) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(3) May not contain any word or phrase indicating or implying that it is organized other than for a purpose stated in its certificate of limited partnership;

(4) May not be the same as, or deceptively similar to the name of any domestic corporation or limited partnership existing under the laws of this state or any foreign corporation or limited partnership authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this title, or under the provisions of

RCW 23A.08.060, or the name of a corporation or limited partnership which has in effect a registration of its corporate or partnership name as provided in this title or under the provisions of Title 23A RCW, unless:

(a) Such other domestic or foreign corporation or limited partnership is about to change its name or to cease to do business, or is being wound up, or such foreign corporation or limited partnership is about to withdraw from doing business in this state; and

(b) The written consent of such other domestic or foreign corporation or limited partnership to the adoption of its name or a deceptively similar name has been given and is filed with the certificate: PROVIDED, That a deceptively similar name shall not be used if the secretary of state finds that the use of such name shall be against public interest;

(5) May not contain the following words or phrases: "Bank", "banking", "banker", "trust", "cooperative"; or any combination of the words "industrial" and "loan"; or any combination of any two or more words "building", "savings", "loan", "home", "association"; or any other words or phrases prohibited by any statute of this state.

NEW SECTION. Sec. 3. RESERVATION OF NAME. (1) The exclusive right to the use of a name may be reserved by:

(a) Any person intending to organize a limited partnership under this act and to adopt that name;

(b) Any domestic limited partnership or any foreign limited partnership registered in this state which, in either case, intends to adopt that name;

(c) Any foreign limited partnership intending to register in this state and to adopt that name; and

(d) Any person intending to organize a foreign limited partnership and intending to have it registered in this state and adopt that name.

(2) The reservation shall be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership, he shall reserve the name for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing and one renewal for a like period.

The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

NEW SECTION. Sec. 4. SPECIFIED OFFICE AND AGENT. Each limited partnership shall continuously maintain in this state:

(1) An office which may but need not be a place of its business in this state, at which shall be kept the records required by section 5 of this act to be maintained; and

(2) An agent for service of process on the limited partnership, which agent must be an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state.

NEW SECTION. Sec. 5. RECORDS TO BE KEPT. Each limited partnership shall keep at the office referred to in section 4(1) of this act the following:

(1) A current list of the full name and last known address of each partner;

(2) A copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed;

(3) Copies of the limited partnership's federal, state, and local tax returns and reports, if any, for the three most recent years; and

(4) Copies of any then effective written partnership agreements and of any financial statements of the limited partnership for the three most recent years.

The books and records are subject to inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours.

NEW SECTION. Sec. 6. NATURE OF BUSINESS. A limited partnership may carry on any business that a partnership without limited partners may carry on.

NEW SECTION. Sec. 7. BUSINESS TRANSACTIONS OF PARTNER WITH THE PARTNERSHIP. Except as provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.

ARTICLE 2

FORMATION; CERTIFICATE OF LIMITED PARTNERSHIP

NEW SECTION. Sec. 8. CERTIFICATE OF LIMITED PARTNERSHIP. (1) In order to form a limited partnership two or more persons must execute a certificate of limited partnership. The certificate shall be filed in the office of the secretary of state and set forth:

(a) The name of the limited partnership;

(b) The general character of its business;

(c) The address of the office and the name and address of the agent for service of process required to be maintained by section 4 of this act;

(d) The name and address of each partner (specifying separately the general partners and limited partners);

(e) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute in the future;

(f) The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;

(g) Any power of a limited partner to grant the right to become a limited partner to an assignee of any part of his partnership interest, and the terms and conditions of the power;

(h) If agreed upon, the time at which or the events upon the happening of which a partner may terminate his membership in the limited partnership and the amount of, or the method of determining, the distribution to which he may be entitled respecting his partnership interest, and the terms and conditions of the termination and distribution;

(i) Any right of a partner to receive distributions of property, including cash from the limited partnership;

(j) Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution;

(k) The time at which and any earlier events upon the happening of which the limited partnership is to be dissolved and its affairs wound up;

(l) Any right of the remaining general partners to continue the business on the happening of an event of withdrawal of a general partner; and

(m) Any other matters the partners determine to include therein.

(2) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the secretary of state or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

NEW SECTION. Sec. 9. AMENDMENT TO CERTIFICATE. (1) A certificate of limited partnership is amended by filing a certificate of amendment thereto in the office of the secretary of state. The certificate shall set forth:

- (a) The name of the limited partnership;
- (b) The date of filing of the certificate; and
- (c) The amendment to the certificate.

(2) Within thirty days after the happening of any of the following events an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:

- (a) A change in the amount or character of the contribution of any partner, or in any partner's obligation to make a contribution;
- (b) The admission of a new partner;
- (c) The withdrawal of a partner; or
- (d) The continuation of the business under section 44 of this act after an event of withdrawal of a general partner.

(3) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate, but an

amendment to show a change of address of a limited partner need be filed only once every twelve months.

(4) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners may determine.

(5) No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection (2) of this section if the amendment is filed within the thirty-day period specified in subsection (2) of this section.

NEW SECTION. Sec. 10. CANCELLATION OF CERTIFICATE. A certificate of limited partnership shall be canceled upon the dissolution and the commencement of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation shall be filed in the office of the secretary of state and set forth:

- (1) The name of the limited partnership;
- (2) The date of filing of its certificate of limited partnership;
- (3) The reason for filing the certificate of cancellation;
- (4) The effective date, which shall be a date certain, of cancellation if it is not to be effective upon the filing of the certificate; and
- (5) Any other information the general partners filing the certificate determine.

NEW SECTION. Sec. 11. EXECUTION OF CERTIFICATES. (1) Each certificate required by this article to be filed in the office of the secretary of state shall be executed in the following manner:

- (a) An original certificate of limited partnership must be signed by all partners named therein;
 - (b) A certificate of amendment must be signed by at least one general partner and by each other partner designated in the certificate as a new partner or whose contribution is described as having been increased; and
 - (c) A certificate of cancellation must be signed by all general partners.
- (2) Any person may sign a certificate by an attorney-in-fact.
 - (3) The execution of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

NEW SECTION. Sec. 12. AMENDMENT OR CANCELLATION BY JUDICIAL ACT. If a person required by section 11 of this act to execute a certificate of amendment or cancellation fails or refuses to do so, any other partner, and any assignee of a partnership interest, who is adversely affected by the failure or refusal, may petition any court of competent jurisdiction to direct the amendment or cancellation. If the court finds that the amendment or cancellation is proper and that any person so designated has failed or refused to execute the certificate, it shall order the secretary of state to record an appropriate certificate of amendment or cancellation.

NEW SECTION. Sec. 13. **FILING IN OFFICE OF SECRETARY OF STATE.** (1) Two signed copies of the certificate of limited partnership and of any certificates of amendment or cancellation (or of any judicial decree of amendment or cancellation) shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law he shall:

(a) Endorse on each duplicate original the word "Filed" and the day, month, and year of the filing thereof;

(b) File one duplicate original in his office; and

(c) Return the other duplicate original to the person who filed it or his representative.

(2) Upon the filing of a certificate of amendment, or judicial decree of amendment, in the office of the secretary of state, the certificate of limited partnership shall be amended as set forth therein, and upon the effective date of a certificate of cancellation or a judicial decree thereof, the certificate of limited partnership is canceled.

NEW SECTION. Sec. 14. **LIABILITY FOR FALSE STATEMENT IN CERTIFICATE.** If any certificate of limited partnership or certificate of amendment or cancellation contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from:

(1) Any person who executes the certificate, or causes another to execute it on his behalf, and knew, and any general partner who knew or should have known, the statement to be false at the time the certificate was executed; and

(2) Any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any respect within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under section 12 of this act.

NEW SECTION. Sec. 15. **NOTICE.** The fact that a certificate of limited partnership is on file in the office of the secretary of state is notice that the partnership is a limited partnership and the persons designated therein as limited partners are limited partners, but is not notice of any other fact.

NEW SECTION. Sec. 16. **DELIVERY OF CERTIFICATES TO LIMITED PARTNERS.** Upon the return by the secretary of state pursuant to section 13 of this act of a certificate marked "Filed", the general partners shall promptly deliver or mail a copy of the certificate of limited partnership and each certificate to each limited partner unless the partnership agreement provides otherwise.

ARTICLE 3
LIMITED PARTNERS

NEW SECTION. Sec. 17. ADMISSION OF ADDITIONAL LIMITED PARTNERS. (1) After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as an additional limited partner:

(a) In the case of a person acquiring a partnership interest directly from the limited partnership, upon the compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners; and

(b) In the case of an assignee of a partnership interest of a partner who has the power, as provided in section 42 of this act, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

(2) In each case under subsection (1) of this section, the person acquiring the partnership interest becomes a limited partner only upon amendment of the certificate of limited partnership reflecting that fact.

NEW SECTION. Sec. 18. VOTING. Subject to section 19 of this act, the partnership agreement may grant to all or a specified group of the limited partners the right to vote on a per capita or other basis upon any matter.

NEW SECTION. Sec. 19. LIABILITY TO THIRD PARTIES. (1) Except as provided in subsection (4) of this section, a limited partner is not liable for the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business. However, if the limited partner's participation in the control of the business is not substantially the same as the exercise of the powers of a general partner, he is liable only to persons who transact business with the limited partnership with actual knowledge of his participation in control.

(2) A limited partner does not participate in the control of the business within the meaning of subsection (1) of this section solely by doing one or more of the following:

(a) Being a contractor for or an agent or employee of the limited partnership or of a general partner, or an officer, director, or shareholder of a corporate general partner;

(b) Consulting with and advising a general partner with respect to the business of the limited partnership;

(c) Acting as surety for the limited partnership;

(d) Proposing, approving, or disapproving an amendment to the partnership agreement; or

(e) Proposing or voting on one or more of the following matters:

(i) The dissolution and winding up of the limited partnership;

(ii) The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership other than in the ordinary course of its business;

(iii) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;

(iv) A change in the nature of its business; or

(v) The addition, removal, or substitution of general partners.

(3) The enumeration in subsection (2) of this section does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him in the control of the business of the limited partnership.

(4) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under circumstances permitted by section 2(2) of this act, is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

NEW SECTION. Sec. 20. PERSON ERRONEOUSLY BELIEVING HIMSELF LIMITED PARTNER. (1) Except as provided in subsection (2) of this section, a person who makes a contribution to a business enterprise and erroneously but in good faith believes that he has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, he:

(a) Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or

(b) Withdraws from future equity participation in the enterprise.

(2) A person who makes a contribution of the kind described in subsection (1) of this section is liable as a general partner to any third party who transacts business with the enterprise (a) before the person withdraws and an appropriate certificate or statement is filed to show withdrawal, or (b) before an appropriate certificate is filed to show his status as a limited partner and, in the case of an amendment, after expiration of the thirty-day period for filing an amendment relating to the person as a limited partner under section 9 of this act, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

NEW SECTION. Sec. 21. INFORMATION. Each limited partner has the right to:

(1) Inspect and copy any of the partnership records required to be maintained by section 5 of this act; and

(2) Obtain from the general partners from time to time upon reasonable demand (a) true and full information regarding the state of the business

and financial condition of the limited partnership, (b) promptly after becoming available, a copy of the limited partnership's federal, state, and local tax returns for each year, and (c) other information regarding the affairs of the limited partnership as is just and reasonable.

ARTICLE 4

GENERAL PARTNERS

NEW SECTION. Sec. 22. **ADMISSION OF ADDITIONAL GENERAL PARTNERS.** Unless otherwise provided in the partnership agreement, after the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted only with the specific written consent of each partner.

NEW SECTION. Sec. 23. **EVENTS OF WITHDRAWAL OF GENERAL PARTNER.** Except as approved by the specific written consent of all partners at the time, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

(1) The general partner withdraws from the limited partnership as provided in section 32 of this act;

(2) The general partner ceases to be a member of the limited partnership as provided in section 40 of this act;

(3) The general partner is removed as a general partner in accordance with the partnership agreement;

(4) Unless otherwise provided in the certificate of limited partnership, the general partner:

(a) Makes an assignment for the benefit of creditors;

(b) Files a voluntary petition in bankruptcy;

(c) Is adjudicated a bankrupt or insolvent;

(d) Files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(e) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of this nature; or

(f) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties;

(5) Unless otherwise provided in the certificate of limited partnership, ninety days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within sixty days after the appointment without his consent or acquiescence of a trustee, receiver, or liquidator of the general partner of all or any substantial part of his properties, the appointment is not vacated or stayed, or within sixty days after the expiration of any such stay, the appointment is not vacated;

(6) In the case of a general partner who is a natural person:

(a) His death; or

(b) The entry by a court of competent jurisdiction adjudicating him incompetent to manage his person or his estate;

(7) In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);

(8) In the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;

(9) In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or

(10) In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

NEW SECTION. Sec. 24. GENERAL POWERS AND LIABILITIES. Except as provided in this act or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions and liabilities of a partner in a partnership without limited partners.

NEW SECTION. Sec. 25. CONTRIBUTIONS BY A GENERAL PARTNER. A general partner of a limited partnership may make contributions to the partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of his participation in the partnership as a limited partner.

NEW SECTION. Sec. 26. VOTING. The partnership agreement may grant to all or certain identified general partners the right to vote on a per capita or any other basis, separately or with all or any class of the limited partners, on any matter.

ARTICLE 5 FINANCE

NEW SECTION. Sec. 27. FORM OF CONTRIBUTION. The contribution of a partner may be in cash, property, or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

NEW SECTION. Sec. 28. LIABILITY FOR CONTRIBUTIONS. (1) Except as provided in the certificate of limited partnership, a partner is obligated to the limited partnership to perform any promise to contribute cash

or property or to perform services, even if he is unable to perform because of death, disability, or any other reason. If a partner does not make the required contribution of property or services, he is obligated at the option of the limited partnership to contribute cash equal to that portion of the value, as stated in the certificate of limited partnership, of the stated contribution that has not been made.

(2) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this act may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor of a limited partnership who extends credit, or whose claim arises, after the filing of the certificate of limited partnership or an amendment thereto which, in either case, reflects the obligation, and before the amendment or cancellation thereof to reflect the compromise, may enforce the original obligation.

NEW SECTION. Sec. 29. SHARING OF PROFITS AND LOSSES. The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, profits and losses shall be allocated on the basis of the value, as stated in the certificate of limited partnership, of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

NEW SECTION. Sec. 30. SHARING OF DISTRIBUTIONS. Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, distributions shall be made on the basis of the value, as stated in the certificate of limited partnership, of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

ARTICLE 6 DISTRIBUTIONS AND WITHDRAWAL

NEW SECTION. Sec. 31. INTERIM DISTRIBUTIONS. Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before his withdrawal from the limited partnership and before the dissolution and winding up thereof:

(1) To the extent and at the times or upon the happening of the events specified in the partnership agreement; and

(2) If any distribution constitutes a return of any part of his contribution under section 38(2) of this act, to the extent and at the times or upon the happening of the events specified in the certificate of limited partnership.

NEW SECTION. Sec. 32. WITHDRAWAL OF GENERAL PARTNER. A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to him.

NEW SECTION. Sec. 33. WITHDRAWAL OF LIMITED PARTNER. A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in the certificate of limited partnership and in accordance with the partnership agreement. If the certificate does not specify the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months' prior written notice to each general partner at that partner's address on the books of the limited partnership at its office in this state.

NEW SECTION. Sec. 34. DISTRIBUTION UPON WITHDRAWAL. Except as provided in this article, upon withdrawal any withdrawing partner is entitled to receive any distribution to which he is entitled under the partnership agreement and, if not otherwise provided in the agreement, he is entitled to receive, within a reasonable time after withdrawal, the fair value of his interest in the limited partnership as of the date of withdrawal based upon his right to share in distributions from the limited partnership.

NEW SECTION. Sec. 35. DISTRIBUTION IN KIND. Except as provided in the certificate of limited partnership, a partner, regardless of the nature of his contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to him exceeds a percentage of that asset which is equal to the percentage in which he shares in distributions from the limited partnership.

NEW SECTION. Sec. 36. RIGHT TO DISTRIBUTION. At the time a partner becomes entitled to receive a distribution, he has the status of and is entitled to all remedies available to a creditor of the limited partnership with respect to the distribution.

NEW SECTION. Sec. 37. LIMITATIONS ON DISTRIBUTIONS. A partner may not receive a distribution from a limited partnership to the extent that, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests, exceed the fair value of the partnership assets.

NEW SECTION. Sec. 38. **LIABILITY UPON RETURN OF CONTRIBUTION.** (1) If a partner has received the return of any part of his contribution without violation of the partnership agreement or this act, he is liable to the limited partnership for a period of one year thereafter for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

(2) If a partner has received the return of any part of his contribution in violation of the partnership agreement or this act, he is liable to the limited partnership for a period of six years thereafter for the amount of the contribution wrongfully received.

(3) A partner receives a return of his contribution to the extent that a distribution to him reduces his share of the fair value of the net assets of the limited partnership below the value, as set forth in the certificate of limited partnership, of his contribution which has not been distributed to him.

ARTICLE 7

ASSIGNMENT OF PARTNERSHIP INTERESTS

NEW SECTION. Sec. 39. **NATURE OF PARTNERSHIP INTEREST.** A partnership interest is personal property.

NEW SECTION. Sec. 40. **ASSIGNMENT OF PARTNERSHIP INTEREST.** Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a partner ceases to be a partner upon assignment of all his partnership interests.

NEW SECTION. Sec. 41. **RIGHTS OF CREDITOR.** On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This act does not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.

NEW SECTION. Sec. 42. **RIGHT OF ASSIGNEE TO BECOME LIMITED PARTNER.** (1) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that (a) the assignor gives the assignee that right in accordance with authority described in the certificate of limited partnership, or (b) all other partners consent.

(2) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this act. An assignee who becomes a limited partner also is liable for the obligations of his assignor to make and return contributions as provided in Article 6 of this act. However, the assignee is not obligated for liabilities unknown to the assignee at the time he became a limited partner and which could not be ascertained from the certificate of limited partnership.

(3) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his liability to the limited partnership under sections 14 and 28 of this act.

NEW SECTION. Sec. 43. POWER OF ESTATE OF DECEASED OR INCOMPETENT PARTNER. If a partner who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the partner's executor, administrator, guardian, conservator, or other legal representative may exercise all of the partner's rights for the purpose of settling the partner's estate or administering the partner's property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

ARTICLE 8 DISSOLUTION

NEW SECTION. Sec. 44. NONJUDICIAL DISSOLUTION. A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(1) At the time or upon the happening of events specified in the certificate of limited partnership;

(2) Written consent of all partners;

(3) An event of withdrawal of a general partner unless at the time there is at least one other general partner and the certificate of limited partnership permits the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal if, within ninety days after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired; or

(4) Entry of a decree of judicial dissolution under section 45 of this act.

NEW SECTION. Sec. 45. JUDICIAL DISSOLUTION. On application by or for a partner, the superior courts may decree dissolution of a limited partnership whenever: (1) It is not reasonably practicable to carry

on the business in conformity with the partnership agreement; or (2) when other circumstances render dissolution equitable.

NEW SECTION. Sec. 46. WINDING UP. Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs. The superior courts may wind up the limited partnership's affairs upon application of any partner, that partner's legal representative, or assignee.

NEW SECTION. Sec. 47. DISTRIBUTION OF ASSETS. Upon the winding up of a limited partnership, the assets shall be distributed as follows:

(1) To creditors, including partners who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distribution to partners under section 31 or 34 of this act;

(2) Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under section 31 or 34 of this act; and

(3) Except as provided in the partnership agreement, to partners first for the return of their contributions and secondly respecting their partnership interests, in the proportions in which the partners share in distributions.

ARTICLE 9

FOREIGN LIMITED PARTNERSHIPS

NEW SECTION. Sec. 48. LAW GOVERNING. Subject to the Constitution of the state of Washington, (1) the laws of the state, province, or other jurisdiction under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners, and (2) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this state.

NEW SECTION. Sec. 49. REGISTRATION. Before transacting business in this state, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state, in duplicate, an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state;

(2) The state, province, or other jurisdiction under which the foreign limited partnership was organized and the date of its formation;

(3) The general character of the business it proposes to transact in this state;

(4) The name and address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint. The agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in this state;

(5) A statement that the secretary of state is appointed the agent of the foreign limited partnership for service of process if no agent has been appointed under subsection (4) of this section or, if appointed, the agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence;

(6) The address of the office required to be maintained in the state or other jurisdiction of its organization by the laws of that state or other jurisdiction or, if not so required, of the principal office of the foreign limited partnership;

(7) If the certificate of limited partnership filed in the foreign limited partnership's place of organization is not required to include the names and business addresses of the partners, a list of those names and addresses; and

(8) If the foreign limited partnership was organized under laws of a jurisdiction other than another state, a copy of a written partnership agreement, in English language.

NEW SECTION. Sec. 50. ISSUANCE OF REGISTRATION. (1) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, the secretary shall:

(a) Endorse on the application the word "Filed", and the month, day, and year of the filing thereof;

(b) File in his or her office a duplicate original of the application; and

(c) Issue a certificate of registration to transact business in this state.

(2) The certificate of registration, together with a duplicate original of the application, shall be returned to the person who filed the application or his representative.

NEW SECTION. Sec. 51. NAME. A foreign limited partnership may register with the secretary of state under any name, whether or not it is the name under which it is registered in its place of organization, that includes without abbreviation the words "limited partnership" and that could be registered by a domestic limited partnership, except that a foreign limited partnership organized under the laws of a jurisdiction other than another state shall register and transact business under a name that includes without abbreviation the words "a (reference to the country in which organized) limited partnership".

NEW SECTION. Sec. 52. CHANGES AND AMENDMENTS. If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the general

partner of the foreign limited partnership shall promptly file in the office of the secretary of state a certificate, signed and sworn to by a general partner, correcting such statement.

NEW SECTION. Sec. 53. CANCELLATION OF REGISTRATION. A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation signed and sworn to by a general partner. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this state.

NEW SECTION. Sec. 54. TRANSACTION OF BUSINESS WITHOUT REGISTRATION. (1) A foreign limited partnership transacting business in this state may not maintain any action, suit, or proceeding in any court of this state until it has registered in this state.

(2) The failure of a foreign limited partnership to register in this state does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this state.

(3) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this state without registration.

(4) Without excluding other activities which may not constitute transacting business in this state, a foreign limited partnership shall not be considered to be transacting business in this state, for the purposes of this title, by reason of carrying on in this state any one or more of the following activities:

(a) Defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(b) Holding meetings of its partners or carrying on other activities concerning its internal affairs.

(c) Maintaining bank accounts.

(d) Maintaining offices or agencies for the transfer, exchange, and registration of its interests, or appointing and maintaining trustees or depositaries with relation to its interests.

(e) Effecting sales through independent contractors.

(f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.

(g) Creating evidences of debt, mortgages, or liens on real or personal property.

(h) Securing or collecting debts or enforcing any rights in property securing the same.

(i) Transacting any business in interstate commerce.

(j) Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.

(5) A foreign limited partnership, by transacting business in this state without registration, appoints the secretary of state as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

NEW SECTION. Sec. 55. ACTION BY SECRETARY OF STATE. The secretary of state may bring an action to restrain a foreign limited partnership from transacting business in this state in violation of this article.

ARTICLE 10 DERIVATIVE ACTIONS

NEW SECTION. Sec. 56. A limited partner may bring an action in the right of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed.

NEW SECTION. Sec. 57. PROPER PLAINTIFF. In a derivative action, the plaintiff must be a partner at the time of bringing the action and (1) at the time of the transaction of which he complains or (2) his status as a partner had devolved upon him by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

NEW SECTION. Sec. 58. PLEADING. In a derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort.

NEW SECTION. Sec. 59. EXPENSES. If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct the plaintiff to remit to the limited partnership the remainder of those proceeds received by him.

ARTICLE 11 FEES AND CHARGES

NEW SECTION. Sec. 60. ESTABLISHMENT OF FILING FEES AND MISCELLANEOUS CHARGES. The secretary of state shall adopt, within one hundred twenty days after the effective date of this act, rules establishing fees which may be charged and collected for:

(1) Filing of a certificate of limited partnership for a domestic or foreign limited partnership;

(2) Filing of a certificate of cancellation for a domestic or foreign limited partnership;

- (3) Filing of a certificate of amendment for a domestic or foreign limited partnership;
- (4) Filing an application to reserve or transfer a limited partnership name;
- (5) Filing any other statement or report;
- (6) Furnishing a certified copy of any certificate of limited partnership;
- (7) Furnishing a certified copy of any other document, instrument, or paper relating to a limited partnership;
- (8) Furnishing a certificate, under seal, attesting to the status of a limited partnership;
- (9) Furnishing copies of any document, instrument, or paper relating to a limited partnership;
- (10) Service of process on the office of secretary of state as agent of a limited partnership;
- (11) Such other filings as are provided for by this chapter;

PROVIDED, That the fees for filing a certificate of limited partnership shall not exceed one hundred dollars and the fees for filing a certificate of cancellation, certificate of amendment, a reservation of name, or other statement shall not exceed twenty-five dollars. In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations registering pursuant to Title 23A RCW.

All fees collected by the secretary of state shall be deposited with the state treasurer and credited to the general fund.

ARTICLE 12 MISCELLANEOUS

NEW SECTION. Sec. 61. **AUTHORITY TO ADOPT RULES.** The secretary of state shall adopt such rules as are necessary to implement the transfer of duties and records required by this chapter including rules providing for the transfer of existing certificates from the counties to the secretary.

NEW SECTION. Sec. 62. **CONSTRUCTION AND APPLICATION.** This act shall be so applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

NEW SECTION. Sec. 63. **SHORT TITLE.** This act may be cited as the Washington uniform limited partnership act.

NEW SECTION. Sec. 64. **SEVERABILITY.** If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of the act are severable.

NEW SECTION. Sec. 65. EFFECTIVE DATE AND EXTENDED EFFECTIVE DATE. Except as set forth below, the effective date of this act is January 1, 1982:

(1) The existing provisions for execution and filing of certificates of limited partnerships and amendments thereunder and cancellations thereof continue in effect until October 1, 1982, the extended effective date, and sections 2, 3, 4, 5, 8, 9, 10, 11, and 13 of this act are not effective until the extended effective dates.

(2) Section 23 of this act, specifying the conditions under which a general partner ceases to be a member of a limited partnership, is not effective until the extended effective date, and the applicable provisions of existing law continue to govern until the extended effective date.

(3) Sections 27, 28, and 38 of this act apply only to contributions and distributions made after the effective date of this act.

(4) Section 42 of this act applies only to assignment made after the effective date of this act.

(5) Article 9 of this act, dealing with registration of foreign limited partnerships, is not effective until the extended effective date.

NEW SECTION. Sec. 66. RULES FOR CLASS NOT PROVIDED FOR IN THIS ACT. In any case not provided for in this act, the provisions of the uniform partnership act govern.

NEW SECTION. Sec. 67. APPLICATION TO EXISTING PARTNERSHIPS. (1) Except as provided in subsections (1) and (2) of this section, the provisions of this title shall apply to all existing limited partnerships formed after June 6, 1945, under any prior statute of this state providing for the formation of limited partnerships, except to the extent provisions of this title are inconsistent with provisions of the certificate or partnership agreement of such existing limited partnerships, which partnership provisions were applicable to such limited partnerships as of January 1, 1982, and which partnership provisions would have been valid under any such applicable prior statutes. Insofar as the provisions of this title are substantially the same as statutory provisions repealed by this title and relate to the same subject matter, such provisions shall be construed as restatements and continuations, and not as new enactments. Neither the enactment of this title nor the amendment of this title nor the repeal of the prior title shall take away or impair any liability or cause of action existing or accrued by or against any limited partnership or its partners.

(2) On or before September 30, 1982, each county clerk shall transmit all files, records, indexes, and other documents maintained in the county clerk's office, pursuant to prior statutes requiring limited partnership filings at the office of county clerk, to the office of the secretary of state.

(3) Upon receipt of the limited partnership records from the county clerks, the secretary of state shall thereafter treat such county filings as a filing with the secretary of state. The secretary of state shall establish by

September 30, 1982, a filing and record system for integration of the records received from the county clerks and to accomplish the purposes of this chapter relating to centralized filing.

NEW SECTION. Sec. 68. EFFECT OF INVALIDITY OF PART OF THIS TITLE. If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this title, such judgment or decree shall not affect, impair, invalidate, or nullify the remainder of this title, but the effect thereof shall be confined to the clause, sentence, paragraph, section, or part of this title so adjudged to be invalid or unconstitutional.

NEW SECTION. Sec. 69. Sections 1 through 68 of this act shall constitute a new chapter in Title 25 RCW.

NEW SECTION. Sec. 70. There is appropriated from the general fund to the secretary of state for the biennium ending June 30, 1983, the sum of ten thousand dollars or so much thereof as may be necessary to maintain a filings and record system as required under section 67 of this act.

NEW SECTION. Sec. 71. Section captions as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 72. The following acts or parts of acts are each repealed:

- (1) Section 25.08.010, chapter 15, Laws of 1955 and RCW 25.08.010;
- (2) Section 25.08.020, chapter 15, Laws of 1955, section 1, chapter 113, Laws of 1972 ex. sess. and RCW 25.08.020;
- (3) Section 25.08.030, chapter 15, Laws of 1955 and RCW 25.08.030;
- (4) Section 25.08.040, chapter 15, Laws of 1955 and RCW 25.08.040;
- (5) Section 25.08.050, chapter 15, Laws of 1955 and RCW 25.08.050;
- (6) Section 25.08.060, chapter 15, Laws of 1955 and RCW 25.08.060;
- (7) Section 25.08.070, chapter 15, Laws of 1955, section 2, chapter 113, Laws of 1972 ex. sess. and RCW 25.08.070;
- (8) Section 25.08.080, chapter 15, Laws of 1955 and RCW 25.08.080;
- (9) Section 25.08.090, chapter 15, Laws of 1955, section 3, chapter 113, Laws of 1972 ex. sess. and RCW 25.08.090;
- (10) Section 25.08.100, chapter 15, Laws of 1955 and RCW 25.08.100;
- (11) Section 25.08.110, chapter 15, Laws of 1955 and RCW 25.08.110;
- (12) Section 25.08.120, chapter 15, Laws of 1955 and RCW 25.08.120;
- (13) Section 25.08.130, chapter 15, Laws of 1955 and RCW 25.08.130;
- (14) Section 25.08.140, chapter 15, Laws of 1955 and RCW 25.08.140;
- (15) Section 25.08.150, chapter 15, Laws of 1955 and RCW 25.08.150;
- (16) Section 25.08.160, chapter 15, Laws of 1955 and RCW 25.08.160;
- (17) Section 25.08.170, chapter 15, Laws of 1955 and RCW 25.08.170;
- (18) Section 25.08.180, chapter 15, Laws of 1955 and RCW 25.08.180;
- (19) Section 25.08.190, chapter 15, Laws of 1955, section 4, chapter 113, Laws of 1972 ex. sess. and RCW 25.08.190;

- (20) Section 25.08.200, chapter 15, Laws of 1955 and RCW 25.08.200;
 (21) Section 25.08.210, chapter 15, Laws of 1955 and RCW 25.08.210;
 (22) Section 25.08.220, chapter 15, Laws of 1955 and RCW 25.08.220;
 (23) Section 25.08.230, chapter 15, Laws of 1955 and RCW 25.08.230;
 (24) Section 25.08.240, chapter 15, Laws of 1955, section 5, chapter 113, Laws of 1972 ex. sess. and RCW 25.08.240;
 (25) Section 25.08.250, chapter 15, Laws of 1955, section 2, chapter 22, Laws of 1979 ex. sess. and RCW 25.08.250;
 (26) Section 25.08.260, chapter 15, Laws of 1955 and RCW 25.08.260;
 (27) Section 25.08.270, chapter 15, Laws of 1955 and RCW 25.08.270;
 (28) Section 25.08.280, chapter 15, Laws of 1955 and RCW 25.08.280;
 (29) Section 25.08.290, chapter 15, Laws of 1955 and RCW 25.08.290;
 (30) Section 25.08.300, chapter 15, Laws of 1955 and RCW 25.08.300;
 (31) Section 25.08.310, chapter 15, Laws of 1955 and RCW 25.08.310;
 (32) Section 25.98.010, chapter 15, Laws of 1955 and RCW 25.98.010;
 (33) Section 25.98.020, chapter 15, Laws of 1955 and RCW 25.98.020;
 (34) Section 25.98.030, chapter 15, Laws of 1955 and RCW 25.98.030;
 (35) Section 25.98.040, chapter 15, Laws of 1955 and RCW 25.98.040;
 and
 (36) Section 25.98.050, chapter 15, Laws of 1955 and RCW 25.98.050.

Passed the House April 16, 1981.

Passed the Senate April 9, 1981.

Approved by the Governor April 23, 1981.

Filed in Office of Secretary of State April 23, 1981.

CHAPTER 52

[House Bill No. 161]

TELEVISION IMPROVEMENT DISTRICTS—EXCISE TAX

AN ACT Relating to television improvement districts; amending section 8, chapter 155, Laws of 1971 ex. sess. and RCW 36.95.080; amending section 10, chapter 155, Laws of 1971 ex. sess. as amended by section 1, chapter 11, Laws of 1975 and RCW 36.95.100; amending section 11, chapter 155, Laws of 1971 ex. sess. and RCW 36.95.110; and amending section 16, chapter 155, Laws of 1971 ex. sess. and RCW 36.95.160.

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

Section 1. Section 8, chapter 155, Laws of 1971 ex. sess. and RCW 36.95.080 are each amended to read as follows:

~~((With the assistance of))~~ The board~~((, the county assessor))~~ shall, on or before the first day of July of any given year, ascertain and prepare a list of all persons ~~((he believes))~~ believed to own television sets within the district and deliver a copy of such list to the ~~((board))~~ county assessor.

Sec. 2. Section 10, chapter 155, Laws of 1971 ex. sess. as amended by section 1, chapter 11, Laws of 1975 and RCW 36.95.100 are each amended to read as follows:

The tax provided for in RCW 36.95.090 and this section shall not exceed ~~((twenty-five))~~ sixty dollars per year per television set, and no person shall be taxed for more than one television set, except that a motel or hotel or any person owning in excess of five television sets shall pay at a rate of one-fifth of the annual tax rate imposed for each of the first five television sets and one-tenth of such rate for each additional set thereafter. An owner of a television set within the district shall be exempt from paying any tax on such set under this chapter: (1) If either (a) his television set does not receive at least a class grade B contour signal retransmitted by the television translator station or other similar device operated by the district, as such class is defined under regulations of the Federal Communications Commission as of August 9, 1971, or (b) he is currently subscribing to and receiving the services of a community antenna system (CATV) to which his television set is connected; and (2) if he filed a statement with the board claiming his grounds for exemption. Space for such statement shall be provided for in the tax notice which the treasurer shall send to taxpayers in behalf of the district.

Sec. 3. Section 11, chapter 155, Laws of 1971 ex. sess. and RCW 36-.95.110 are each amended to read as follows:

Any person owing the excise tax provided for under this chapter and who fails to pay the same within sixty days after the board or the county treasurer has sent the tax bill to him, shall be deemed to be delinquent. Such person shall be liable for all costs to the county or district attributable to collecting the tax but no such excise tax or costs, nor any judgment based thereon, shall be deemed to create a lien against real property.

Sec. 4. Section 16, chapter 155, Laws of 1971 ex. sess. and RCW 36-.95.160 are each amended to read as follows:

The treasurer of the county in which a district is located shall be ex officio treasurer of the district. ~~((He))~~ The treasurer shall collect the excise tax provided for under this chapter and shall send notice of payment due to persons owing the tax: PROVIDED, That districts with fewer than twelve hundred persons subject to the excise tax and levying an excise tax of forty dollars or more per television set per year shall have the option of having the district (1) send the tax notices bimonthly, and (2) collect the excise taxes which shall then be forwarded to the county treasurer for deposit in the district account. There shall be deposited with him all funds of the district. All district payments shall be made by him from such funds upon warrants issued by the county auditor, except the sums to be paid out of any bond fund upon coupons or bonds presented to the treasurer. All warrants

shall be paid in the order of issuance. The treasurer shall report monthly to the board, in writing, the amount in the district fund or funds.

Passed the House March 27, 1981.

Passed the Senate April 15, 1981.

Approved by the Governor April 23, 1981.

Filed in Office of Secretary of State April 23, 1981.

CHAPTER 53

[Substitute House Bill No. 316]

MIDWIFERY—LICENSURE—APPROPRIATION

AN ACT Relating to midwifery; amending section 7, chapter 56, Laws of 1975-'76 2nd ex. sess. and RCW 7.70.020; amending section 8, chapter 160, Laws of 1917 and RCW 18.50.010; amending section 2, chapter 160, Laws of 1917 and RCW 18.50.040; amending section 4, chapter 160, Laws of 1917 as amended by section 43, chapter 158, Laws of 1979 and RCW 18.50.060; amending section 7, chapter 160, Laws of 1917 and RCW 18.50.100; amending section 21, chapter 266, Laws of 1971 ex. sess. as last amended by section 100, chapter 158, Laws of 1979 and RCW 43.24.085; adding new sections to chapter 18.50 RCW; repealing section 5, chapter 160, Laws of 1917 and RCW 18.50.070; repealing section 6, chapter 160, Laws of 1917 and RCW 18.50.080; providing an effective date; and making an appropriation.

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

Section 1. Section 7, chapter 56, Laws of 1975-'76 2nd ex. sess. and RCW 7.70.020 are each amended to read as follows:

As used in this chapter "health care provider" means either:

(1) A person licensed by this state to provide health care or related services, including, but not limited to, a physician, osteopathic physician, dentist, nurse, optometrist, podiatrist, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, midwife, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his estate or personal representative;

(2) An employee or agent of a person described in part (1) above, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in part (1) above, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his employment, including in the event such officer, director, employee, or agent is deceased, his estate or personal representative.

NEW SECTION. Sec. 2. There is added to chapter 18.50 RCW a new section to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

- (1) "Department" means the department of licensing.
- (2) "Director" means the director of licensing.
- (3) "Midwife" means a midwife licensed under this chapter.

NEW SECTION. Sec. 3. There is added to chapter 18.50 RCW a new section to read as follows:

The midwifery advisory committee is created.

The committee shall be composed of one licensed physician who is a practicing obstetrician; one practicing licensed physician; one certified nurse midwife licensed under chapter 18.88 RCW; three midwives licensed under this chapter; and one public member, who shall have no financial interest in the rendering of health services. The committee may seek other consultants as appropriate, including persons trained in childbirth education and perinatology or neonatology.

The members are appointed by the director and serve at the pleasure of the director but may not serve more than three consecutive years or more than five years in total. The terms of office shall be staggered. Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended.

NEW SECTION. Sec. 4. There is added to chapter 18.50 RCW a new section to read as follows:

The midwifery advisory committee shall advise and make recommendations to the director on issues including, but not limited to, continuing education, mandatory reexamination, and peer review. The director shall transmit the recommendations to the social and health services committee of the senate and the human services committee of the house of representatives on an annual basis.

Sec. 5. Section 8, chapter 160, Laws of 1917 and RCW 18.50.010 are each amended to read as follows:

Any person shall be regarded as practicing midwifery within the meaning of this chapter who shall render medical aid for a fee or compensation to a woman ((in childbirth for a fee or compensation)) during prenatal, intrapartum, and postpartum stages or who shall advertise as a midwife by signs, printed cards, or otherwise. Nothing shall be construed in this chapter to prohibit gratuitous services. It shall be the duty of a midwife to ((always secure the immediate services of)) consult with a legally qualified physician whenever ((any abnormal signs or symptoms appear either in)) there are significant deviations from normal in either the mother or the infant.

Sec. 6. Section 2, chapter 160, Laws of 1917 and RCW 18.50.040 are each amended to read as follows:

(1) Any person seeking to be examined shall present to the ((said)) director, at least ((ten)) forty-five days before the commencement of the ((said)) examination, a written application on a form or forms provided by the ((said)) director setting forth under affidavit ((the name, age, nativity,

~~residence, moral character and time spent in obtaining a common school education)) such information as the director may require and proof the candidate has received a high school degree or its equivalent; that the candidate is twenty-one years of age or older; that the candidate has received a certificate or diploma from a ((legally incorporated school on midwifery in good standing, granted after at least two courses of instruction of at least seven months each in different calendar years)) midwifery program accredited by the director and registered under chapter 28B.05 RCW, when applicable, or a certificate or diploma in a foreign institution on midwifery of equal requirements conferring the full right to practice midwifery in the country in which it was issued. The diploma must bear the seal of the institution from which the applicant was graduated. Foreign ((applicants)) candidates must present with the application a translation of the foreign certificate or diploma made by and under the seal of the consulate of the country in which the ((said)) certificate or diploma was issued. ((The application must be endorsed by a duly registered reputable physician of the state of Washington:))~~

(2) The candidate shall meet the following conditions:

(a) Obtaining a minimum period of midwifery training for at least three years including the study of the basic nursing skills that the department shall prescribe by rule. However, if the applicant is a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, or has had previous nursing education or practical midwifery experience, the required period of training may be reduced depending upon the extent of the candidate's qualifications as determined under rules adopted by the department. In no case shall the training be reduced to a period of less than two years.

(b) Meeting minimum educational requirements which shall include studying obstetrics; neonatal pediatrics; basic sciences; female reproductive anatomy and physiology; behavioral sciences; childbirth education; community care; obstetrical pharmacology; epidemiology; gynecology; family planning; genetics; embryology; neonatology; the medical and legal aspects of midwifery; nutrition during pregnancy and lactation; breast feeding; nursing skills, including but not limited to injections, administering intravenous fluids, catheterization, and aseptic technique; and such other requirements prescribed by rule.

(c) For a student midwife during training, undertaking the care of not less than fifty women in each of the prenatal, intrapartum, and early postpartum periods, but the same women need not be seen through all three periods. A student midwife may be issued a permit upon the satisfactory completion of the requirements in (a), (b), and (c) of this subsection and the satisfactory completion of the licensure examination required by RCW 18.50.060. The permit permits the student midwife to practice under the supervision of a midwife licensed under this chapter, a physician licensed

under chapter 18.57 or 18.71 RCW, or a certified nurse-midwife licensed under the authority of chapter 18.88 RCW. The permit shall expire within one year of issuance and may be extended as provided by rule.

(d) Observing an additional fifty women in the intrapartum period before the candidate qualifies for a license.

The training required under this section shall include training in either hospitals or alternative birth settings or both with particular emphasis on learning the ability to differentiate between low-risk and high-risk pregnancies.

NEW SECTION. Sec. 7. There is added to chapter 18.50 RCW a new section to read as follows:

The director shall promulgate standards by rule under chapter 34.04 RCW for accrediting midwifery educational programs. The standards shall cover the provision of adequate clinical and didactic instruction in all subjects and noncurriculum matters under this section including, but not limited to, staffing and teacher qualifications. In developing the standards, the director shall be advised by and receive the recommendations of the midwifery advisory committee.

Sec. 8. Section 4, chapter 160, Laws of 1917 as amended by section 43, chapter 158, Laws of 1979 and RCW 18.50.060 are each amended to read as follows:

(1) The director of licensing is hereby authorized and empowered to execute the provisions of this chapter and shall ~~((hold))~~ offer examinations in midwifery ~~((on the first Monday in January and July,))~~ at least twice a year at such times and places as the director may select~~((, from ten o'clock a.m. to five o'clock p.m., and at such other times as the said director may deem expedient)).~~ The examinations ~~((may))~~ shall be ~~((oral,))~~ written~~((, or both,))~~ and shall be in the English language~~((, if desired in any other language, an interpreter may be provided by said director upon notification of the director at least ten days before examination. The cost of said interpreter shall be defrayed by the applicant for the license.~~

Examinations shall be held on the following subjects:

(1) Anatomy of pelvis and female genital organs:

(2) Physiology of menstruation:

(3) Diagnosis and management of pregnancy:

(4) Diagnosis of foetal presentation and position:

(5) Mechanism and management of normal labor:

(6) Management of puerperium:

(7) Injuries to the genital organs following labor:

(8) Sepsis and antisepsis in relation to labor:

(9) Special care of the bed and lying-in room:

(10) Hygiene of mother and infant:

(11) ~~Asphyxiation, convulsions, malformation and infectious diseases of the new-born.~~

~~(12) Causes and effects of ophthalmia neonatorum.~~

~~(13) Abnormal conditions requiring attention of a physician.~~

~~(14) Requirements of the vital statistics laws pertaining to the reporting of births and the rules of the state board of health relative to ophthalmia neonatorum or other infectious diseases of the newborn)).~~

~~((Said)) (2) The director, with the assistance of the midwifery advisory committee, shall develop or approve a licensure examination in the subjects that the director determines are within the scope of and commensurate with the work performed by a licensed midwife. The examination shall be sufficient to test the scientific and practical fitness of candidates to practice midwifery ((and the director may require examination on other subjects relating to midwifery from time to time)). All application papers shall be deposited with the director and there retained for at least one year, when they may be destroyed.~~

~~(3) If ((said)) the examination is ((satisfactory)) satisfactorily completed, ((said)) the director shall issue to such candidate a license entitling the candidate to practice midwifery in the state of Washington((:PROVIDED; That said license shall not authorize the holder to prescribe any drugs or medicine except some household remedy after the birth of the infant)).~~

~~(4) A midwife licensed under this chapter may obtain and administer prophylactic ophthalmic medication, postpartum oxytocic and local anesthetic; and may administer such other drugs or medications as prescribed by a licensed physician. A pharmacist who dispenses such drugs to a licensed midwife shall not be liable for any adverse reactions caused by any method of utilization by the midwife.~~

Sec. 9. Section 7, chapter 160, Laws of 1917 and RCW 18.50.100 are each amended to read as follows:

~~((Said)) The director may refuse to grant or may suspend or revoke any license ((herein provided for)), may reprimand or censure a license holder, or may place on probation subject to reasonable remedial conditions a license holder for any of the following reasons: Persistent inebriety; the practice of criminal abortion; the commission of any crime involving moral turpitude relevant to the practice of midwifery; presentation of a certificate or diploma for registration or license illegally obtained; application for examination under fraudulent misrepresentation; mishandling drugs authorized by this chapter; neglect or refusal to make proper returns to the ~~((health officer or health))~~ department of social and health services of births or of puerperal contagion or infectious diseases within the required limit of time; ~~((failure to record her license with the clerk of the county in which the licentiate resides or practices;))~~ failure to ~~((secure the attendance of a reputable))~~ consult with a physician in a case of ~~((miscarriage, hemorrhage, abnormal presentation or position, retained placenta, convulsions, prolapse of the cord, fever during parturient stage, inflammation or discharge from~~~~

~~the eyes of a new-born infant, or whenever there are any abnormal or unhealthy symptoms))~~ significant deviations from normal in either the mother or the infant (~~(during labor or the puerperium))~~).

In complaints of violations of the provisions of this section, the accused shall be furnished with a copy of the complaint and be given a hearing before ~~((said director in person or by attorney))~~ a hearing examiner, with right of appeal to the director. Any midwife refused admittance to the examination or whose license has been revoked who shall attempt or continue the practice of midwifery(;) shall be subject to the penalties (~~(hereinafter))~~ prescribed under this chapter.

NEW SECTION. Sec. 10. There is added to chapter 18.50 RCW a new section to read as follows:

Registered nurses and nurse midwives certified by the board of nursing under chapter 18.88 RCW shall be exempt from the requirements and provisions of this chapter.

NEW SECTION. Sec. 11. There is added to chapter 18.50 RCW a new section to read as follows:

Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of midwifery by a person who is enrolled in a program of midwifery approved and accredited by the director: PROVIDED, That the performance of such services is only pursuant to a regular course of instruction or assignment from the student's instructor, and that such services are performed only under the supervision and control of a person licensed in the state of Washington to perform services encompassed under this chapter.

NEW SECTION. Sec. 12. There is added to chapter 18.50 RCW a new section to read as follows:

The director, with the advice of the midwifery advisory committee, shall develop a form to be used by a midwife to inform the patient of the qualifications of a licensed midwife.

NEW SECTION. Sec. 13. There is added to chapter 18.50 RCW a new section to read as follows:

Every person licensed to practice midwifery shall register with the director of licensing annually and pay an annual renewal registration fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended on or before the licensee's birth anniversary date. The license of the person shall be renewed for a period of one year. Any failure to register and pay the annual renewal registration fee shall render the license invalid. The license shall be reinstated upon written application to the director, payment to the state of a penalty fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, and payment to the state of all delinquent annual license renewal fees. Any person who fails to renew his or her license for a period of three years shall not be entitled to renew

such license under this section. Such person, in order to obtain a license to practice midwifery in this state, shall file a new application under this chapter, along with the required fee. The director, in the director's discretion, may permit the applicant to be licensed without examination if satisfied that the applicant meets all the requirements for licensure in this state and is competent to engage in the practice of midwifery.

NEW SECTION. Sec. 14. There is added to chapter 18.50 RCW a new section to read as follows:

Every licensed midwife shall develop a written plan for consultation with other health care providers, emergency transfer, transport of an infant to a newborn nursery or neonatal intensive care nursery, and transport of a woman to an appropriate obstetrical department or patient care area. The written plan shall be submitted annually together with the license renewal fee to the department.

NEW SECTION. Sec. 15. There is added to chapter 18.50 RCW a new section to read as follows:

The director shall promulgate rules under chapter 34.04 RCW as are necessary to carry out the purposes of this chapter.

Sec. 16. Section 21, chapter 266, Laws of 1971 ex. sess. as last amended by section 100, chapter 158, Laws of 1979 and RCW 43.24.085 are each amended to read as follows:

It shall be the policy of the state of Washington that the director of licensing shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or registration of professions, occupations, or businesses, administered by the business and professions administration in the department of licensing. In fixing said fees the director shall, insofar as is practicable, fix the fees relating to each profession, occupation, or business in such a manner that the income from each will match the anticipated expenses to be incurred in the administration of the laws relating to each such profession, occupation, or business. All such fees shall be fixed by rule and regulation adopted by the director in accordance with the provisions of the administrative procedure act, chapter 34.04 RCW: PROVIDED, That

(1) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than five dollars or in excess of fifteen dollars:

- Barber
- Student barber
- Cosmetologist (manager-operator)
- Cosmetologist (operator)
- Cosmetologist (instructor-operator)
- Apprentice embalmers

Manicurist
Apprentice funeral directors
Registered nurse
Licensed practical nurse
Charitable organization
Professional solicitor;

(2) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than ten dollars or in excess of twenty dollars:

Dental hygienist
Barber instructor
Barber manager instructor
Psychologist
Embalmer
Funeral director
Sanitarian
Veterinarian
Cosmetology shop
Barber shop
Proprietary school agent
Specialized and advance registered nurse
Physician's assistant
Osteopathic physician's assistant;

(3) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than fifteen dollars or in excess of thirty-five dollars:

Architect
Dentist
Engineer
Land Surveyor
Midwife
Podiatrist
Chiropractor
Drugless therapeutic
Osteopathic physician
Osteopathic physician and surgeon
Physical therapist
Physician and surgeon
Optometrist
Dispensing optician
Landscape architect
Nursing home administrator
Hearing aid fitter;

(4) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than fifty dollars or in excess of two hundred dollars:

- Engineer corporation
- Engineer partnership
- Cosmetology school
- Barber school
- Debt adjuster agency
- Debt adjuster branch office
- Debt adjuster
- Proprietary school
- Employment agency
- Employment agency branch office
- Collection agency
- Collection agency branch office
- Professional fund raiser.

NEW SECTION. Sec. 17. There is appropriated to the department of licensing from the state general fund for the biennium ending June 30, 1983, the sum of thirty thousand six hundred sixty-three dollars or so much as may be necessary to carry out the purposes of this act.

NEW SECTION. Sec. 18. The following acts or parts of acts are each hereby repealed:

- (1) Section 5, chapter 160, Laws of 1917 and RCW 18.50.070; and
- (2) Section 6, chapter 160, Laws of 1917 and RCW 18.50.080.

NEW SECTION. Sec. 19. Sections 1, 2, 5, 6, 8, 9, 10, 11, and 13 through 17 of this act shall take effect January 15, 1982.

Passed the House March 30, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 23, 1981.

Filed in Office of Secretary of State April 23, 1981.

CHAPTER 54

[House Bill No. 364]

WASHINGTON STATE SCHOLARS' PROGRAM—APPROPRIATION

AN ACT Relating to educational excellence; creating the Washington state scholars program; creating new sections; adding new sections to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW; and making an appropriation.

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

NEW SECTION. Section 1. Each year high schools in the state of Washington graduate a significant number of students who have distinguished themselves through outstanding academic achievement. The purpose of sections 1 through 7 of this act is to establish a consistent and

uniform program which will recognize and honor the accomplishments of these students; encourage and facilitate privately funded scholarship awards among them; stimulate the recruitment of outstanding students to Washington public and private colleges and universities; and allow educational and legislative leaders, as well as the governor, to reaffirm the importance of educational excellence to the future of this state.

NEW SECTION. Sec. 2. There is established by the legislature of the state of Washington the Washington state scholars program. The purposes of this program annually are to:

(1) Provide for the selection of three seniors graduating from high schools in each legislative district who have distinguished themselves academically among their peers.

(2) Maximize public awareness of the academic achievement, leadership ability, and community contribution of Washington state public and private high school seniors through appropriate recognition ceremonies and events at both the local and state level.

(3) Provide a listing of the Washington scholars to all Washington state public and private colleges and universities to facilitate communication regarding academic programs and scholarship availability.

(4) Make available a state level mechanism for utilization of private funds for scholarship awards to outstanding high school seniors.

(5) Provide, on written request and with student permission, a listing of the Washington scholars to private scholarship selection committees for notification of scholarship availability.

NEW SECTION. Sec. 3. The council for postsecondary education shall have the responsibility for administration of the Washington scholars program. The program will be developed cooperatively with the Washington association of secondary school principals, a voluntary professional association of secondary school principals. The cooperation of other state agencies and private organizations having interest and responsibility in public and private education shall be sought for planning assistance.

NEW SECTION. Sec. 4. The council for postsecondary education shall establish a planning committee to develop criteria for screening and selection of the Washington scholars each year in accordance with section 2(1) of this act. It is the intent that these criteria shall emphasize scholastic achievement but not exclude such criteria as leadership ability and community contribution in final selection procedures. The Washington scholars planning committee shall have members from selected state agencies and private organizations having an interest and responsibility in education, including but not limited to, the state board of education, the office of superintendent of public instruction, the council of presidents, the state board for community college education, and the Washington friends of higher education.

NEW SECTION. Sec. 5. Each year on or before March 1st, the Washington association of secondary school principals shall submit to the council for postsecondary education the names of graduating senior high school students who have been identified and recommended to be outstanding in academic achievement by their school principals based on criteria to be established under section 4 of this act.

NEW SECTION. Sec. 6. Washington scholars annually shall be selected from among the students so identified. The council for postsecondary education shall notify the students so designated, their high school principals, the legislators of their respective districts, and the governor when final selections have been made.

The council, in conjunction with the governor's office, shall prepare appropriate certificates to be presented to the Washington scholars recipients. An awards ceremony at an appropriate time and place shall be planned by the council in cooperation with the Washington association of secondary school principals, and with the approval of the governor.

NEW SECTION. Sec. 7. The Washington scholars program shall begin with the school year 1981-82. The council for postsecondary education is directed to report fully on the results and effectiveness of the program to the 1983 legislature and to the governor.

NEW SECTION. Sec. 8. There is appropriated from the state general fund to the council for postsecondary education for the purpose of administering the Washington state scholars program a sum of eight thousand dollars, or so much thereof as may be necessary.

NEW SECTION. Sec. 9. Sections 1 through 7 of this act are added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW.

NEW SECTION. Sec. 10. 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 2, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 23, 1981.

Filed in Office of Secretary of State April 23, 1981.

CHAPTER 55

[House Bill No. 464]

FINANCIAL AID TO NEEDY OR DISADVANTAGED STUDENTS— APPROPRIATION

AN ACT Relating to institutions of higher education; adding a new section to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.10 RCW; and making an appropriation.

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

NEW SECTION. Section 1. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.10 RCW a new section to read as follows:

The state educational grant account is hereby established within the state general fund. The commission shall deposit refunds and recoveries of student financial aid funds expended in prior biennia in such account. Expenditures from such account shall be for financial aid to needy or disadvantaged students.

NEW SECTION. Sec. 2. There is hereby appropriated from the state educational grant account within the general fund for the 1981-83 biennium twenty thousand dollars, to the council on postsecondary education, for financial aid to needy or disadvantaged students.

Passed the House April 16, 1981.

Passed the Senate April 11, 1981.

Approved by the Governor April 23, 1981.

Filed in Office of Secretary of State April 23, 1981.

CHAPTER 56

[Substitute House Bill No. 636]

MUNICIPAL OFFICERS AND EMPLOYEES—PERSONAL AUTOMOBILE USE—REIMBURSEMENT

AN ACT Relating to reimbursement of municipal officers and employees; and amending section 2, chapter 116, Laws of 1965 and RCW 42.24.090.

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

Section 1. Section 2, chapter 116, Laws of 1965 and RCW 42.24.090 are each amended to read as follows:

No claim for reimbursement of any expenditures by officers or employees of any municipal corporation or political subdivision of the state for transportation, lodging, meals or any other purpose shall be allowed by any officer, employee or board charged with auditing accounts unless the same shall be presented in a detailed account: **PROVIDED**, That, unless otherwise authorized by law, the legislative body of any municipal corporation or political subdivision of the state may prescribe by ordinance or resolution the amounts to be paid officers or employees thereof as reimbursement for the use of their personal automobiles or other transportation equipment in connection with officially assigned duties and other travel for approved public purposes, or as reimbursement to such officers or employees in lieu of actual expenses incurred for lodging, meals or other purposes. The rates for such reimbursements may be computed on a mileage, hourly, per diem, monthly, or other basis as the respective legislative bodies shall determine to be proper in each instance: **PROVIDED**, That in lieu of such reimbursements, payments for the use of personal automobiles for official travel may be established if the legislative body determines that these payments would

be less costly to the municipal corporation or political subdivision of the state than providing automobiles for official travel.

All claims ((for reimbursement)) authorized under this section shall be duly certified by the officer or employee submitting such claims on forms and in the manner prescribed by the division of municipal corporations in the office of the state auditor.

Passed the House April 2, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 23, 1981.

Filed in Office of Secretary of State April 23, 1981.

CHAPTER 57

[House Bill No. 681]

MEDICAL DEVICES AND EQUIPMENT—ELECTRICAL REQUIREMENTS

AN ACT Relating to medical devices and equipment; creating new sections; adding a new section to chapter 19.28 RCW; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 19.28 RCW a new section to read as follows:

Any device used or useful in the diagnosis or treatment of disease or injury which is not in violation of the Medical Device Amendments of 1976, Public Law No. 94-295, 90 Stat. 539, as amended from time to time, and as interpreted by the Food and Drug Administration of the United States Department of Health and Human Services or its successor, shall be deemed to be in compliance with all requirements imposed by this chapter.

***NEW SECTION. Sec. 2.** *The rule of strict construction shall have no application to section 1 of this 1981 act, but it shall be liberally construed in order to carry out the purposes and objects for which it is intended. When section 1 of this 1981 act comes in conflict with any provision, limitation, or restriction in any other law, section 1 of this 1981 act shall govern and control.*

*Sec. 2. was vetoed, see message at end of chapter.

NEW SECTION. Sec. 3. This 1981 act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 2, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 23, 1981, with the exception of Section 2, which is vetoed.

Filed in Office of Secretary of State April 23, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section of House Bill No. 681 entitled:

"AN ACT Relating to medical devices and equipment."

I am vetoing Section 2 in order to allow the normal rules of statutory construction to apply.

With the exception of Section 2, which I have vetoed, the remainder of House Bill No. 681 is approved."

CHAPTER 58

[House Bill No. 83]

OPTOMETRISTS—USE OF PHARMACEUTICAL DIAGNOSTIC AGENTS

AN ACT Relating to the practice of optometry; amending section 1, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.53.005; amending section 1, chapter 144, Laws of 1919 as amended by section 2, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.53.010; amending section 7, chapter 144, Laws of 1919 as last amended by section 47, chapter 158, Laws of 1979 and RCW 18.53.140; and creating a new section.

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

Section 1. Section 1, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.53.005 are each amended to read as follows:

The legislature finds and declares that the practice of optometry is a learned profession and affects the health, welfare and safety of the people of this state, and should be regulated in the public interest and limited to qualified persons licensed and authorized to practice under the provisions of ~~((this 1975 amendatory act))~~ chapters 18.53 and 18.54 RCW.

Sec. 2. Section 1, chapter 144, Laws of 1919 as amended by section 2, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.53.010 are each amended to read as follows:

(1) The practice of optometry is defined as the examination of the human eye, the examination and ascertaining any defects of the human vision system and the analysis of the process of vision. The practice of optometry may include, but not necessarily be limited to, the following:

~~((1))~~ (a) The employment of any objective or subjective means or method including the use of pharmaceutical agents topically applied to the eye for diagnostic purposes by those licensed under this chapter and who meet the requirements of subsection (2) of this section, and the use of any diagnostic instruments or devices for the examination or analysis of the human vision system, the measurement of the powers or range of human vision, or the determination of the refractive powers of the human eye or its functions in general; and

~~((2))~~ (b) The prescription and fitting of lenses, prisms, therapeutic or refractive contact lenses and the adaption or adjustment of frames and lenses used in connection therewith; and

~~((3))~~ (c) The prescription and provision of visual therapy, therapeutic aids and other optical devices; and

~~((4))~~ (d) The ascertainment of the perceptive, neural, muscular or pathological condition of the visual system; and

~~((5))~~ (e) The adaptation of prosthetic eyes.

(2) Those persons using pharmaceutical agents for diagnostic purposes in the practice of optometry shall have a minimum of sixty hours of didactic and clinical instruction in general and ocular pharmacology as applied to optometry, and certification from an institution of higher learning, accredited by a regional or professional accrediting organization and recognized or approved by the accrediting commission for senior colleges and universities of the western association of schools and colleges to qualify for certification by the optometry board of Washington to use pharmaceutical agents for diagnostic purposes. Such course or courses shall be the fiscal responsibility of the participating and attending optometrist.

Sec. 3. Section 7, chapter 144, Laws of 1919 as last amended by section 47, chapter 158, Laws of 1979 and RCW 18.53.140 are each amended to read as follows:

It shall be unlawful for any person:

(1) To sell or barter, or offer to sell or barter any license issued by the director; or

(2) To purchase or procure by barter any license with the intent to use the same as evidence of the holder's qualification to practice optometry; or

(3) To alter with fraudulent intent in any material regard such license; or

(4) To use or attempt to use any such license which has been purchased, fraudulently issued, counterfeited or materially altered as a valid license; or

(5) To practice optometry under a false or assumed name, or as a representative or agent of any person, firm or corporation with which the licensee has no connection: PROVIDED, Nothing in this chapter nor in the optometry law shall make it unlawful for any lawfully licensed optometrist or association of lawfully licensed optometrists to practice optometry under the name of any lawfully licensed optometrist who may transfer by inheritance or otherwise the right to use such name; or

(6) To wilfully make any false statements in material regard in an application for an examination before the director, or for a license; or

(7) To practice optometry in this state either for himself or any other individual, corporation, partnership, group, public or private entity, or any member of the licensed healing arts without having at the time of so doing a valid license issued by the director of licensing; or

(8) To in any manner barter or give away as premiums either on his own account or as agent or representative for any other purpose, firm or corporation, any eyeglasses, spectacles, lenses or frames; or

(9) To use drugs in the examination of eyes except diagnostic agents, topically applied, known generally as cycloplegics, mydriatics, topical anesthetics, dyes such as florescein, and for emergency use only, miotics, which

legend drugs a certified optometrist is authorized to purchase, possess and administer; or

(10) To use advertising whether printed, radio, display, or of any other nature, which is misleading or inaccurate in any material particular, nor shall any such person in any way misrepresent any goods or services (including but without limitation, its use, trademark, grade, quality, size, origin, substance, character, nature, finish, material, content, or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted; or

(11) To advertise the "free examination of eyes," "free consultation," "consultation without obligation," "free advice," or any words or phrases of similar import which convey the impression to the public that eyes are examined free or of a character tending to deceive or mislead the public, or in the nature of "bait advertising;" or

(12) To use an advertisement of a frame or mounting which is not truthful in describing the frame or mounting and all its component parts. Or advertise a frame or mounting at a price, unless it shall be depicted in the advertisement without lenses inserted, and in addition the advertisement must contain a statement immediately following, or adjacent to the advertised price, that the price is for frame or mounting only, and does not include lenses, eye examination and professional services, which statement shall appear in type as large as that used for the price, or advertise lenses or complete glasses, viz.: frame or mounting with lenses included, at a price either alone or in conjunction with professional services; or

(13) To use advertising, whether printed, radio, display, or of any other nature, which inaccurately lays claim to a policy or continuing practice of generally underselling competitors; or

(14) To use advertising, whether printed, radio, display or of any other nature which refers inaccurately in any material particular to any competitors or their goods, prices, values, credit terms, policies or services; or

(15) To use advertising whether printed, radio, display, or of any other nature, which states any definite amount of money as "down payment" and any definite amount of money as a subsequent payment, be it daily, weekly, monthly, or at the end of any period of time; or

(16) To violate any provision of this chapter or any rules and regulations promulgated thereunder.

NEW SECTION. Sec. 4. If any provision of this amendatory 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 27, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 23, 1981.

Filed in Office of Secretary of State April 23, 1981.

CHAPTER 59

[House Bill No. 75]

TRANSPORTATION COMMISSION—SEPARATE OPERATING BUDGET

AN ACT Relating to transportation; amending section 6, chapter 151, Laws of 1977 ex. sess. and RCW 47.01.061; and amending section 7, chapter 151, Laws of 1977 ex. sess. as amended by section 45, chapter 87, Laws of 1980 and RCW 47.01.071.

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

Section 1. Section 6, chapter 151, Laws of 1977 ex. sess. and RCW 47.01.061 are each amended to read as follows:

The commission shall meet at such times as it deems advisable but at least once every month. It may adopt its own rules and regulations and may establish its own procedure. It shall act collectively in harmony with recorded resolutions or motions adopted by majority vote of at least four members. The commission may appoint an administrative secretary, and shall elect one of its members chairman for a term of one year. The chairman shall be able to vote on all matters before the commission.

The commission shall submit to each regular session of the legislature held in an odd-numbered year its own budget proposal necessary for the commission's operations separate from that proposed for the department. Such proposal shall include the cost of such staff as the commission deems necessary to fulfill its responsibilities in an independent manner. The budget proposal shall provide for planners, policy analysts, legal counsel, consultants, and technical and clerical personnel as needed, who shall be commission employees, shall be responsible to the commission and shall have no employment relation or affiliation with the department or the legislature.

Each member of the commission shall receive compensation of sixty dollars per day for each day actually spent in the performance of duties, and actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission, and actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested by a majority vote of the commission or by the secretary of transportation, but in no event shall a commissioner be compensated in any year for more than one hundred twenty days, except the chairman of the commission who may be paid compensation for not more than one hundred fifty days. Service on the commission shall not be considered as service credit for the purposes of any public retirement system.

Sec. 2. Section 7, chapter 151, Laws of 1977 ex. sess. as amended by section 45, chapter 87, Laws of 1980 and RCW 47.01.071 are each amended to read as follows:

The transportation commission shall have the following functions, powers, and duties:

(1) To propose policies to be adopted by the legislature designed to assure the development and maintenance of a comprehensive and balanced state-wide transportation system which will meet the needs of the people of this state for safe and efficient transportation services. Wherever appropriate the policies shall provide for the use of integrated, intermodal transportation systems to implement the social, economic, and environmental policies, goals, and objectives of the people of the state, and especially to conserve nonrenewable natural resources including land and energy. To this end the commission shall:

(a) Develop transportation policies which are based on the policies, goals, and objectives expressed and inherent in existing state laws;

(b) Inventory the adopted policies, goals, and objectives of the local and area-wide governmental bodies of the state and define the role of the state, regional, and local governments in determining transportation policies, in transportation planning, and in implementing the state transportation plan;

(c) Propose a transportation policy for the state, and after notice and public hearings, submit the proposal to the legislative transportation committee and the senate and house transportation committees by January 1, 1978, for consideration in the next legislative session;

(d) Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the legislature;

(e) To integrate the state-wide transportation plan with the needs of the elderly and handicapped, and to coordinate federal and state programs directed at assisting local governments to answer such needs;

(2) To establish the policy of the department to be followed by the secretary on each of the following items:

(a) To provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs;

(b) To provide for public involvement in transportation designed to elicit the public's views both with respect to adequate transportation services and appropriate means of minimizing adverse social, economic, environmental, and energy impact of transportation programs;

(c) To provide for the administration of grants in aid and other financial assistance to counties and municipal corporations for transportation purposes;

(d) To provide for the management, sale, and lease of property or property rights owned by the department which are not required for transportation purposes;

(3) To direct the secretary to prepare and submit to the commission a comprehensive and balanced state-wide transportation plan which shall be based on the transportation policy adopted by the legislature and applicable state and federal laws. After public notice and hearings, the commission

shall adopt the plan and submit it to the legislative transportation committee and to the house and senate standing committees on transportation before January 1, 1980, for consideration in the 1980 regular legislative session. The plan shall be reviewed and revised prior to each regular session of the legislature during an even-numbered year thereafter. A preliminary plan shall be submitted to such committees by January 1, 1979.

The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities;

(4) To propose to the governor and the legislature prior to the convening of each regular session held in an odd-numbered year a recommended budget for the operations of the commission as required by RCW 47.01.061;

(5) To approve and propose to the governor and to the legislature prior to the convening of each regular session during an odd-numbered year a recommended budget for the operation of the department and for carrying out the program of the department for the ensuing biennium. The proposed budget shall separately state the appropriations to be made from the motor vehicle fund for highway purposes in accordance with constitutional limitations and appropriations and expenditures to be made from the general fund, or accounts thereof, and other available sources for other operations and programs of the department;

~~((5))~~ (6) To review and authorize all departmental requests for legislation;

~~((6))~~ (7) To approve the issuance and sale of all bonds authorized by the legislature for capital construction of state highways, toll facilities, Columbia Basin county roads (for which reimbursement to the motor vehicle fund has been provided), urban arterial projects, and aviation facilities;

~~((7))~~ (8) To adopt such rules, regulations, and policy directives as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;

~~((8))~~ (9) To delegate any of its powers to the secretary of transportation whenever it deems it desirable for the efficient administration of the department and consistent with the purposes of this title;

~~((9))~~ (10) To exercise such other specific powers and duties as may be vested in the transportation commission by this or any other provision of law.

Passed the House April 16, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

CHAPTER 60

[House Bill No. 120]

SPECIAL PROBATION SUPERVISION PROGRAMS—COUNTY PRO RATA
PAYMENTS—COUNTY PROBATION COUNSELORS

AN ACT Relating to probation counselors; amending section 6, chapter 165, Laws of 1969 ex. sess. as amended by section 16, chapter 141, Laws of 1979 and RCW 13.06.060; repealing section 1, chapter 331, Laws of 1959, section 17, chapter 141, Laws of 1979 and RCW 13.07.010; repealing section 2, chapter 331, Laws of 1959, section 2, chapter 59, Laws of 1973 1st ex. sess. and RCW 13.07.020; repealing section 4, chapter 331, Laws of 1959, section 2, chapter 137, Laws of 1965 ex. sess., section 18, chapter 141, Laws of 1979 and RCW 13.07.030; repealing section 6, chapter 331, Laws of 1959 and RCW 13.07.040; repealing section 7, chapter 331, Laws of 1959, section 19, chapter 141, Laws of 1979 and RCW 13.07.050; repealing section 8, chapter 331, Laws of 1959, section 20, chapter 141, Laws of 1979 and RCW 13.07.060; and repealing section 3, chapter 137, Laws of 1965 ex. sess. and RCW 13.07.070.

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

Section 1. Section 6, chapter 165, Laws of 1969 ex. sess. as amended by section 16, chapter 141, Laws of 1979 and RCW 13.06.060 are each amended to read as follows:

The secretary of social and health services may make pro rata payments to eligible counties for periods of less than one year(~~(; but for periods of not less than six months;)~~) upon satisfactory demonstration of a reduction in commitments in accordance with the provisions of this chapter and the regulations of the department of social and health services.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 331, Laws of 1959, section 17, chapter 141, Laws of 1979 and RCW 13.07.010;

(2) Section 2, chapter 331, Laws of 1959, section 2, chapter 59, Laws of 1973 1st ex. sess. and RCW 13.07.020;

(3) Section 4, chapter 331, Laws of 1959, section 2, chapter 137, Laws of 1965 ex. sess., section 18, chapter 141, Laws of 1979 and RCW 13.07.030;

(4) Section 6, chapter 331, Laws of 1959 and RCW 13.07.040;

(5) Section 7, chapter 331, Laws of 1959, section 19, chapter 141, Laws of 1979 and RCW 13.07.050;

(6) Section 8, chapter 331, Laws of 1959, section 20, chapter 141, Laws of 1979 and RCW 13.07.060; and

(7) Section 3, chapter 137, Laws of 1965 ex. sess. and RCW 13.07.070.

Passed the House April 16, 1981.

Passed the Senate April 13, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

CHAPTER 61

[Substitute House Bill No. 176]

ARCHITECTURAL AND ENGINEERING SERVICES CONTRACTS

AN ACT Relating to public contracts; adding a new chapter to Title 39 RCW; and providing an effective date.

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

NEW SECTION. Section 1. The legislature hereby establishes a state policy, to the extent provided in this chapter, that governmental agencies publicly announce requirements for architectural and engineering services, and negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "State agency" means any department, agency, commission, bureau, office, or any other entity or authority of the state government.

(2) "Local agency" means any city and any town, county, special district, municipal corporation, agency, port district or authority, or political subdivision of any type, or any other entity or authority of local government in corporate form or otherwise.

(3) "Special district" means a local unit of government, other than a city, town, or county, authorized by law to perform a single function or a limited number of functions, and including but not limited to, water districts, irrigation districts, fire districts, school districts, community college districts, hospital districts, sewer districts, transportation districts, and metropolitan municipal corporations organized under chapter 35.58 RCW.

(4) "Agency" means both state and local agencies and special districts as defined in subsection (1), (2), and (3) of this section.

(5) "Architectural and engineering services" or "professional services" means professional services rendered by any person, other than as an employee of the agency, contracting to perform activities within the scope of the general definition of professional practice in chapters 18.08, 18.43, or 18.96 RCW.

(6) "Person" means any individual, organization, group, association, partnership, firm, joint venture, corporation, or any combination thereof.

(7) "Consultant" means any person providing professional services who is not an employee of the agency for which the services are provided.

(8) "Application" means a completed statement of qualifications together with a request to be considered for the award of one or more contracts for professional services.

NEW SECTION. Sec. 3. Each agency shall publish in advance that agency's requirement for professional services. The announcement shall state concisely the general scope and nature of the project or work for which the services are required and the address of a representative of the agency who can provide further details. An agency may comply with this section by: (1) Publishing an announcement on each occasion when professional services provided by a consultant are required by the agency; or (2) announcing generally to the public its projected requirements for any category or type of professional services.

NEW SECTION. Sec. 4. In the procurement of architectural and engineering services, the agency shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, based upon criteria established by the agency, the firm deemed to be the most highly qualified to provide the services required for the proposed project. Such agency procedures and guidelines shall include a plan to insure that minority and women-owned firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for services. The level of participation by minority and women-owned firms shall be consistent with their general availability within the professional communities involved.

NEW SECTION. Sec. 5. (1) The agency shall negotiate a contract with the most qualified firm for architectural and engineering services at a price which the agency determines is fair and reasonable to the agency. In making its determination, the agency shall take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature thereof.

(2) If the agency is unable to negotiate a satisfactory contract with the firm selected at a price the agency determines to be fair and reasonable, negotiations with that firm shall be formally terminated and the agency shall select other firms in accordance with section 4 of this act and continue in accordance with this section until an agreement is reached or the process is terminated.

NEW SECTION. Sec. 6. (1) This chapter need not be complied with by any agency when the contracting authority makes a finding in accordance with this or any other applicable law that an emergency requires the immediate execution of the work involved.

(2) Nothing in this chapter shall relieve the contracting authority from complying with applicable law limiting emergency expenditures.

NEW SECTION. Sec. 7. Nothing in this chapter shall affect the validity or effect of any contract in existence on the effective date of this 1981 act.

NEW SECTION. Sec. 8. 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. 9. This act shall take effect on January 1, 1982.

NEW SECTION. Sec. 10. Sections 1 through 8 of this act shall constitute a new chapter in Title 39 RCW.

Passed the House April 16, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

CHAPTER 62

[House Bill No. 181]

IRRIGATION DISTRICTS—MULTIDISTRICT AUTHORITIES

AN ACT Relating to irrigation districts; and adding a new section to chapter 87.03 RCW.

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

NEW SECTION. Section 1. There is added to chapter 87.03 RCW a new section to read as follows:

Two or more irrigation districts may create a separate legal authority to carry out any or all of the powers described in RCW 87.03.015. To enable such a legal authority to carry out its delegated powers, the irrigation districts creating the authority may assign, convey, or otherwise transfer to it any or all of their respective property, rights, or obligations, including, without limitation, the power to issue revenue obligations and the power of condemnation. Such a legal authority shall be created and organized by contract in the manner described in chapter 39.34 RCW and shall be a separate legal entity.

Passed the House April 16, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

CHAPTER 63

[House Bill No. 227]

OVERSIZE OR OVERWEIGHT VEHICLE LOADS—SPECIAL PERMITS

AN ACT Relating to special permits for oversize or overweight vehicle loads; and amending section 46.44.092, chapter 12, Laws of 1961 as last amended by section 32, chapter 151, Laws of 1977 ex. sess. and RCW 46.44.092.

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

Section 1. Section 46.44.092, chapter 12, Laws of 1961 as last amended by section 32, chapter 151, Laws of 1977 ex. sess. and RCW 46.44.092 are each amended to read as follows:

~~((No))~~ Special permits ~~((shall))~~ may not be issued for movements on any ~~((two-lane))~~ state highway outside the limits of any city or town ~~((where the overall width of load exceeds fourteen feet, or on any multiple lane state highway where the overall width of load exceeds thirty-two feet, except that on multiple lane state highways where a physical barrier serving as a median divider separates the oncoming and opposing traffic lanes, no special permit shall be issued for width in excess of twenty feet. PROVID-~~ ED; That)) in excess of the following widths:

On two-lane highways, fourteen feet;

On multiple-lane highways where a physical barrier serving as a median divider separates opposing traffic lanes, twenty feet;

On multiple-lane highways without a physical barrier serving as a median divider, thirty-two feet.

These limits apply except under the following conditions:

(1) In the case of buildings, the limitations referred to in this section for movement on any two lane state highway other than the national system of interstate and defense highways may be exceeded under the following conditions: (a) Controlled vehicular traffic shall be maintained in one direction at all times; (b) the maximum distance of movement shall not exceed five miles; additional contiguous permits shall not be issued to exceed the five-mile limit: PROVIDED, That when the department of transportation, pursuant to general rules adopted by the transportation commission, determines a hardship would result, this limitation may be exceeded upon approval of the department of transportation; (c) prior to issuing a permit a qualified transportation department employee shall make a visual inspection of the building and route involved determining that the conditions listed herein shall be complied with and that structures or overhead obstructions may be cleared or moved in order to maintain a constant and uninterrupted movement of the building; (d) special escort or other precautions may be imposed to assure movement is made under the safest possible conditions, and the Washington state patrol shall be advised when and where the movement is to be made;

(2) Permits may be issued for widths of vehicles in excess of the preceding limitations on highways or sections of highways which have been designed and constructed for width in excess of such limitations;

(3) These limitations may be rescinded when certification is made by military officials, or by officials of public or private power facilities, or when in the opinion of the department of transportation the movement or action is a necessary movement or action: PROVIDED FURTHER, That in the judgment of the department of transportation the structures and highway surfaces on the routes involved are capable of sustaining widths in excess of such limitation;

(4) These limitations shall not apply to movement during daylight hours on any two lane state highway where the gross weight, including load, does not exceed (~~forty-five~~) eighty thousand pounds and the overall width of load does not exceed sixteen feet: PROVIDED, That the minimum and maximum speed of such movements, prescribed routes of such movements, the times of such movements, limitation upon frequency of trips (which limitation shall be not less than one per week), and conditions to assure safety of traffic may be prescribed by the department of transportation or local authority issuing such special permit.

The applicant for any special permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular state highways for which permit to operate is requested and whether such permit is requested for a single trip or for continuous operation.

Passed the House April 16, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

CHAPTER 64

[Substitute House Bill No. 467]

ENERGY FACILITIES CERTIFICATION DECISIONS—JUDICIAL REVIEW

AN ACT Relating to review of energy facilities certification decisions; amending section 15, chapter 234, Laws of 1959 as last amended by section 90, chapter 158, Laws of 1979 and RCW 34.04.150; amending section 14, chapter 45, Laws of 1970 ex. sess. as amended by section 11, chapter 371, Laws of 1977 ex. sess. and RCW 80.50.140; creating a new section; and declaring an emergency.

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

****NEW SECTION. Section 1. The legislature has previously found that there is a pressing need for energy facilities and has therefore enacted statutes providing for unified procedures for siting energy facilities. The legislature further finds that considerable resources of the state have been devoted to participation in the process to approve or reject proposed energy facility***

sites and to determine the terms and conditions of siting major energy projects in the state. The legislature finds that expeditious review of decisions of the energy facility site evaluation council should be afforded all participants in the administrative process. The legislature further finds that the council's presentation to federal bodies about the final decision concerning certifications of energy facilities in the state shall encompass only environmental, health and safety aspects of the certification agreements.

*Section 1. was vetoed, see message at end of chapter.

Sec. 2. Section 15, chapter 234, Laws of 1959 as last amended by section 90, chapter 158, Laws of 1979 and RCW 34.04.150 are each amended to read as follows:

This chapter shall not apply to the state militia, or the board of prison terms and paroles, or any institution of higher education as defined in RCW 28B.19.020. The provisions of RCW 34.04.090 through 34.04.130 shall not apply to the board of industrial insurance appeals or the board of tax appeals unless an election is made pursuant to RCW 82.03.140 or 82.03.190. The provisions of RCW 34.04.090 through 34.04.130 and the provisions of RCW 34.04.170 shall not apply to the denial, suspension or revocation of a driver's license by the department of licensing. To the extent they are inconsistent with RCW 80.50.140, the provisions of RCW 34.04.130, 34.04.133, and 34.04.140 shall not apply to review of decisions made under RCW 80.50.100. All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

Sec. 3. Section 14, chapter 45, Laws of 1970 ex. sess. as amended by section 11, chapter 371, Laws of 1977 ex. sess. and RCW 80.50.140 are each amended to read as follows:

(1) ~~((The approval or rejection of an application for certification by the governor shall be subject to judicial review pursuant to the provisions of chapter 34.04 RCW))~~ A final decision pursuant to RCW 80.50.100 on an application for certification shall be subject to judicial review pursuant to provisions of chapter 34.04 RCW and this section. Petitions for review of such a decision shall be filed in the Thurston county superior court. All petitions for review of a decision under RCW 80.50.100 shall be consolidated into a single proceeding before the Thurston county superior court. The Thurston county superior court shall certify the petition for review to the supreme court upon the following conditions:

- (a) Review can be made on the administrative record;
- (b) Fundamental and urgent interests affecting the public interest and development of energy facilities are involved which require a prompt determination;
- (c) An appeal to the supreme court would likely be made regardless of the determination of the Thurston county superior court; and
- (d) The record is complete for review.

The Thurston county superior court shall assign a petition for review of a decision under RCW 80.50.100 for hearing at the earliest possible date and shall expedite such petition in every way possible. If the court finds that review cannot be limited to the administrative record as set forth in subparagraph (a) of this subsection because there are alleged irregularities in the procedure before the council not found in the record, but finds that the standards set forth in subparagraphs (b), (c), and (d) of this subsection are met, the court shall proceed to take testimony and determine such factual issues raised by the alleged irregularities and certify the petition and its determination of such factual issues to the supreme court. Upon certification, the supreme court shall assign the petition for hearing at the earliest possible date, and it shall expedite its review and decision in every way possible.

(2) Objections raised by any party in interest concerning procedural error by the council shall be filed with the council within sixty days of the commission of such error, or within thirty days of the first public hearing or meeting of the council at which the general subject matter to which the error is related is discussed, whichever comes later, or such objection shall be deemed waived for purposes of judicial review as provided in this section.

(3) The rules and regulations adopted by the council shall be subject to judicial review pursuant to the provisions of chapter 34.04 RCW.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 16, 1981.

Passed the Senate April 13, 1981.

Approved by the Governor April 25, 1981, with the exception of Section 1 which is vetoed.

Filed in Office of Secretary of State April 25, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section of Substitute House Bill No. 467 entitled:

"AN ACT Relating to review of energy facilities certification decisions."

Most of Section 1 is a reiteration of intent language found in Chapter 80.50 RCW. The last sentence, however, is an ambiguous statement that seems to imply a further restriction of the kinds of state concerns and issues that EFSEC can share with federal authorities. Since this language would only serve to cloud the authority of EFSEC, I have vetoed Section 1.

With the exception of Section 1, which I have vetoed, the remainder of Substitute House Bill No. 467 is approved."

CHAPTER 65

[House Bill No. 625]

SUPERIOR COURTS—ADDITIONAL JUDICIAL POSITIONS

AN ACT Relating to superior court judges; amending section 6, chapter 125, Laws of 1951 as last amended by section 3, chapter 202, Laws of 1979 ex. sess. and RCW 2.08.064; amending section 7, chapter 125, Laws of 1951 as last amended by section 4, chapter 202, Laws of 1979 ex. sess. and RCW 2.08.065; and creating a new section.

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

Section 1. Section 6, chapter 125, Laws of 1951 as last amended by section 3, chapter 202, Laws of 1979 ex. sess. and RCW 2.08.064 are each amended to read as follows:

There shall be in the counties of Benton and Franklin jointly, ~~((four))~~ five judges of the superior court; in the counties of Clallam and Jefferson jointly, two judges of the superior court; in the county of Snohomish eight judges of the superior court; in the counties of Asotin, Columbia and Garfield jointly, one judge of the superior court; in the county of Cowlitz, three judges of the superior court ~~((: PROVIDED, That the additional office herein created for the county of Cowlitz shall be effective January 1, 1981))~~; in the counties of Klickitat and Skamania jointly, one judge of the superior court.

Sec. 2. Section 7, chapter 125, Laws of 1951 as last amended by section 4, chapter 202, Laws of 1979 ex. sess. and RCW 2.08.065 are each amended to read as follows:

There shall be in the county of Grant, two judges of the superior court; in the ~~((counties))~~ county of ~~((Ferry and))~~ Okanogan ~~((jointly))~~, one judge of the superior court; in the counties of Mason and Thurston jointly, five judges of the superior court; in the counties of Pacific and Wahkiakum jointly, one judge of the superior court; in the counties of Ferry, Pend Oreille, and Stevens jointly, ~~((one))~~ two judges of the superior court; and in the counties of San Juan and Island jointly, two judges of the superior court.

NEW SECTION. Sec. 3. The additional judicial positions created by this 1981 act in the joint Benton and Franklin judicial district and the joint Ferry, Stevens, and Pend Oreille judicial district shall be effective only if, prior to the effective date of this act, each county in the respective judicial districts through its duly constituted legislative authority documents its approval of the additional positions and its agreement that it and the other counties comprising the judicial district will pay out of county funds, without reimbursement from the state, the same portion of expenses of such additional judicial positions which the judicial district as a whole provides for positions existing prior to the effective date of this act. The amount of funds

to be paid by each county is to be determined among the counties comprising each judicial district.

Passed the House April 16, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

CHAPTER 66

[House Bill No. 664]

CITIES AND TOWNS—ANNEXATION—TAX EXEMPT PROPERTY

AN ACT Relating to the direct petition method of annexation; amending section 35.13.130, chapter 7, Laws of 1965 as last amended by section 8, chapter 220, Laws of 1975 1st ex. sess. and RCW 35.13.130; and declaring an emergency.

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

Section 1. Section 35.13.130, chapter 7, Laws of 1965 as last amended by section 8, chapter 220, Laws of 1975 1st ex. sess. and RCW 35.13.130 are each amended to read as follows:

A petition for annexation of an area contiguous to a city or town may be made in writing addressed to and filed with the legislative body of the municipality to which annexation is desired. Except where all the property sought to be annexed is property of a school district, and the school directors thereof file the petition for annexation as in RCW 28A.58.044 authorized, the petition must be signed by the owners of not less than seventy-five percent in value(;) according to the assessed valuation for general taxation of the property for which annexation is petitioned: PROVIDED, That in cities and towns with populations greater than one hundred sixty thousand located east of the Cascade mountains, the owner of tax exempt property may sign an annexation petition and have the tax exempt property annexed into the city or town, but the value of the tax exempt property shall not be used in calculating the sufficiency of the required property owner signatures unless only tax exempt property is proposed to be annexed into the city or town. The petition shall set forth a description of the property according to government legal subdivisions or legal plats which is in compliance with RCW 35.02.170, and shall be accompanied by a plat which outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or of any portion of city or town indebtedness by the area annexed, and/or the adoption of a comprehensive plan for the area to be annexed, these facts, together with a quotation of the minute entry of such requirement or requirements shall be set forth in the petition.

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.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 16, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

CHAPTER 67

[Substitute House Bill No. 101]

ADMINISTRATIVE HEARINGS, OFFICE OF

AN ACT Relating to administrative law judges; amending section 2, chapter 234, Laws of 1959 as amended by section 2, chapter 237, Laws of 1967 and RCW 34.04.020; amending section 12, chapter 237, Laws of 1967 and RCW 34.04.022; amending section 73, chapter 151, Laws of 1979 as amended by section 3, chapter 265, Laws of 1979 ex. sess. and RCW 42.17.240; amending section 14, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 7, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.140; amending section 15.36.580, chapter 11, Laws of 1961 and RCW 15.36.580; amending section 8, chapter 256, Laws of 1961 and RCW 15.65.080; amending section 12, chapter 171, Laws of 1967 as amended by section 3, chapter 39, Laws of 1975 1st ex. sess. and RCW 18.26.120; amending section 15, chapter 57, Laws of 1970 ex. sess. as amended by section 6, chapter 243, Laws of 1977 ex. sess. and RCW 18.52.150; amending section 3, chapter 98, Laws of 1935 as last amended by section 2, chapter 90, Laws of 1979 and RCW 18.64.005; amending section 23, chapter 222, Laws of 1951 and RCW 18.85.251; amending section 4, chapter 71, Laws of 1941 as last amended by section 2, chapter 44, Laws of 1974 ex. sess. and RCW 18.92.030; amending section 14, chapter 71, Laws of 1941 as last amended by section 11, chapter 50, Laws of 1967 ex. sess. and RCW 18.92.180; amending section 13, chapter 222, Laws of 1977 ex. sess. and RCW 19.09.265; amending section 12, chapter 57, Laws of 1971 ex. sess. as amended by section 6, chapter 46, Laws of 1973 1st ex. sess. and RCW 28B.19.120; amending section 4, chapter 91, Laws of 1975-'76 2nd ex. sess. and RCW 46.12.330; amending section 36, chapter 121, Laws of 1965 ex. sess. as last amended by section 61, chapter 136, Laws of 1979 ex. sess. and RCW 46.20.329; amending section 3, chapter 75, Laws of 1965 ex. sess. as amended by section 2, chapter 77, Laws of 1977 and RCW 47.52.135; amending section 117, chapter 35, Laws of 1945 and RCW 50.32.010; amending section 27, chapter 62, Laws of 1933 ex. sess. as last amended by section 1, chapter 66, Laws of 1974 ex. sess. and RCW 66.24.010; amending section 69.50.505, chapter 308, Laws of 1971 ex. sess. as amended by section 1, chapter 77, Laws of 1977 ex. sess. and RCW 69.50.505; amending section 6, chapter 127, Laws of 1967 ex. sess. as last amended by section 133, chapter 81, Laws of 1971 and RCW 71.02.413; amending section 74.08.070, chapter 26, Laws of 1959 as last amended by section 1, chapter 92, Laws of 1979 ex. sess. and RCW 74.08.070; amending section 80.01.060, chapter 14, Laws of 1961 and RCW 80.01.060; amending section 13, chapter 18, Laws of 1935 as last amended by section 12, chapter 337, Laws of 1977 ex. sess. and RCW 88.16.100; adding a new chapter to Title 34 RCW; making an appropriation; declaring an emergency; and providing an effective date.

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

NEW SECTION. Section 1. A state office of administrative hearings is hereby created. The office shall be independent of state administrative

agencies and shall be responsible for impartial administration of administrative hearings in accordance with the legislative intent expressed by this chapter. Hearings shall be conducted with the greatest degree of informality consistent with fairness and the nature of the proceeding. The office shall be under the direction of a chief administrative law judge, appointed by the governor with the advice and consent of the senate, for a term of five years. The person appointed is required, as a condition of appointment, to be admitted to practice law in the state of Washington, and may be removed for cause.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Office" means the office of administrative hearings.

(2) "Administrative law judge" means any person appointed by the chief administrative law judge to conduct or preside over hearings as provided in this chapter.

(3) "Hearing" means a "contested case" within the meaning of RCW 34.04.010(3) conducted by a state agency.

(4) "State agency" means any state board, commission, department, or officer authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches, the pollution control hearings board, the shorelines hearings board, the forest practices appeals board, the environmental hearings office, the board of industrial insurance appeals, the state personnel board, the higher education personnel board, the public employment relations commission, and the board of tax appeals.

NEW SECTION. Sec. 3. (1) The chief administrative law judge shall appoint administrative law judges to fulfill the duties prescribed in this chapter. All administrative law judges shall have a demonstrated knowledge of administrative law and procedures. The chief administrative law judge may establish different levels of administrative law judge positions.

(2) The chief administrative law judge may also contract with qualified individuals to serve as administrative law judges for specified hearings. Such individuals shall be compensated for their services on a contractual basis for each hearing, in accordance with chapter 43.88 RCW. The chief administrative law judge may not contract with any individual who is at that time an employee of the state.

(3) The chief administrative law judge may appoint such clerical and other specialized or technical personnel as may be necessary to carry on the work of this chapter.

(4) The administrative law judges appointed under subsection (1) of this section are subject to discipline and termination, for cause, by the chief administrative law judge. Upon written request by the person so disciplined or terminated, the chief administrative law judge shall forthwith put the reasons for such action in writing. The person affected has a right of review by

the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(5) All employees of the office except the chief administrative law judge and the administrative law judges are subject to chapter 41.06 RCW.

(6) The office may adopt rules for its own operation and in furtherance of this chapter in accordance with chapter 34.04 RCW.

NEW SECTION. Sec. 4. Whenever a state agency conducts a hearing which is not presided over by officials of the agency who are to render the final decision, the hearing shall be conducted by an administrative law judge assigned under this chapter. In assigning administrative law judges, the chief administrative law judge shall wherever practical (1) use personnel having expertise in the field or subject matter of the hearing, and (2) assign administrative law judges primarily to the hearings of particular agencies on a long-term basis.

NEW SECTION. Sec. 5. (1) Any party to a hearing being conducted under the provisions of this chapter (including the state agency, whether or not it is nominally a party) may file with the chief administrative law judge a motion of prejudice, with supporting affidavit, against the administrative law judge assigned to preside at the hearing. The first such motion filed by any party shall be automatically granted.

(2) Any state agency may request from the chief administrative law judge the assignment of an administrative law judge for the purpose of conducting a rule-making or investigatory proceeding.

NEW SECTION. Sec. 6. When an administrative law judge presides at a hearing under this chapter, it shall be the duty of such judge, or in the event of his unavailability or incapacity, of another judge appointed by the chief administrative law judge, to issue a proposal for decision including findings of fact and conclusions of law in accordance with RCW 34.04.110.

NEW SECTION. Sec. 7. The chief administrative law judge may establish a method of making a record of all hearings and may employ or contract in order to implement such method.

NEW SECTION. Sec. 8. All hearings shall be conducted in conformance with the Administrative Procedure Act, chapter 34.04 RCW. After consultation with affected agencies, the chief administrative law judge may promulgate rules governing the procedural conduct of the hearings. Such rules shall seek the maximum procedural uniformity in agency hearings consistent with demonstrable needs for individual agency variation.

NEW SECTION. Sec. 9. (1) All state employees who have exclusively or principally conducted or presided over hearings for state agencies prior to July 1, 1982, shall be transferred to the office.

(2) All state employees who have exclusively or principally served as support staff for those employees transferred under subsection (1) of this section shall be transferred to the office.

(3) All equipment or other tangible property in possession of state agencies, used or held exclusively or principally by personnel transferred under subsection (1) of this section shall be transferred to the office unless the office of financial management, in consultation with the head of the agency and the chief administrative law judge, determines that the equipment or property will be more efficiently used by the agency if such property is not transferred.

NEW SECTION. Sec. 10. The chief administrative law judge shall be paid a salary fixed by the governor after recommendation of the state committee on salaries. The salaries of administrative law judges appointed under the terms of this chapter shall be determined by the chief administrative law judge after recommendation of the state committee on salaries.

NEW SECTION. Sec. 11. The creation of the office of administrative hearings and the transfer of duties and personnel under this chapter shall not affect the validity of any rule, action, decision, or proceeding held or promulgated by any state agency before July 1, 1982. This chapter applies to hearings occurring after July 1, 1982.

NEW SECTION. Sec. 12. (1) The governor shall appoint a chief administrative law judge to take office no later than the thirtieth day after the effective date of this section. In the interim period between appointment and July 1, 1982, the chief administrative law judge shall specifically plan and administer as efficiently as possible the initial implementation of this chapter and of RCW 34.04.020 and 34.04.022 as now or hereafter amended, and shall develop and submit a plan and budget for financing the office after July 1, 1982.

(2) During this interim period, the chief administrative law judge may hire support staff and purchase facilities and equipment necessary to the task.

Sec. 13. Section 2, chapter 234, Laws of 1959 as amended by section 2, chapter 237, Laws of 1967 and RCW 34.04.020 are each amended to read as follows:

In addition to other rule-making requirements imposed by law:

(1) Each agency shall adopt rules governing the formal and informal procedures prescribed or authorized by this chapter and rules of practice before the agency, together with forms and instructions: PROVIDED, That rules for the conduct of contested cases shall be those which are promulgated by the chief administrative law judge pursuant to RCW 34.04.022 (~~(shall apply to agencies which have not adopted comprehensive rules of practice and procedure, in accordance with the provisions of this chapter, prior to July 1, 1967)~~), as now or hereafter amended.

(2) To assist interested persons dealing with it, each agency shall adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain

information and make submissions or requests. No person (~~shall~~) may be required to comply with agency procedure not adopted as a rule as herein required.

(3) To the extent not prohibited by federal law or regulation, nor prohibited for reasons of confidentiality by state law, each agency shall keep on file for public inspection all final orders, decisions, and opinions in contested cases and any digest or index to those orders, decisions, or opinions prepared by the agency for its own use. No agency order, decision, or opinion is valid or effective against any person, nor may it be invoked by the agency for any purpose, unless it is available for public inspection as herein required. This provision is not applicable in favor of any person who has actual knowledge thereof.

Sec. 14. Section 12, chapter 237, Laws of 1967 and RCW 34.04.022 are each amended to read as follows:

On or before July 1, 1967, the code reviser shall add to Title I of the Washington Administrative Code a new chapter to be known as chapter 1-08 WAC—Uniform Procedural Rules, which shall become effective July 1, 1967, and shall govern the administrative practice and procedure in and before all agencies which have not adopted comprehensive rules of practice and procedure prior to that date. Except for the numbering thereof, such rules shall be identical with the rules contained in WAC 308-08-010 through 308-08-590 as the same existed on January 3, 1966: PROVIDED, That in publishing chapter 1-08 WAC the reviser may revise such terms as are used in chapter 308-08 WAC to describe "agency", "department", "board", "commission", and like terms, so as to enable the use of such rules by multiple agencies.

~~((This section shall not prohibit any such agency from hereafter adopting its own rules of practice and procedure in the manner provided by this chapter, if such agency shall elect to promulgate comprehensive rules on this subject and shall, in the order of adoption, expressly negative any further applicability to such agency of the rules contained in chapter 1-08 WAC.))~~ The chief administrative law judge shall promulgate uniform procedural rules governing the conduct of contested cases. The rules may consist of, may be based upon, or may completely replace the rules codified in chapter 1-08 WAC as of June 30, 1981. From time to time thereafter the chief administrative law judge may modify the uniform procedural rules.

The chief administrative law judge may adopt rules with variations from the uniform rules for an agency if the chief administrative law judge determines there are sufficient demonstrable needs for variations. Variations shall, to the greatest practicable extent, embody the uniform rules of practice and procedure.

Sec. 15. Section 73, chapter 151, Laws of 1979 as amended by section 3, chapter 265, Laws of 1979 ex. sess. and RCW 42.17.240 are each amended to read as follows:

(1) Every elected official (except president, vice president, and precinct committeemen), every chief executive state officer as specified in RCW 43-.17.020, as now or hereafter amended, the chief administrative law judge, the director of financial management, the director of personnel, the director of the planning and community affairs agency, the director of the state system of community colleges, the executive director of the data processing authority, the executive secretary of the forest practice appeals board, the director of the gambling commission, the director of the higher education personnel board, the secretary of transportation, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the administrator of the interagency committee for outdoor recreation, the director of parks and recreation, the executive secretary of the board of prison terms and paroles, the administrator of the public disclosure commission, the director of retirement systems, the secretary of the utilities and transportation commission, the executive secretary of the board of tax appeals, the secretary of the state finance committee, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college, each professional staff member of the office of the governor, each professional staff member of the legislature, and each member of the state board for community college education, data processing authority, forest practices board, forest practices appeals board, gambling commission, game commission, higher education personnel board, transportation commission, horse racing commission, human rights commission, board of industrial insurance appeals, liquor control board, interagency committee for outdoor recreation, parks and recreation commission, personnel board, board of prison terms and paroles, public disclosure commission, public employees' retirement system board, public pension commission, University of Washington board of regents, Washington State University board of regents, board of tax appeals, teachers' retirement system board of trustees, Central Washington University board of trustees, Eastern Washington University board of trustees, The Evergreen State College board of trustees, Western Washington University board of trustees, board of trustees of each community college, and the utilities and transportation commission, shall after January 1st and before April 15th of each year for the preceding calendar year; and every candidate, and every person appointed to fill a vacancy in an elective office (except for the offices of president, vice president, and precinct committeeman) shall, within two weeks of becoming a candidate or being appointed to such elective office, and every person appointed to the appointive positions enumerated herein shall, within two weeks of being so appointed, for the preceding twelve months; file with the commission a written statement sworn as to its truth and accuracy stating for himself and all members of his immediate family: PROVIDED, That no individual shall be required to file more than once in any calendar

year: PROVIDED HOWEVER, That a statement of a candidate or appointee filed during the period January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of such statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year:

(a) Occupation, name of employer, and business address; and

(b) Each bank or savings account or insurance policy in which any such person or persons owned a direct financial interest which exceeded five thousand dollars at any time during such period; each other item of intangible personal property in which any such person or persons owned a direct financial interest, the value of which exceeded five hundred dollars during such period; and the name, address, nature of entity, nature and highest value of each such direct financial interest during the reporting period; and

(c) The name and address of each creditor to whom the value of five hundred dollars or more was owed; the original amount of each debt to each such creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each such debt; and the security given, if any, for each such debt: PROVIDED, That debts arising out of a "retail installment transaction" as defined in chapter 63.14 RCW (Retail Installment Sales Act) need not be reported; and

(d) Every public or private office, directorship and position as trustee held; and

(e) All persons for whom any legislation, or any rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation: PROVIDED, That for the purposes of this subsection, "compensation" shall not include payments made to the person reporting by the governmental entity for which such person serves as an elected or appointed public officer or professional staff member for his service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; and

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of five hundred dollars or more; the value of such compensation; and the consideration given or performed in exchange for such compensation; and

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and with respect to each such entity: (i) With respect to a governmental unit in which the official holds any office or position, if such

entity has received compensation in any form during the preceding twelve months from such governmental unit, the value of such compensation and the consideration given or performed in exchange for such compensation; (ii) The name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which such entity has received compensation in any form in the amount of two thousand five hundred dollars or more during the preceding twelve months and the consideration given or performed in exchange for such compensation: PROVIDED, That the term "compensation" for purposes of this subsection (1)(g)(ii) shall not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing such service: PROVIDED, FURTHER, That with respect to any bank or commercial lending institution in which is held any such office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of such bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by such bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by such bank or commercial lending institution if such interest exceeds six hundred dollars; and

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for such interest; and

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for such interest, and the name and address of the person furnishing such consideration; and

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which a direct financial interest was held: PROVIDED, That if a description of such property has been included in a report previously filed, such property may be listed, for purposes of this provision, by reference to such previously filed report; and

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds five thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm or enterprise a ten percent or greater ownership interest was held; and

(l) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall by rule prescribe.

(2) Where an amount is required to be reported under subsection (1), paragraphs (a) through (k) of this section, it shall be sufficient to comply with such requirement to report whether the amount is less than one thousand dollars, at least one thousand dollars but less than five thousand dollars, at least five thousand dollars but less than ten thousand dollars, at least ten thousand dollars but less than twenty-five thousand dollars, or twenty-five thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection shall be interpreted to prevent any person from filing more information or more detailed information than required.

Sec. 16. Section 14, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 7, chapter 326, Laws of 1977 ex. sess. and RCW 9.46-.140 are each amended to read as follows:

(1) The commission or its authorized representative may:

(a) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder; and

(b) Inspect the books, documents, and records of any person lending money to or in any manner financing any license holder or applicant for a license or receiving any income or profits from the use of such license for the purpose of determining compliance or noncompliance with the provisions of this chapter or the rules and regulations adopted pursuant thereto.

(2) For the purpose of any investigation or proceeding under this chapter, the commission or (~~any officer designated by rule~~) an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) may conduct hearings, administer oaths or affirmations, or upon the commission's or (~~officer's~~) administrative law judge's motion or upon request of any party may subpoena witnesses, compel attendance, take depositions, take evidence, or require the production of any matter which is relevant to the investigation or proceeding, including but not limited to the existence, description, nature, custody, condition, or location of any books, documents, or other tangible things, or the identity or location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

(3) Upon failure to obey a subpoena or to answer questions propounded by the ~~((investigating officer))~~ administrative law judge and upon reasonable notice to all persons affected thereby, the director may apply to the superior court for an order compelling compliance.

(4) The ~~((commission may appoint hearing officers to))~~ administrative law judges appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) may conduct hearings respecting the suspension, revocation, or denial of licenses, who may administer oaths, admit or deny admission of evidence, compel the attendance of witnesses, issue subpoenas, issue orders, and exercise all other powers and perform all other functions set out in RCW 34.04.090 (6) and (8), 34.04.100, and 34.04.105. ~~((The salaries and expenses of such hearing officers may be paid from any revenues available to the commission.))~~

(5) Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedure act, chapter 34.04 RCW.

Sec. 17. Section 15.36.580, chapter 11, Laws of 1961 and RCW 15.36-.580 are each amended to read as follows:

In case of a written protest from any fluid milk producer, fluid milk distributor, or health officer, concerning the enforcement of any provisions of this chapter or of any rules and regulations thereunder, the director, or ~~((his duly authorized assistant,))~~ an administrative law judge within ten days after receipt of such protest and after five days written notice thereof to the party against whom the protest is made, shall hold a summary hearing in the county where either the party protesting or protested against resides, upon the completion of which the director or ~~((his duly authorized assistant))~~ an administrative law judge shall make such written findings of fact and order as the circumstances may warrant: PROVIDED, That if the protest originates with a producer, the hearings shall be held in the county where the protesting producer resides. Such findings and order shall be final and conclusive upon all parties from and after their effective date, which date shall be five days after being signed and deposited postage prepaid in the United States mails addressed to the last known address of all said parties. An appeal from such findings or order may be taken within ten days of their effective date to the superior court of the county in which the hearing is held upon such notice and in such manner as appeals are taken from judgments rendered in justice court.

Sec. 18. Section 8, chapter 256, Laws of 1961 and RCW 15.65.080 are each amended to read as follows:

Every hearing held pursuant to this chapter shall be public and all testimony shall be received under oath and a permanent record thereof maintained. ~~((The director may designate an employee of the department or other qualified person as an examiner (which person is designated herein, "hearing examiner") in))~~ An administrative law judge appointed under

chapter 34... RCW (sections 1 through 12 of this 1981 act) may preside over any inquiry, investigation, hearing, or proceeding held pursuant to this chapter and for such purpose such examiner may exercise any power herein conferred upon the director in connection therewith, including the power to administer oaths, examine witnesses and to issue subpoenas. At each such hearing the director or the administrative law judge shall receive evidence with respect to all of the matters and things upon which he must make a finding.

Sec. 19. Section 12, chapter 171, Laws of 1967 as amended by section 3, chapter 39, Laws of 1975 1st ex. sess. and RCW 18.26.120 are each amended to read as follows:

Any person, firm, corporation, or public officer may submit a written complaint to the secretary charging the holder of a license to practice chiropractic with unprofessional conduct, specifying the grounds therefor. If the board determines that such complaint merits consideration, or if the board shall have reason to believe, without a formal complaint, that any holder of a license has been guilty of unprofessional conduct, the chairman may designate three members to serve as a committee to hear and report upon such charges, or the board may sit as a whole to hear such charges, or the board may (~~designate a hearing officer~~) request the appointment of an administrative law judge under chapter 34... RCW (sections 1 through 12 of this 1981 act) to hear and report to the board upon such charges.

Sec. 20. Section 15, chapter 57, Laws of 1970 ex. sess. as amended by section 6, chapter 243, Laws of 1977 ex. sess. and RCW 18.52.150 are each amended to read as follows:

Unless otherwise specifically provided in this chapter, all proceedings under this chapter of the director and board for rule making, for the hearings required by this chapter, for contested cases, and for appeals shall be conducted in conformity with the administrative procedure act. In matters involving reprimand, suspension, revocation, refusal of reregistration, or denial of licenses, the board shall require clear, cogent, and convincing evidence before the board orders action. Complaints regarding any licensed administrator shall be considered only if submitted to the director in writing and signed. If a complaint indicates a possible violation of the provisions of this chapter, it shall be investigated by the director. Additionally, the director on his own initiative may, or, upon order of the board, shall, initiate an investigation of possible violations of this chapter. The director shall advise the board of all complaints received and action taken.

If, after investigation the chairman of the board, or the board, decides that there is reasonable cause to believe that grounds exist for a reprimand, or for denial, suspension, refusal of reregistration, or revocation of a license issued or to be issued under this chapter, the director shall notify the applicant or licensee in writing and serve him personally, or by certified mail, with return receipt requested, stating the grounds for the reprimand or upon

which the license is to be denied, suspended, revoked, or reregistration refused, and shall make available, upon request, so much of the investigative information as relates to any grounds asserted for proposed action.

Within twenty days of the service or receipt of notice of the alleged grounds for reprimand, denial, suspension, revocation, or refusal ((or)) of reregistration, the applicant or licensee may serve upon the director a written request for hearing before the board. Service of a request for a hearing shall be made personally or by certified mail, return receipt requested, and in the latter event shall be addressed to the director at the director's office in Thurston county.

Upon receiving a request for a hearing, the director shall refer the matter to the board to arrange for a hearing. Hearings may be conducted by the board, by a committee of the board the majority of which shall be administrator members, ~~((a hearing officer engaged by the board who shall be a licensed administrator, or by a hearing examiner of the state))~~ or by an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act).

If the applicant or licensee does not file a timely request for a hearing in accordance with the provisions of this section, the director shall refer the matter to the board for appropriate action which may be taken without further notice to the applicant or licensee.

Sec. 21. Section 3, chapter 98, Laws of 1935 as last amended by section 2, chapter 90, Laws of 1979 and RCW 18.64.005 are each amended to read as follows:

The board shall:

(1) Regulate the practice of pharmacy and administer and enforce all laws placed under its jurisdiction;

(2) Prepare, grade, and administer or determine the nature of, and supervise the grading and administration of, examinations for applicants for pharmacists' licenses;

(3) Examine, inspect, and investigate all applicants for license as pharmacists or pharmacy interns and grant licenses to all applicants whom it shall judge to be properly qualified;

(4) Determine the fees for licenses and examinations;

(5) Employ an executive officer, inspectors, investigators, chemists, and other agents as necessary to assist it for any purpose which it may deem necessary;

(6) Investigate violations of the provisions of law or regulations under its jurisdiction, and cause prosecutions to be instituted in the courts;

(7) Make inspections and investigations of pharmacies and other places, including dispensing machines, in which drugs or devices are stored, held, compounded, dispensed, sold, or administered to the ultimate consumer, to take and analyze any drugs or devices and to seize and condemn any drugs

or devices which are adulterated, misbranded, stored, held, dispensed, distributed, administered, or compounded in violation of or contrary to law;

(8) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the board, ~~((and/or appoint a hearing officer to conduct such hearings))~~ which hearings may also be conducted by an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act);

(9) Issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the board;

(10) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, and/or any other laws or rules under its jurisdiction;

(11) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for refusal, suspension, or revocation of licenses or any other authority to practice issued by the board;

(12) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter; and

(13) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed in good faith as members of such board. Such immunity shall apply to employees of the board when acting at the direction of the board in the course of disciplinary proceedings.

Sec. 22. Section 23, chapter 222, Laws of 1951 and RCW 18.85.251 are each amended to read as follows:

The proceedings for revocation or suspension of a license or refusal to renew a license or accept an application for renewal shall be had on motion of the director or after a statement in writing verified by some person or persons familiar with the facts upon which the proposed revocation, suspension, or refusal is based has been filed with the director. Upon receipt of such statement or accusation, the director shall make a preliminary investigation of the facts charged to determine whether the statement or accusation is sufficient. If the director shall determine the statement or accusation is sufficient to require formal action, the director shall thereupon set the matter for hearing at a specified time and place. A copy of such order setting time and place and a copy of the verified statement shall be served upon the licensee involved not less than twenty days before the day appointed in the order for said hearing. The department of licenses, the licensee accused, and the person making the accusation may be represented by counsel at such a hearing. The director or ~~((his authorized representative))~~ an administrative law judge appointed under chapter 34... RCW

(sections 1 through 12 of this 1981 act) shall hear and receive pertinent evidence and testimony.

Sec. 23. Section 4, chapter 71, Laws of 1941 as last amended by section 2, chapter 44, Laws of 1974 ex. sess. and RCW 18.92.030 are each amended to read as follows:

It shall be the duty of the board to prepare examination questions, conduct examinations, and grade the answers of applicants. The board shall supervise the conduct of those practicing veterinary medicine, surgery, and dentistry and shall make such recommendations as it deems necessary to the director in regard to the granting, suspension, or revocation of licenses. It shall be the duty of the board to adopt a code of ethics for the practice of the veterinary profession in this state. The board, pursuant to chapter 34.04 RCW, shall have the power to adopt such rules and regulations as may be necessary to effectuate the purposes of this ~~((1974 amendatory act))~~ chapter including the performance of the duties and responsibilities of animal technicians: PROVIDED, HOWEVER, That no animal technician ((shall be allowed to)) may diagnose, prognose, prescribe, or perform surgery, other than inoculations, on any animal. The board shall further have the power to adopt, by reasonable rules and regulations, standards prescribing requirements for veterinary medical facilities and to fix minimum standards of continuing veterinary medical education.

The board may employ a secretary who shall be exempt from the provisions of chapter 41.06 RCW and whose duties shall include carrying on correspondence of the board, maintaining records of board proceedings, and such other duties as may be assigned from time to time to him by the board. The department shall be the official office of record.

The board shall have the power to conduct hearings for the revocation or suspension of licenses ~~((and shall have the authority to appoint a hearing officer to conduct such hearings))~~. Such hearings may be conducted by an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act).

Sec. 24. Section 14, chapter 71, Laws of 1941 as last amended by section 11, chapter 50, Laws of 1967 ex. sess. and RCW 18.92.180 are each amended to read as follows:

In all proceedings having for their purpose the revocation or suspension of a license to practice veterinary medicine, surgery, and dentistry, the holder of such license shall be given twenty days notice in writing which shall specify the offense or offenses against this chapter with which said accused person is charged, and said notice shall also give the day and place where the hearing is to be held. The board or ~~((its designated hearing officer))~~ an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) shall have the power to issue subpoenas to compel the attendance of witnesses, or the production of books or documents. The accused person shall have opportunity to make his defense, and

may have issued such subpoenas as he may desire. Witnesses shall testify under oath. The board or ~~((its designated hearing officer))~~ the administrative law judge shall hear and determine the charges and shall make findings and conclusion upon the evidence produced, and shall file the same in the director's office, together with a transcript of all the evidence, a duplicate copy of which shall be served upon the accused. The revocation or suspension of a license to practice shall be in writing signed by the director, stating the grounds upon which such order is based.

Sec. 25. Section 13, chapter 222, Laws of 1977 ex. sess. and RCW 19-09.265 are each amended to read as follows:

For the purpose of any investigation, proceeding, or hearing under this chapter, the director or ~~((any officer designated by rule))~~ an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) may (1) administer oaths or affirmations and (2) upon the director's or administrative law judge's own motion, or upon request of any party to a hearing, shall subpoena witnesses, compel their attendance, require the production of any matter which is relevant to the investigation, proceeding, or hearing, and take evidence on all relevant matters, including matters reasonably calculated to lead to the discovery of material evidence. Subpoenas issued by the director or ~~((his designee))~~ the administrative law judge shall be served in accordance with the provisions of law governing the service of subpoenas in actions in superior court. If any person refuses to obey a subpoena issued under this section, or refuses to answer any proper question put to him during a hearing or proceeding, the director or ~~((his designee))~~ the administrative law judge may petition the superior court of any county in which such person resides or is found for an order requiring such person to appear and give evidence, or to produce the requested material, or to answer the proposed question. Any failure to obey such order of the court may be punished by the court as a civil contempt may be punished.

Unless another place is named by the director or ~~((his designee))~~ the administrative law judge, all hearings and proceedings shall be located in Olympia, and all subpoenaed physical evidence or exhibits, whether demanded in relation to a hearing, proceeding, or investigation, shall be produced in Olympia.

Sec. 26. Section 12, chapter 57, Laws of 1971 ex. sess. as amended by section 6, chapter 46, Laws of 1973 1st ex. sess. and RCW 28B.19.120 are each amended to read as follows:

(1) In any contested case where informal procedures authorized by RCW 28B.19.110(1) are not used and where the formal procedures are invoked because of necessity or request in accordance with RCW 28B.19.110(2), or by institutional rule in accordance with RCW 28B.19.110(3), as in section 6, chapter 46, Laws of 1973 1st ex. sess. amended, all parties shall be afforded an opportunity for hearing after not less than ten days' notice. The notice shall include:

(a) A statement of the time, place, and nature of the proceeding;
(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular rules of the institution involved;

(d) A short and plain statement of the matters asserted. If the institution or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

(2) Hearings may be held or conducted by any officer or committee authorized by the president of any institution of higher education or administrative law judges appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act). The (~~hearing officer~~) administrative law judge or committee shall determine whether the hearing shall be open to the educational community in which it takes place, or whether particular persons should be permitted in attendance or excluded from attendance.

(3) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved, and to examine and cross-examine witnesses.

(4) Statements, testimony, and all other evidence given at an informal proceeding authorized pursuant to RCW 28B.19.110(1) shall be confidential and shall not be subject to discovery or released to anyone, including the officer or committee conducting a formal hearing or the parties involved, or used for impeachment purposes, without permission of the person who divulged the information.

(5) Unless precluded by law, informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default, or other established informal procedure.

(6) The record in a contested case shall include:

(a) All documents, motions, and intermediate rulings;

(b) Evidence received or considered;

(c) A statement of matters officially noticed;

(d) Questions and offers of proof, objections, and rulings thereon;

(e) Proposed findings and exceptions; and

(f) Any decision, opinion, or report by the officer or committee chairman presiding at the hearing.

(7) Oral proceedings shall be transcribed if necessary for the purposes of rehearing, or court review. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and payment of the costs thereof.

(8) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(9) Each institution shall adopt appropriate rules of procedure for notice and hearing informal contested cases.

(10) Institutions, or their authorized ((hearing)) officer, administrative law judge, or committee, may:

(a) Administer oaths and affirmations, examine witnesses, and receive evidence, and no person ((staff)) may be compelled to divulge information which he could not be compelled to divulge in a court of law;

(b) Issue subpoenas;

(c) Take or cause depositions to be taken pursuant to rules promulgated by the institution, and no person ((staff)) may be compelled to divulge information which he could not be compelled to divulge by deposition in connection with a court proceeding;

(d) Regulate the course of the hearing;

(e) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(f) Dispose of procedural requests or similar matters;

(g) Make decisions or proposals for decisions; and

(h) Take any other action authorized by rule consistent with this chapter.

Sec. 27. Section 4, chapter 91, Laws of 1975-'76 2nd ex. sess. and RCW 46.12.330 are each amended to read as follows:

(1) Any person may submit a written request for a hearing to establish a claim of ownership or right to lawful possession of the vehicle, watercraft, camper, or component part thereof seized pursuant to this section.

(2) Upon receipt of a request for hearing, one shall be held before the chief law enforcement officer of the seizing agency or ((his designee)) an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act).

(3) Such hearing shall be held within a reasonable time after receipt of a request therefor. Reasonable investigative activities, including efforts to establish the identity of the article or articles and the identity of the person entitled to the lawful possession or custody of the article or articles shall be considered in determining the reasonableness of the time within which a hearing must be held.

(4) The hearing and any appeal therefrom shall be conducted in accordance with ((chapter 34.04)) Title 34 RCW.

(5) The burden of producing evidence shall be upon the person claiming to be the lawful owner or to have the lawful right of possession to the article or articles.

(6) Any person claiming ownership or right to possession of an article or articles subject to disposition under RCW 46.12.310 through 46.12.340 may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is two hundred dollars or more. In a

court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to judgment for costs and reasonable attorney's fees. For purposes of this section the seizing law enforcement agency shall not be considered a claimant.

(7) The seizing law enforcement agency shall promptly release the article or articles to the claimant upon a determination by the ~~((hearing officer))~~ administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof.

Sec. 28. Section 36, chapter 121, Laws of 1965 ex. sess. as last amended by section 61, chapter 136, Laws of 1979 ex. sess. and RCW 46.20.329 are each amended to read as follows:

Upon receiving a request for a formal hearing as provided in RCW 46.20.328, the department shall fix a time and place for hearing as early as may be arranged in the county where the applicant or licensee resides, and shall give ten days' notice of the hearing to the applicant or licensee, except that the hearing may be set for a different place with the concurrence of the applicant or licensee and the period of notice may be waived.

Any decision by the department suspending or revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as herein provided or during the pendency of a subsequent appeal to superior court: **PROVIDED**, That this stay shall be effective only so long as there is no conviction of a moving violation or a finding that the person has committed a traffic infraction which is a moving violation during pendency of hearing and appeal: **PROVIDED FURTHER**, That nothing in this section shall be construed as prohibiting the department from seeking an order setting aside the stay during the pendency of such appeal in those cases where the action of the department is based upon physical or mental incapacity, or a failure to successfully complete an examination required by this chapter.

A formal hearing shall be conducted by the director or by ~~((a referee))~~ an administrative law judge or hearing board appointed ~~((by him from officers or employees of the department))~~ under chapter 34... RCW (sections 1 through 12 of this 1981 act). Such ~~((referee))~~ administrative law judge or hearing board may be authorized by the director to make final determinations regarding the issuance, denial, or suspension, or revocation of a license.

Sec. 29. Section 3, chapter 75, Laws of 1965 ex. sess. as amended by section 2, chapter 77, Laws of 1977 and RCW 47.52.135 are each amended to read as follows:

At the hearing any representative of the county, city or town, or any other person may appear and be heard even though such official or person is not an abutting property owner. Such hearing may, at the option of the

highway authority, be conducted in accordance with federal laws and regulations governing highway design public hearings. The members of such authority shall preside, or may (~~designate some suitable person to preside as examiner~~) request the appointment of an administrative law judge under chapter 34... RCW (sections 1 through 12 of this 1981 act). The authority shall introduce by competent evidence a summary of the proposal for the establishment of a limited access facility and any evidence that supports the adoption of the plan as being in the public interest. At the conclusion of such evidence, any person entitled to notice who has entered a written appearance shall be deemed a party to this hearing for purposes of this chapter and may thereafter introduce, either in person or by counsel, evidence and statements or counterproposals bearing upon the reasonableness of the proposal. Any such evidence and statements or counterproposals shall receive reasonable consideration by the authority before any proposal is adopted. Such evidence must be material to the issue before the authority and shall be presented in an orderly manner.

Sec. 30. Section 117, chapter 35, Laws of 1945 and RCW 50.32.010 are each amended to read as follows:

The commissioner shall establish one or more impartial appeal tribunals, each of which shall consist of (~~a salaried examiner~~) an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) who shall decide the issues submitted to the tribunal. No (~~examiner shall~~) administrative law judge may hear or decide any disputed claim in any case in which he is an interested party. Wherever the term "appeal tribunal" or "the appeal tribunal" is used in this title the same refers to an appeal tribunal established under the provisions of this section. Notice of any appeal or petition for hearing taken to an appeal tribunal in any proceeding under this title may be filed with such agency as the commissioner may by regulation prescribe.

Sec. 31. Section 27, chapter 62, Laws of 1933 ex. sess. as last amended by section 1, chapter 66, Laws of 1974 ex. sess. and RCW 66.24.010 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. The board may, in its discretion, grant or refuse the license applied for. No retail license of any kind (~~shall~~) may be issued to:

(a) A person who is not a citizen of the United States, except when the privilege is granted by treaty;

(b) 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;

(c) A person who has been convicted of a felony within five years prior to filing his application;

(d) A copartnership, unless all of the members thereof are qualified to obtain a license, as provided in this section;

(e) 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;

(f) A corporation, unless all of the officers thereof are citizens of the United States.

(3) 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. The board may ~~((appoint examiners))~~ request the appointment of administrative law judges under chapter 34... RCW (sections 1 through 12 of this 1981 act) 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.

Witnesses shall be allowed fees at the rate of four dollars per day, plus ten cents per mile each way. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

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 ~~((examiners))~~ administrative law judges, or on the refusal of a witness to testify to any matter regarding which he 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 ~~((examiner))~~ 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, with a memorandum of the suspension written or stamped upon the face thereof in red ink. 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 ~~((staff))~~ may allow or cause any liquor to be delivered to or for any person at the premises of that licensee.

(5) 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: PROVIDED, That the foregoing expiration date shall not apply

to class A, B, C, D, or H licenses issued for premises located on the site of any world exposition approved by the Bureau of International Expositions held in this state, and such licenses shall be valid without renewal for a period of two hundred days from and including the opening day of such exposition, or from and including such earlier date specified by the applicant.

(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.

(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 ~~((board of))~~ county ~~((commissioners))~~ 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 ~~((board of))~~ county ~~((commissioners))~~ 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 ~~((chapter 34.04))~~ Title 34 RCW, as now or hereafter amended. Upon the granting of a license under this title the board shall cause a duplicate of the license to be transmitted to the chief executive officer of the incorporated city or town in which the license is granted, or to the ~~((board of))~~ county ~~((commissioners))~~ 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 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: PROVIDED, That the board shall issue no beer retailer license class A, B, or D or wine retailer license class C covering any premises not now licensed, if such premises are within five hundred feet of the premises of any church, parochial, or 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 church or school grounds to the nearest public entrance of the premises proposed for license, unless the board shall receive written notice from an official representative or representatives of the schools and/or churches within five hundred feet of said proposed licensed premises, indicating to the board that there is no objection to the issuance of such license because of

proximity to a school or church. 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.

(10) The restrictions set forth in the preceding subsection shall not prohibit the board from authorizing the transfer of existing licenses now located within the restricted area to other persons or locations within the restricted area: **PROVIDED**, Such transfer shall in no case result in establishing the licensed premises closer to a church or school than it was before the transfer.

Sec. 32. Section 69.50.505, chapter 308, Laws of 1971 ex. sess. as amended by section 1, chapter 77, Laws of 1977 ex. sess. and RCW 69.50-.505 are each amended to read as follows:

(a) The following are subject to seizure and forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) All property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraphs (1) or (2), but:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is 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) No conveyance is 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 his knowledge or consent;

(iii) A conveyance is not subject to forfeiture for a violation of RCW 69.50.401(c); and,

(iv) 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

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.

(b) Property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) 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;

(3) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b), proceedings for forfeiture shall be 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, 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.

(d) 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 (a)(4) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(e) 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 (a)(4) of this section within forty-five 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 the chief law enforcement officer of the seizing agency or ~~((the chief law enforcement officer's designee))~~ an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act), 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 article or articles involved is more than five hundred dollars. A hearing before the seizing agency and any appeal therefrom shall be under ~~((chapter 34.04))~~ 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 attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of items specified in subsection (a)(4) of this section. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the ~~((hearing officer))~~ 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 (a)(4) of this section.

(f) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(1) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;

(3) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(4) Forward it to the Bureau for disposition.

(g) Controlled substances listed in Schedule I, II, III, IV₂ and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV₂ and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(h) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(i) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

Sec. 33. Section 6, chapter 127, Laws of 1967 ex. sess. as last amended by section 133, chapter 81, Laws of 1971 and RCW 71.02.413 are each amended to read as follows:

In any case where determination is made that a person, or the estate of such person, is able to pay all, or any portion of the monthly charges for hospitalization, and/or charges for outpatient services, a notice of finding of responsibility shall be served on such person or persons and the legal representative of such person. The notice shall set forth the amount the department has determined that such person, or his or her estate, is able to pay per month not to exceed the monthly costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 71.02.410, or as otherwise limited by the provisions of RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417. The responsibility for the payment to the department of social and health services shall commence thirty

days after service of such notice and finding of responsibility which finding of responsibility shall cover the period from the date of admission of such mentally ill person to a state hospital, and for the costs of hospitalization, and/or the costs of outpatient services, accruing thereafter. The notice and finding of responsibility shall be served upon all persons found financially responsible either personally, or, by registered or certified mail, enclosing a form for acknowledgment of service with return postage prepaid. If service is by mailing and a form of acknowledgment of service is not executed and returned to the department, then personal service must be made for the finding of responsibility to be effective. An appeal may be made to the secretary of social and health services, or his designee within thirty days from the date of posting of such notice and finding of responsibility, upon the giving of written notice of appeal to the secretary of social and health services by registered or certified mail, or by personal service. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeal may be presided over by ~~((a hearing examiner appointed by the secretary))~~ an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act), and the proceedings shall be recorded either manually or by a mechanical device. At the conclusion of such hearing, the ~~((hearing examiner))~~ administrative law judge shall make findings of fact and his conclusions and recommended determination of responsibility. Thereafter, the secretary, or his designee, may either affirm, reject, or modify the findings, conclusions, and determination of responsibility made by the ~~((hearing examiner))~~ administrative law judge. Judicial review of the secretary's determination of responsibility in the superior court, the court of appeals, and the supreme court may be taken in accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW.

Sec. 34. Section 74.08.070, chapter 26, Laws of 1959 as last amended by section 1, chapter 92, Laws of 1979 ex. sess. and RCW 74.08.070 are each amended to read as follows:

Any applicant or recipient feeling himself aggrieved by the decision of the department or any authorized agency of the department shall have the right to a fair hearing to be conducted by the secretary of the department or by ~~((a duly appointed, qualified hearing examiner especially appointed by the secretary))~~ an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) for such purpose. The hearing shall be conducted in the county in which the appellant resides, and a tape recording of the testimony shall be made and included in the record, the costs of which shall be borne by the department. A copy of this tape recording shall be provided the appellant if request for same is made in writing by the appellant or his attorney of record.

In the event an appellant feels aggrieved by the decision in a fair hearing under this section, and if the appellant files an appeal to the superior court for judicial review in accordance with chapter 34.04 RCW as now or hereafter amended, the appellant is entitled to a typed transcript of the tape recordings or such portion thereof as the applicant requests from the department, if the request is made by the appellant or the appellant's attorney of record.

Any appellant who desires a fair hearing shall within ninety days after receiving notice of the decision of the department or an authorized agency of the department, file with the secretary a notice of appeal from the decision. The department shall notify the appellant of the time and place of said hearing at least twenty days prior to the date thereof by registered mail or by personal service upon said appellant, unless otherwise agreed by appellant and the department.

At any time after the filing of the notice of appeal with the secretary, any appellant or attorney for appellant with written authorization or next of kin shall have the right of access to, and can examine any files and records of the department related to the case ~~((of {om}))~~ on appeal.

It shall be the duty of the department within seventy-five days after receipt of the notice of appeal to notify the appellant of the decision of the secretary: PROVIDED, That any overpayment which the department may be entitled to recover as a result of such decision shall be limited to the amount recoverable up to the sixtieth day after receipt of the notice of appeal.

If the decision of the secretary is made in favor of the appellant, assistance shall be paid from the date of the denial of the application 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 initial departmental county office decision.

Sec. 35. Section 80.01.060, chapter 14, Laws of 1961 and RCW 80.01-.060 are each amended to read as follows:

The commission shall have the power to ~~((designate employees of the commission as examiners))~~ request the appointment of administrative law judges under chapter 34... RCW (sections 1 through 12 of this 1981 act) when it deems such action necessary for its general administration. Such ~~((examiners))~~ administrative law judges shall have power to administer oaths, to issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony, to 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 commission may adopt.

Sec. 36. Section 13, chapter 18, Laws of 1935 as last amended by section 12, chapter 337, Laws of 1977 ex. sess. and RCW 88.16.100 are each amended to read as follows:

The board shall have power on its own motion or, in its discretion, upon the written request of any interested party, to investigate the performance of pilotage services subject to this chapter and to suspend, withhold, or revoke the license of any pilot for misconduct, incompetency, inattention to duty, intoxication, or failure to perform his duties under this chapter, or violation of any of the rules or regulations provided by the board for the government of pilots. When the board determines that reasonable cause exists to suspend, revoke, or withhold any pilot's license it shall forthwith prepare and personally serve upon such pilot a notice advising him of the board's intended action, the specific grounds therefor, and the right to request a hearing to challenge the board's action. The pilot shall have thirty days from the date on which notice is served to request a full hearing before ~~((a hearing officer))~~ an administrative law judge on the issue of suspension, revocation, or withholding of his pilot's license. The board's proposed suspension, revocation, or withholding of a license shall become final upon the expiration of thirty days from the date notice is served, unless a hearing has been requested prior to that time. When a hearing is requested the board shall ~~((appoint a hearing officer who shall be an active member of the Washington state bar association and, in the opinion of the board;))~~ request the appointment of an administrative law judge under chapter 34... RCW (sections 1 through 12 of this 1981 act) who has sufficient experience and familiarity with pilotage matters to be able to conduct a fair and impartial hearing. The hearing shall be governed by the provisions of ((chapter 34-04)) Title 34 RCW. All final decisions of the ~~((hearing officer))~~ administrative law judge shall be subject to review by the superior court of the state of Washington for Thurston county or by the superior court of the county in which the pilot maintains his residence or principal place of business, to which court any case with all the papers and proceedings therein shall be immediately certified by the ~~((hearing officer))~~ administrative law judge if requested to do so by any party to the proceedings at any time within thirty days after the date of any such final decision. No appeal may be taken after the expiration of thirty days after the date of final decision. Any case so certified to the superior court shall be tried de novo and after certification of the record to said superior court the proceedings shall be had as in a civil action.

NEW SECTION. Sec. 37. To carry out this act, there is appropriated to the office of the chief administrative law judge from the general fund for the fiscal year from July 1, 1981, through June 30, 1982, the sum of one hundred twenty thousand dollars, or so much thereof as may be necessary.

NEW SECTION. Sec. 38. Sections 1 through 12 of this act shall constitute a new chapter in Title 34 RCW.

NEW SECTION. Sec. 39. 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. 40. Sections 12 and 37 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. The remainder of the act shall take effect July 1, 1982.

Passed the House April 16, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

CHAPTER 68

[Second Substitute House Bill No. 157]

PUBLIC CONTRACTS—UNPAID BALANCES—INTEREST PAYMENT

AN ACT Relating to public contracts; and adding a new chapter to Title 39 RCW.

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

NEW SECTION. Section 1. (1) Except as provided in section 2 of this act, every state agency and unit of local government shall pay interest at the rate of one percent per month, but at least one dollar per month, on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel, whenever the state agency or unit of local government fails to make timely payment.

(2) For purposes of this section, payment shall be timely if:

(a) A check or warrant is mailed or is available on the date specified for the amount specified in the applicable contract documents or, if no date is specified, within thirty days of receipt of a properly completed invoice or receipt of goods or services, whichever is later.

(b) For any amount which is required to be withheld under state or federal law, a check or warrant is mailed or is available in the proper amount on the date the amount may be released under the applicable law.

NEW SECTION. Sec. 2. Section 1 of this act does not apply to the following:

(1) Interagency or intergovernmental transactions;

(2) Amounts payable to employees or prospective employees of state agencies or local governmental units as reimbursement for expenses;

(3) Belated claims for any time of delinquency after July 31 following the second year of the fiscal biennium;

(4) Claims subject to a good faith dispute, when before the date of timely payment, notice of the dispute is:

(a) Sent by certified mail;

(b) Personally delivered; or

- (c) Sent in accordance with procedures in the contract;
- (5) Delinquencies due to natural disasters, disruptions in postal or delivery service, work stoppages due to labor disputes, power failures, or any other cause resulting from circumstances clearly beyond the control of the unit of local government or state agency;
- (6) Contracts entered before the effective date of this act; and
- (7) Payment from any retirement system listed in RCW 41.50.030 and chapter 41.24 RCW.

NEW SECTION. Sec. 3. Any state agency required to pay late payment penalties under this chapter shall pay the penalties from funds designated for administrative costs of the agency receiving the public works, personal services, goods and services, equipment, or travel and shall not be paid from funds appropriated for client services.

NEW SECTION. Sec. 4. In any action brought to collect interest due under this chapter, the prevailing party is entitled to an award of reasonable attorney fees.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act shall constitute a new chapter in Title 39 RCW.

Passed the House April 16, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

CHAPTER 69

[Substitute House Bill No. 490]

ENERGY FAIR '83—APPROPRIATION

AN ACT Relating to state participation in the Energy Fair '83 exposition; making an appropriation; and declaring an emergency.

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

NEW SECTION. Section 1. The legislature finds that Energy Fair '83 will provide direct and indirect benefits to the state, its citizens, and the local units of government in the Tri-Cities area. This unique fair will provide a forum for discussing and educating the public on many dynamic and varied aspects of energy and energy issues. The proposed energy fair is projected to generate nearly six million dollars in additional tax income to the state, over one thousand jobs resulting from the construction and operation of the fair, and over one hundred forty million dollars in indirect economic benefits to the state.

The legislature also finds that Energy Fair '83 will nurture a new-found pride and attitude in the Tri-Cities and provide a fairground of lasting importance. By encouraging the building of this fairground, the state and the

Tri-Cities area will have long-term residual benefits in addition to the needed education on energy issues.

The legislature finds that because of the varied economic, cultural, and educational benefits the use of state funds to aid in making Energy Fair '83 a reality is an investment which will have a manifold return to the state. It is therefore not only fitting, but prudent, for the state to participate in Energy Fair '83.

NEW SECTION. Sec. 2. There is appropriated to the office of financial management from the general fund for the biennium ending June 30, 1983, the sum of one million five hundred thousand dollars, or so much thereof as may be necessary, to be disbursed to the department of commerce and economic development, the state energy office, and the department of natural resources, or their successor agencies, for the development, installation, and presentation of an exhibition at Energy Fair '83 during the period of the exposition.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 2, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor April 26, 1981.

Filed in Office of Secretary of State April 26, 1981.

CHAPTER 70

[Engrossed Senate Bill No. 3009]

HORSE RACE LICENSEES—PARIMUTUEL POOL SALES, OUT-OF-STATE TELEVISED RACES

AN ACT Relating to the horse racing commission; amending section 2, chapter 55, Laws of 1933 as last amended by section 1, chapter 216, Laws of 1973 1st ex. sess. and RCW 67.16.012; and amending section 3, chapter 55, Laws of 1933 as amended by section 80, chapter 75, Laws of 1977 and RCW 67.16.015; adding a new section to chapter 67.16 RCW; and declaring an emergency.

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

****Section 1. Section 2, chapter 55, Laws of 1933 as last amended by section 1, chapter 216, Laws of 1973 1st ex. sess. and RCW 67.16.012 are each amended to read as follows:***

There is hereby created the Washington horse racing commission, to consist of ((three)) five commissioners, who shall be citizens, residents, and qualified electors of the state of Washington, and one of whom shall be a breeder of race horses ((and he shall be)) of at least one year's standing. No more than three members may be appointed to the commission from any one of the approximate geographic areas surrounding the three major racetracks

in this state; these geographic areas commonly referred to as western, central, and eastern Washington. ~~((The first))~~ At least two members of ~~((said))~~ the commission shall not be directly connected with the horse racing industry; two such members shall be appointed by the governor within thirty days after ~~((March 3, 1933))~~ the effective date of this 1981 act, one for a term to expire on the Thursday following the second Monday in January of ~~((1935))~~ 1984, and one for a term to expire on the Thursday following the second Monday in January of ~~((1937, and one for a term to expire on the Thursday following the second Monday in January of 1939,))~~ 1986. Upon ~~((which))~~ the expiration of the term of any member, the governor shall appoint a successor for a term of six years. Each member shall hold office until his successor is appointed and qualified. Vacancies in the office of commissioner shall be filled by appointment to be made by the governor for the unexpired term. Any commissioner may be removed at any time at the pleasure of the governor: PROVIDED, That any member or successor that is appointed or reappointed by the governor ~~((after August 11, 1969, shall be confirmed by the senate.))~~ during a legislative session or in the interim thereafter shall not continue to serve beyond the adjournment of the next regular legislative session unless confirmed by the senate. An appointee failing to be confirmed shall not be reappointed to the same position for a period of one year from termination of service. Before entering upon the duties of his office, each commissioner shall enter into a surety company bond, to be approved by the governor and attorney general, payable to the state of Washington, in the penal sum of five thousand dollars, conditioned upon the faithful performance of his duties and the correct accounting and payment of all sums received and coming within his control under this chapter, and in addition thereto each commissioner shall take and subscribe to an oath of office of the same form as that prescribed by law for elective state officers.

*Section 1 was vetoed, see message at end of chapter.

*Sec. 2. Section 3, chapter 55, Laws of 1933 as amended by section 80, chapter 75, Laws of 1977 and RCW 67.16.015 are each amended to read as follows:

The commission shall organize by electing one of its members chairman, and shall appoint and employ a secretary, and such other clerical, office, and other help as is necessary in the performance of the duties imposed upon it by this chapter. Three members of the commission constitute a quorum for the conduct of its business. The commission shall keep detailed records of all meetings and of the business transacted therein, and of all the collections and disbursements. The commission shall prepare and submit an annual report to the governor. All records of the commission shall be public records and as such, subject to public inspection.

*Sec. 2. was vetoed, see message at end of chapter.

*NEW SECTION. Sec. 3. There is added to chapter 67.16 RCW a new section to read as follows:

Upon written application to the commission by a licensee holding a race meet, and approval by the commission, the licensee may conduct the sale of parimutuel pools on out-of-state televised races of *national interest, including without limitation*, the Kentucky Derby, Preakness and Belmont races: PROVIDED, That the sale of such parimutuel pools shall be conducted only within the enclosure of the licensee's race course and only during the conduct of a race meet in the state of Washington by said licensee.

*Sec. 3. was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 25, 1981.

Passed the House April 16, 1981.

Approved by the Governor April 30, 1981, with the exception of Section 1, Section 2, and a portion of Section 3 which are vetoed.

Filed in Office of Secretary of State April 30, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to three sections of Senate Bill No. 3009 entitled:

"An Act Relating to the horse racing commission."

I am vetoing these sections because the first two sections create a larger commission than is desirable in this State; and section three without the veto would allow indiscriminate betting on races from other tracks with exclusive television lines.

With the exception of Sections 1, Section 2 and a portion of Section 3, which I have vetoed, the remainder of Senate Bill No. 3009 is approved."

CHAPTER 71

[Second Substitute House Bill No. 624]

SUPPLEMENTAL BUDGET—DEPARTMENT OF SOCIAL AND HEALTH SERVICES, SENATE, SUNDRY CLAIMS

AN ACT Relating to state agencies; adopting a supplemental budget; making supplemental appropriations and authorizing expenditures; amending section 13, chapter 245, Laws of 1979 ex. sess. (uncodified); amending section 6, chapter 248, Laws of 1979 ex. sess. (uncodified); amending section 59, chapter 270, Laws of 1979 ex. sess. as last amended by section 20, chapter 5, Laws of 1981 (uncodified); amending section 4, chapter 137, Laws of 1980 (uncodified); amending section 8, chapter 219, Laws of 1979 ex. sess. (uncodified); amending section 173, chapter 270, Laws of 1979 ex. sess. (uncodified); creating new sections; and declaring an emergency.

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

NEW SECTION. Section 1. A supplemental budget as set forth in sections 2 through 7 of this 1981 act is hereby adopted and, subject to the provisions set forth in sections 2 through 7 of this 1981 act, the several amounts specified in sections 2 through 7 of this 1981 act, or so much

thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be disbursed for salaries, wages, and other expenses of the designated agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 1979, and ending June 30, 1981, except as otherwise provided, out of the several funds of the state hereinafter named, and making other appropriations.

NEW SECTION. Sec. 2. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ADULT CORRECTIONS PROGRAM

General Fund Appropriation \$ 7,095,000

The appropriation contained in this section shall be subject to the following condition or limitation: \$500,000 of this appropriation shall be contingent upon prior approval of the director of the office of financial management and shall be used exclusively to accommodate population increases above projected institutional bed space capacity and community caseload capacity or to continue contracted community programs through the 1979-1981 biennium.

NEW SECTION. Sec. 3. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MENTAL HEALTH PROGRAM

General Fund Appropriation \$ 1,200,000

The appropriation contained in this section shall be subject to the following conditions:

- (1) \$750,000 is provided solely for Western State Hospital, of which \$200,000 is for the conversion of fuel costs.
- (2) \$450,000 is provided solely for Eastern State Hospital.

NEW SECTION. Sec. 4. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MEDICAL ASSISTANCE PROGRAM

General Fund Appropriation—State	\$	500,000
General Fund Appropriation—Federal	\$	500,000
Total Appropriation	\$	1,000,000

The appropriation contained in this section shall be expended exclusively for the continuation of the following optional medical services proposed for elimination during the period from June 1, 1981 through June 30, 1981: (1) prescription medications; (2) oxygen and respiratory supplies; and (3) other optional medical supplies, the deprivation of which would be life threatening. The appropriation contained in this section shall be held in reserve, to be expended only upon a determination by the office of financial management that moneys previously appropriated for medical assistance for the 1979-81 biennium are inadequate for this purpose.

NEW SECTION. Sec. 5. Expenditures for adult dental services shall be authorized for clients whose plans of treatment have been approved by the department of social and health services, and whose treatment has begun

prior to March 1, 1981, and whose pre-authorized dental work in the judgment of the dentist, as re-examined and re-approved by the department of social and health services, must be completed to avoid severe medical problems resulting from the fact that the dental treatment begun prior to March 1, 1981, was left in an incomplete state.

NEW SECTION. Sec. 6. The adoption of this supplemental budget shall not be construed as a ratification by the legislature of any illegal expenditures made by any person and shall not excuse any person from liability that may exist as a result of such illegal expenditures.

NEW SECTION. Sec. 7. FOR THE SENATE

General Fund Appropriation \$ 350,000

Sec. 8. Section 13, chapter 245, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

There is appropriated from the general fund to the department of social and health services for the 1979-1981 biennium the sum of one million dollars(~~(, or so much as may be necessary,)~~) to carry out the purposes of this act. (~~(Seven hundred thousand dollars of the amount appropriated shall be used for grants to shelters under section 9 of this act. The remaining three hundred thousand dollars shall be used to fund sections 3, 5, and 6 of this act.)~~) Funds unexpended or unencumbered as of the effective date of this 1981 amendatory act may be transferred and expended for other programs of the department of social and health services with the approval of the office of financial management.

Sec. 9. Section 6, chapter 248, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

There is appropriated to the department of social and health services from the general fund, the sum of two hundred fifty thousand dollars(~~(, or so much thereof as may be necessary,)~~) to carry out the purposes of this act. Funds unexpended or unencumbered as of the effective date of this 1981 amendatory act may be transferred and expended for other programs of the department of social and health services with the approval of the office of financial management.

Sec. 10. Section 59, chapter 270, Laws of 1979 ex. sess. as last amended by section 20, chapter 5, Laws of 1981 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—INCOME MAINTENANCE GRANTS PROGRAM

General Fund Appropriation—State	\$	362,698,000
General Fund Appropriation—Federal	\$	266,072,000
Total Appropriation	\$	628,770,000

The appropriations contained in this section shall be subject to the following conditions and limitations:

(1) \$1,496,000 from state funds shall be expended to increase the personal needs allowance of clients in nursing homes and congregate care facilities to \$32.50 per month.

(2) \$5,036,000 (of which \$448,000 shall be from federal funds) shall be expended solely for vendor rate increases of 7.0% per year.

(3) \$760,000 from state general funds (~~(shall)~~) may be expended to provide forty-eight hours of shelter care for victims of domestic violence.

(4) \$360,000 from state general funds may be expended to provide a variable one-time allowance for persons without resources who are discharged from a skilled nursing facility.

(5) \$900,000 of state funds and \$600,000 of federal funds shall be expended to place Kitsap county residents into Area I grant standards eligibility and pay such grants accordingly.

(6) Not more than \$1,869,000 shall be expended exclusively to increase compensation for employees of congregate care facilities, excluding administrative staff.

(7) From the appropriation contained in this section, the department shall implement a 1.0% grant standard increase for all public assistance recipients effective July 1, 1980, in addition to the grant increase provided in subsection (1) of this section; except that, up to an additional 2.0% grant standard increase for all public assistance recipients may be implemented from the savings generated by the supplemental security income cost-of-living increase provided for fiscal year 1981.

(8) \$1,834,000 (of which \$917,000 shall be from state funds) is provided for the federal emergency assistance program at the food only level.

Sec. 11. Section 4, chapter 137, Laws of 1980 (uncodified) is amended to read as follows:

There is appropriated to the department of social and health services from the general fund for the biennium ending June 30, 1981, the sum of two hundred seventy thousand dollars(~~(; or so much thereof as may be necessary;)~~) to carry out the purposes of this act(~~(; except that, if federal funds become available to carry out the purposes of this act, then state general fund moneys shall be conserved with federal funds)~~). Funds unexpended or unencumbered as of the effective date of this 1981 amendatory act may be transferred and expended for other programs of the department of social and health services with the approval of the office of financial management.

Sec. 12. Section 8, chapter 219, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

To carry out the provisions of this act there is appropriated from the general fund to the department of social and health services for the biennium ending June 30, 1981, the sum of three hundred fifty thousand dollars(~~(; or so much thereof as may be necessary)~~) to carry out the purposes of this act. Funds unexpended or unencumbered as of the effective date of this 1981 amendatory act may be transferred and expended for other programs

of the department of social and health services with the approval of the office of financial management.

Sec. 13. Section 173, chapter 270, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

The following sums, or so much thereof as shall severally be found necessary, are hereby appropriated and authorized to be expended out of the several funds indicated, for the period July 1, 1979, to June 30, 1981.

SUNDRY CLAIMS

General Fund Appropriations, except as otherwise provided, for relief of various individuals, firms, and corporations for sundry claims and for the reason that the state of Washington recognizes a moral obligation to these claimants. These appropriations are to be disbursed on vouchers approved by the chief fiscal officer of the executive branch, except as otherwise provided, as follows:

- (1) HAROLD GIVENS, CARL KASZYCKI,
Judgment against the state in Residents for
a Planned Peninsula et al. vs. DSHS \$ 15,770.00
- (2) ARCHITECTURAL WOODS, INC.,
Judgment against the state in Architectural
Woods vs. the State: PROVIDED, That the
chief fiscal officer of the executive branch is
authorized and directed to draw up a separate
voucher, such voucher to be presigned
by Architectural Woods, Inc. or by its directors
prior to the release of the warrant,
which voucher shall state: "By the acceptance
of this amount the undersigned release
the state of Washington and all political
subdivisions thereof, and their agents, from
any further claims, except that the state
may become liable for interest payment accruing
from October 27, 1977, if, and only if, it is so
ordered by the Supreme Court of Washington."
. \$ 36,615.23
- (3) DAVID PARKER AND DENTON P. ANDREWS,
Payment of writ of mandate for costs assessed
against the state in State vs. David C. Parker
. \$ 616.23
- (4) EVERGREEN PLAZA INVESTORS AND EVERGREEN DEVELOPMENT
CORP., Judgment against the state in Evergreen
Plaza Investors vs. Washington

State Higher Education Assistance Authority, et al., for breach of contract	\$	7,937.70
(5) LLOYD STEWART AND JOE McADAMS, Payment of costs assessed against the state in State vs. Lloyd Paul Stewart	\$	24.74
(6) THOMAS M. WRIGHT, Payment of costs assessed against the state in State ex rel. Seeze vs. Thomas Marion Wright	\$	92.00
(7) MOE BIRNBAUM, Payment of guardian ad litem services performed for the state: PROVIDED, That the state shall have subrogation rights to payment of such services against the defendant in State ex rel. Evon vs. David S. F. Fijalka	\$	200.00
(8) GRACIE BROCK AND JOHN A. BARLOW, Payment of costs assessed against the state in dismissal of murder charge	\$	774.70
(9) CHRISTIANSEN BROTHERS, INC., Judgment on settlement agreement, together with accrual of interest at 8% per annum from June 6, 1977: PROVIDED, That payment come from the State Higher Education Construction Account	\$	204,120.00
(10) STEVE TROUTMAN, Payment of cost bill and remittitur No. 44748 from Washington Supreme Court in State vs. Troutman	\$	522.94
(11) UNION PACIFIC RAILROAD, Payment of settled amount for demurrage charges	\$	33,940.00
(12) PHYLLIS ALM, Payment of retirement contributions: PROVIDED, That payment shall come from the Retirement Systems Fund	\$	211.27
(13) EUGENIA STOWE, Payment of retirement contributions: PROVIDED, That payment shall come from the Retirement Systems Fund	\$	90.39
(14) NARAMORE, BAIN, BRADY AND JOHANSON, ARCHITECTS, Final payment due on contract: PROVIDED, That payment shall come from the State Higher		

<p>Education Construction Account: PROVIDED FURTHER, That the chief fiscal officer of the executive branch is directed and authorized to draw up a separate voucher, such voucher to be presigned by Naramore, et al., or its directors, prior to the release of the warrant, which voucher shall state: "By the acceptance of this amount the undersigned release the state of Washington and all political subdivisions thereof, and their agents, from any further claims with regard to the contract for services upon the physical sciences building at WSU."</p>	<p>\$ 44,771.68</p>
<p>(15) DAVID WEBB, Payment for unjust imprisonment: PROVIDED, That the chief fiscal officer of the executive branch is authorized and directed to draw up a separate voucher to be presigned by David Webb prior to the release of the warrant, which voucher shall state: "By the acceptance of this amount the undersigned releases the state of Washington and all political subdivisions thereof, and their agents, from any further claims with regard to payment of relief for unjust imprisonment."</p>	<p>\$ 20,000.00</p>
<p>(16) DAVID ABRAHAM BLOCH, Judgment for costs of dismissal of felony charge in State vs. Bloch</p>	<p>\$ 110.00</p>
<p>(17) RUTH PALMER, Payment pursuant to order of mandamus for costs assessed against the state in Palmer et al. vs. State Personnel Board</p>	<p>\$ 107.00</p>
<p>(18) BURRELL FINDLAY, Payment of claim for damage to certain heavy machinery incurred while performing voluntary emergency services for the highway department: PROVIDED, That the chief fiscal officer of the executive branch is authorized and directed to draw up a separate voucher to be presigned by Mr. Burrell Findlay prior to the release of the warrant, which voucher shall state: "By the receipt of this amount, the undersigned releases the state of Washington and all political subdivisions</p>	

- thereof, and their agents, from any further claim with regard to property damage incurred while performing volunteer services for the highway department \$ 13,000.00
- (19) DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Payment for claims outstanding submitted to the department after the 60-day statutory limit: PROVIDED, That such claims shall be paid at fifty percent of their approved value: PROVIDED FURTHER, That (~~(\$90,000)~~) \$42,000 shall be from federal sources \$ 1,100,000.00
- (20) EDMOND WARD, Payment for loss of personal tools while such were under security protection of department of transportation \$ 167.84
- (21) RUSSELL E. JOHNSON, Payment for loss of personal tools while such were under security protection of department of transportation \$ 421.77
- ~~((22) MRS. HARRY FOSTER, Payment of balance of deceased husband's retirement contributions: PROVIDED, That such payment shall represent full and complete satisfaction of this obligation by the state: PROVIDED FURTHER, That payment shall come from the Judges' Retirement Systems Fund \$ 1,488.99~~
- ~~(23) MRS. DEL CARY SMITH, Payment in full of deceased husband's retirement contributions, such payment to come from the Judges' Retirement Systems Fund \$ 15,836.36)~~
- ((24)) (22) WILLIAM VAN KLAVEREN, Payment of retirement contributions: PROVIDED, That payment shall come from the Retirement Systems Fund \$ 550.72
- ((25)) (23) FLORENCE R. STANDING, Payment for relief, plus interest, for death of the husband of Florence Standing in the amount which would have been payable under the Victims of Crimes Act if section 8, chapter 302, Laws of 1977 ex. sess. had been made retroactive to apply to Florence Standing's claim: PROVIDED, That this

retroactive payment of relief measured by the Victims of Crimes Act does not preclude the claimant from seeking additional judicial relief.	\$	10,290.00
((26)) (24) VIRGIL PRICE, Payment for watch stolen during holdup of state liquor store: PROVIDED, That payment shall come from the Liquor Revolving Fund— State	\$	150.00
((27)) (25) GRACE AND GEORGE BURTON, For relief of the death of their daughter, payment of the amount provided for under the Victims of Crimes Act: PROVIDED, That this retroactive payment of relief does not preclude the claimant from seeking additional judicial relief	\$	1,182.00
((28)) (26) UNITED NURSING HOMES, ET AL., Plaintiffs in Thurston County Superior Court cases 55007 and 55613, to be disbursed by the court upon recommendation of the settlement reviewer pursuant to agreed judgment entered on December 28, 1978: PROVIDED, That the department shall seek reimbursement of not less than ((4,100,000)) \$4,067,610 from federal matching funds	\$	8,200,000.00
(27) <u>Seattle Community College District for reimbursement of payment for judgment against the district in Rodrigo L. Barron, et al. v. State</u>	\$	100,000.00

NEW SECTION. Sec. 14. 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. 15. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

- Passed the House April 26, 1981.
- Passed the Senate April 26, 1981.
- Approved by the Governor April 30, 1981.
- Filed in Office of Secretary of State April 30, 1981.

CHAPTER 72

[Substitute House Bill No. 335]

EDMONDS COMMUNITY COLLEGE—DISTRICT NO. 23 CREATED

AN ACT Relating to community college districts; amending section 28B.50.040, chapter 223, Laws of 1969 ex. sess. as amended by section 7, chapter 46, Laws of 1973 1st ex. sess. and RCW 28B.50.040; creating new sections; and declaring an emergency.

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

Section 1. Section 28B.50.040, chapter 223, Laws of 1969 ex. sess. as amended by section 7, chapter 46, Laws of 1973 1st ex. sess. and RCW 28B.50.040 are each amended to read as follows:

The state of Washington is hereby divided into (~~twenty-two~~) twenty-three community college districts as follows:

(1) The first district shall encompass the counties of Clallam and Jefferson;

(2) The second district shall encompass the counties of Grays Harbor and Pacific;

(3) The third district shall encompass the counties of Kitsap and Mason;

(4) The fourth district shall encompass the counties of San Juan, Skagit and Island;

(5) The fifth district shall encompass Snohomish county except for the Northshore common school district and that portion encompassed by the twenty-third district created in subsection (23) of this section: PROVIDED, That the fifth district shall encompass the Everett Community College;

(6) The sixth district shall encompass the present boundaries of the common school districts of Seattle and Vashon Island, King county;

(7) The seventh district shall encompass the present boundaries of the common school districts of Shoreline in King county and Northshore in King and Snohomish counties;

(8) The eighth district shall encompass the present boundaries of the common school districts of Lake Washington, Bellevue, Issaquah, Lower Snoqualmie, Mercer Island, Skykomish and Snoqualmie, King county;

(9) The ninth district shall encompass the present boundaries of the common school districts of Federal Way, Highline and South Central, King county;

(10) The tenth district shall encompass the present boundaries of the common school districts of Auburn, Black Diamond, Renton, Enumclaw, Kent, Lester and Tahoma, King county, and the King county portion of Puyallup common school district No. 3;

(11) The eleventh district shall encompass all of Pierce county, except for the present boundaries of the common school districts of Tacoma and Peninsula;

(12) The twelfth district shall encompass the counties of Lewis and Thurston;

(13) The thirteenth district shall encompass the counties of Cowlitz, and Wahkiakum;

(14) The fourteenth district shall encompass the counties of Clark, Skamania and that portion of Klickitat county not included in the sixteenth district;

(15) The fifteenth district shall encompass the counties of Chelan, Douglas and Okanogan;

(16) The sixteenth district shall encompass the counties of Kittitas, Yakima, and that portion of Klickitat county included in United States census divisions 1 through 4;

(17) The seventeenth district shall encompass the counties of Ferry, Lincoln (except consolidated school district 105-157-166J and the Lincoln county portion of common school district 167-202), Pend Oreille, Spokane, Stevens and Whitman;

(18) The eighteenth district shall encompass the counties of Adams and Grant, and that portion of Lincoln county comprising consolidated school district 105-157-166J and common school district 167-202;

(19) The nineteenth district shall encompass the counties of Benton and Franklin;

(20) The twentieth district shall encompass the counties of Asotin, Columbia, Garfield and Walla Walla;

(21) The twenty-first district shall encompass Whatcom county;

(22) The twenty-second district shall encompass the present boundaries of the common school districts of Tacoma and Peninsula, Pierce county;

(23) The twenty-third district shall encompass that portion of Snohomish county within such boundaries as the state board for community college education shall determine: PROVIDED, That the twenty-third district shall encompass the Edmonds Community College.

NEW SECTION. Sec. 2. The current board of trustees of community college district No. 5 shall prepare a detailed plan to describe and accomplish the division of district No. 5. This plan will provide for the distribution of all personnel, physical and other assets and any other details as prescribed by the state board for community college education. This plan is to be submitted to the state board for community college education for approval on or before May 1, 1981. The state board for community college education will act on the plan and adjudicate all contested matters prior to June 30, 1981.

NEW SECTION. Sec. 3. After the effective date of this amendatory act, all campus employees of both the Everett Community College and the Edmonds Community College shall continue to perform their usual duties upon the same terms as formerly, without any loss of rights: PROVIDED,

That all campus employees of Edmonds Community College on the effective date of this act, whether:

(1) Classified under chapter 28B.16 RCW, the state higher education personnel law;

(2) Faculty members or exempt employees; or

(3) Otherwise employed by the community college district principally for Edmonds Community College purposes, shall be assigned to the new community college district, No. 23, created in section 1 of this amendatory act, to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any appropriate action of the new community college board of trustees thereafter in accordance with the laws of this state.

Of those other employees of community college district No. 5 not considered campus employees, the community college board of trustees of district No. 5 shall make a fair allocation thereof as between said district No. 5 and the new community college district No. 23: PROVIDED, That whenever any question arises as to the assignment of such employees, the state board for community college education shall make a determination as to the proper assignment and shall certify its decision: PROVIDED FURTHER, That all classified employees allocated under the provisions of this paragraph shall perform their duties upon the same terms as formerly and without any loss in rights, subject to any appropriate action of the community college board of trustees of the community college district to which they are allocated, in accordance with the laws of this state.

NEW SECTION. Sec. 4. All real and personal property, including but not limited to, all reports, documents, surveys, books, records, files, papers, or other writings in the possession of authorities, departments, and offices being a part of Edmonds Community College on the effective date of this amendatory act, shall be delivered to the custody of the new community college district, No. 23. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the powers and duties of Edmonds Community College on the effective date of this amendatory act, shall be made available to the new community college district, No. 23, on or before the effective date of this amendatory act. All funds, credits, or other assets held in connection with the powers and duties exercised with respect to Edmonds Community College on the effective date of this amendatory act shall be assigned to the new community college district, No. 23.

Any appropriations made to carry out the powers and duties exercised with respect to Edmonds Community College on the effective date of this amendatory act, shall on the effective date of this amendatory act be transferred and credited to the new community college district, No. 23, for the purpose of carrying out such powers and duties.

Whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred under this amendatory act, the state board for community college education shall make a determination as to the proper allocation and certify the same to the agencies concerned.

NEW SECTION. Sec. 5. Members of the board of trustees of community college district No. 5 who reside within the boundaries of community college district No. 23, created in section 1 of this amendatory act, shall be transferred to positions on the board of community college district No. 23. They shall serve until their existing term of office would have otherwise been completed. Additional trustees as needed shall be appointed to fill vacancies on the boards of community college districts No. 5 and No. 23 as otherwise provided in RCW 28B.50.100.

NEW SECTION. Sec. 6. All rules and regulations, and all pending business before the Edmonds Community College on the effective date of this amendatory act shall be continued and acted upon by the new community college district, No. 23. All existing contracts and obligations pertaining to Edmonds Community College on the effective date of this amendatory act shall remain in full force and effect, and shall be performed by the new community college district, No. 23. No transfer under this amendatory act shall affect the validity of any particular act performed with respect to Edmonds Community College or by any officer or employee thereof, prior to the effective date of this amendatory act.

*NEW SECTION. Sec. 7. If apportionments of budgeted funds are required because of the transfers authorized in this amendatory act, the state board for community college education shall certify such apportionments to the districts affected, the director of financial management, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification: ***PROVIDED, That no funds may be transferred from the instructional programs to fund staff positions.***

*Sec. 7. was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 8. Any school district within Snohomish county may enter into interlocal cooperation agreements with any community college located within Snohomish county pursuant to the provisions of chapter 39.34 RCW.

NEW SECTION. Sec. 9. Nothing contained in this amendatory act shall be construed to alter any provision of any existing collective bargaining agreement until any such agreement has expired or been modified pursuant to chapter 28B.52 RCW.

NEW SECTION. Sec. 10. Nothing in this amendatory act shall be construed to affect any existing rights, nor as affecting any actions, activities, or proceedings validated prior to the effective date of this amendatory act, nor as affecting any civil or criminal proceedings, nor any rule, regulation, or order promulgated, nor any administrative action taken prior to the effective date of this amendatory act, and the validity of any act performed with respect to Edmonds Community College, or any officer or employee thereof prior to the effective date of this amendatory act, is hereby validated.

NEW SECTION. Sec. 11. In keeping with the need for immediacy pursuant to section 14 of this amendatory act, the transfer of Edmonds Community College to district No. 23 shall be effective July 1, 1981. The current board of trustees of district No. 5 shall coordinate its actions or policy decisions which impact the Edmonds Community College with the director of the state system of community colleges. The state board for community college education shall take such action as necessary to immediately implement the creation of new community college district No. 23 in accordance with the provisions of this amendatory act.

NEW SECTION. Sec. 12. The phrase "the effective date of this amendatory act" as used in sections 3, 4, 6 and 10 of this amendatory act shall mean July 1, 1981: **PROVIDED**, That nothing in this amendatory act shall prohibit any transfers mandated in section 4 hereof nor the action contemplated in section 11 hereof prior to such July 1, 1981.

NEW SECTION. Sec. 13. If any provision of this amendatory 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. 14. This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 23, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor April 30, 1981, with the exception of the proviso in Section 7, which is vetoed.

Filed in Office of Secretary of State April 30, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to the proviso in Section 7, Substitute House Bill No. 335 entitled:

"An Act Relating to community college districts."

Section 7 of this bill delineates certain requirements of the State Board of Community College Education. A proviso, however, added to this section, restricts the use of instructional funds at Everett and Edmonds Community College. This

proviso is inconsistent with the intent of the 1981-83 appropriations act. In addition, the provision, which does not apply to other community colleges, is unnecessarily restrictive on the effective management of the first new community college district since the creation of the community college system.

Consequently, I have vetoed the proviso beginning after the colon on line 12 down through and including the word "positions" on line 14.

With the exception of the proviso in Section 7, which I have vetoed, the remainder of Substitute House Bill No. 335 is approved."

CHAPTER 73

[Senate Bill No. 3632]

BANKS—MERGER, CONVERSION, PROHIBITED, TIME PERIOD

AN ACT Relating to banks and banking; amending section 30.08.020, chapter 33, Laws of 1955 as last amended by section 4, chapter 104, Laws of 1973 1st ex. sess. and RCW 30.08.020; amending section 30.40.020, chapter 33, Laws of 1955 as last amended by section 35, chapter 53, Laws of 1973 1st ex. sess. and RCW 30.40.020; providing an effective date; and declaring an emergency.

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

Section 1. Section 30.08.020, chapter 33, Laws of 1955 as last amended by section 4, chapter 104, Laws of 1973 1st ex. sess. and RCW 30.08.020 are each amended to read as follows:

Persons desiring to incorporate a bank or trust company shall file with the supervisor a notice of their intention to organize a bank or trust company in such form and containing such information as the supervisor shall prescribe by regulation, together with proposed articles of incorporation, which shall be submitted for examination to the supervisor at his office in Olympia.

The proposed articles of incorporation shall state:

- (1) The name of such bank or trust company.
- (2) The city, village or locality and county where such corporation is to be located.
- (3) The nature of its business, whether that of a commercial bank, a savings bank or both or a trust company.
- (4) The amount of its capital stock, which shall be divided into shares of not less than ten dollars each, nor more than one hundred dollars each, as may be provided in the articles of incorporation.
- (5) The period for which such corporation is organized, which may be for a stated number of years or perpetual.
- (6) The names and places of residence of the persons who as directors are to manage the corporation until the first annual meeting of its stockholders.
- (7) ~~((That for a stated number of years, which shall be not less than ten nor more than twenty))~~ In articles filed on or before June 1, 1985, for four years from the date of approval of the articles (a) no voting share of the corporation shall, without the prior written approval of the supervisor, be

affirmatively voted for any proposal which would have the effect of sale, conversion, merger, or consolidation to or with, any other banking entity or affiliated financial interest, whether through transfer of stock ownership, sale of assets, or otherwise, (b) the corporation shall take no action to consummate any sale, conversion, merger, or consolidation in violation of this subdivision, (c) this provision of the articles shall not be revoked, altered, or amended by the shareholders without the prior written approval of the supervisor, and (d) all stock issued by the corporation shall be subject to this subdivision and a copy hereof shall be placed upon all certificates of stock issued by the corporation.

Sec. 2. Section 30.40.020, chapter 33, Laws of 1955 as last amended by section 35, chapter 53, Laws of 1973 1st ex. sess. and RCW 30.40.020 are each amended to read as follows:

A bank or trust company having a paid-in capital of not less than five hundred thousand dollars may, with the approval of the supervisor, establish and operate branches in any city or town within the state. A bank or trust company having a paid-in capital of not less than two hundred thousand dollars may, with the approval of the supervisor, establish and operate branches within the limits of the county in which its principal place of business is located. A bank having a paid-in capital of not less than one million dollars may, with the approval of the supervisor, establish and operate branches in any foreign country. The supervisor's approval of a branch within this state shall be conditioned on a finding that the resources in the neighborhood of the proposed location and in the surrounding country offer a reasonable promise of adequate support for the proposed branch and that the proposed branch is not being formed for other than the legitimate objects covered by this title. The supervisor's approval of a branch in a foreign country shall be conditioned on a finding that the proposed location offers a reasonable promise of adequate support for the proposed branch, that the proposed branch is not being formed for other than the legitimate objects covered by this title, and that the principal purpose for establishing such branch is to aid in financing or facilitating exports and/or imports and the exchange of commodities with any foreign country or the agencies or nationals thereof.

The aggregate paid-in capital stock of every bank or trust company operating branches shall at no time be less than the aggregate of the minimum capital required by law for the establishment of an equal number of banks or trust companies in the cities or towns wherein the principal office or place of business of such bank or trust company and its branches are located.

No bank or trust company shall establish or operate any branch, except a branch in a foreign country, in any city or town outside the city or town in which its principal place of business is located in which any bank, trust company or national banking association regularly transacts a banking or

trust business, except by taking over or acquiring an existing bank, trust company or national banking association or the branch of any bank, trust company or national banking association operating in such city or town. However, on and after July 1, 1981, a bank or trust company having a paid-in capital of not less than five hundred thousand dollars may, with the approval of the supervisor, establish and operate branches within the limits of the county in which its principal place of business is located, including within any city or town located in such county and whether or not an existing bank, trust company, or national banking association or branch thereof is operating in the city or town. On and after July 1, 1985, a bank or trust company having a paid-in capital of not less than five hundred thousand dollars may, with the approval of the supervisor, establish and operate a branch anywhere within the state, including within cities and towns where an existing bank, trust company, or national banking association or a branch thereof is operating.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981.

Passed the Senate March 20, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 1, 1981.

Filed in Office of Secretary of State May 1, 1981.

CHAPTER 74

[Substitute House Bill No. 747]

NONPROFIT YOUTH ORGANIZATIONS—BUSINESS AND OCCUPATION, SALES TAX EXEMPTIONS—MEMBERSHIP FEES OR DUES, CAMPING AND RECREATIONAL SERVICES, FACILITY USE

AN ACT Relating to the taxation of youth-related organizations; adding a new section to chapter 82.04 RCW; and adding a new section to chapter 82.08 RCW.

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

NEW SECTION. Section 1. There is added to chapter 82.04 RCW a new section to read as follows:

In computing tax due under this chapter, there may be deducted from the measure of tax all amounts received by a nonprofit youth organization:

(1) As membership fees or dues, irrespective of the fact that the payment of the membership fees or dues to the organization may entitle its members, in addition to other rights or privileges, to receive services from the organization or to use the organization's facilities; or

(2) From members of the organization for camping and recreational services provided by the organization or for the use of the organization's camping and recreational facilities.

For purposes of this section: "Nonprofit youth organization" means a nonprofit organization engaged in character building of youth which is exempt from property tax under RCW 84.36.030.

NEW SECTION. Sec. 2. There is added to chapter 82.08 RCW a new section to read as follows:

The tax imposed by RCW 82.08.020 shall not apply to the sale of amusement and recreation services by a nonprofit youth organization, as defined in section 1 of this act, to members of the organization.

Passed the House April 17, 1981.

Passed the Senate April 24, 1981.

Approved by the Governor May 1, 1981.

Filed in Office of Secretary of State May 1, 1981.

CHAPTER 75

[Substitute House Bill No. 264]

RENT CONTROLS—STATE PREEMPTION

AN ACT Relating to rent control; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.01 RCW; and creating a new section.

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

NEW SECTION. Section 1. There is added to chapter 35.21 RCW a new section to read as follows:

The imposition of controls on rent is of state-wide significance and is preempted by the state. No city or town of any class may enact, maintain, or enforce ordinances or other provisions which regulate the amount of rent to be charged for single family or multiple unit residential rental structures or sites other than properties in public ownership, under public management, or properties providing low-income rental housing under joint public-private agreements for the financing or provision of such low-income rental housing. This section shall not be construed as prohibiting any city or town from entering into agreements with private persons which regulate or control the amount of rent to be charged for rental properties.

NEW SECTION. Sec. 2. There is added to chapter 36.01 RCW a new section to read as follows:

The imposition of controls on rent is of state-wide significance and is preempted by the state. No county of any class may enact, maintain or enforce ordinances or other provisions which regulate the amount of rent to be charged for single family or multiple unit residential rental structures or sites other than properties in public ownership, under public management, or properties providing low-income rental housing under joint public-private agreements for the financing or provision of such low-income rental housing. This section shall not be construed as prohibiting any county from

entering into agreements with private persons which regulate or control the amount of rent to be charged for rental properties.

NEW SECTION. Sec. 3. Nothing in this act shall be construed to preempt local ordinances that relate to the control of rents or other relationships at floating home moorage sites.

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 April 20, 1981.

Passed the Senate April 16, 1981.

Approved by the Governor May 6, 1981.

Filed in Office of Secretary of State May 6, 1981.

CHAPTER 76

[Substitute House Bill No. 581]

ECONOMIC ASSISTANCE AUTHORITY—REVIEW—ABOLISHED, TRANSFER OF DUTIES—TAX DEFERRAL LIMITATION—LOAN CUT-OFF DATE

AN ACT Relating to economic development; amending section 13, chapter 117, Laws of 1972 ex. sess. as amended by section 1, chapter 296, Laws of 1977 ex. sess. and RCW 43.31A-.130; amending section 14, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.140; amending section 11, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.110; creating new sections; repealing section 1, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A-.010; repealing section 2, chapter 117, Laws of 1972 ex. sess., section 111, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.31A.020; repealing section 3, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.030; repealing section 4, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.040; repealing section 5, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.050; repealing section 6, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.060; repealing section 7, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.070; repealing section 8, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.080; repealing section 9, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.090; repealing section 10, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.100; repealing section 14, chapter 117, Laws of 1972 ex. sess., section 2 of this 1981 act and RCW 43.31A.140; repealing section 15, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.150; repealing section 20, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.200; repealing section 21, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.210; repealing section 22, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.220; repealing section 23, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.230; repealing section 24, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.240; repealing section 25, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.250; repealing section 26, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.260; repealing section 27, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.270; repealing section 28, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.280; repealing section 29, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A-.290; repealing section 30, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.300; repealing section 31, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.310; repealing section 33, chapter 117, Laws of 1972 ex. sess., section 55, chapter 75, Laws of 1977 and RCW 43.31A.330; repealing section 34, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.900; repealing section 37, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A-.920; providing effective dates; and declaring an emergency.

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

Section 1. Section 13, chapter 117, Laws of 1972 ex. sess. as amended by section 1, chapter 296, Laws of 1977 ex. sess. and RCW 43.31A.130 are each amended to read as follows:

As used in RCW 43.31A.140 through 43.31A.180:

(1) "Eligible investment project" shall mean construction of new buildings or major improvements to existing buildings and the machinery installed in such buildings in the course of such construction or major improvements, when said buildings and machinery are used or are to be used for activities defined in RCW 82.04.120 (the definition of the term "to manufacture"); PROVIDED, That an investment project undertaken by a business as defined in RCW 82.16.010(5) (an electrical utility) shall not be eligible: PROVIDED FURTHER, That one or more of the following criteria must be met:

(a) The investment project is or will be located in an economic assistance area or special impact area;

(b) A minimum of twenty percent of the employees at the plant complex for which the deferral is requested shall be of a minority race;

(c) The plant complex shall be within an industry classification which is not currently a major employing industry in the county in which the plant complex is located. The industry classification of the plant complex shall be determined by the standard industrial classification as assigned by the department of employment security. The major employing industries in a county shall be the two manufacturing industries which employed the greatest number of persons on an annual average basis in the most recent calendar year for which such information is available from the department of employment security.

(2) "Buildings" shall mean and include only those structures used or to be used to house or shelter manufacturing activities. The term shall include plant offices and warehouses or other facilities for the storage of raw material or finished goods when such facilities are an essential or an integral part of a factory, mill, or manufacturing plant and such factory, mill, or manufacturing plant is used or to be used in the business of manufacture for sale or commercial or industrial use of an article, substance, or commodity. Where a building is used partly for manufacturing and partly for other purposes the applicable tax deferral shall be determined by apportionment of the costs of construction under such rules as the department of revenue shall provide;

(3) "Machinery" shall mean all industrial fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation;

(4) "Major improvement" shall mean the expansion, modernization, or renovation of existing buildings wherein the costs are in excess of twenty-five percent of the true and fair value of the plant complex prior to the improvement;

(5) "Plant complex" shall mean land, machinery, and buildings adapted to industrial use as a single functional or operational unit for the assembling, processing, or manufacturing of finished or partially finished products from raw materials or fabricated parts;

(6) "Taxpayer" shall mean the taxpaying entity certified by name pursuant to RCW 43.31A.140, its subsidiaries, and its principal owners. Ownership interest for the purpose of determining whether a corporation or a natural person is a principal owner or a subsidiary of an eligible taxpayer shall be fifty-one percent or a controlling interest as determined by the authority.

Sec. 2. Section 14, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.140 are each amended to read as follows:

The authority shall certify the eligibility of investment projects, and the department of revenue shall grant investment tax deferrals for eligible investment projects in an amount not to exceed the state and local sales tax payable under chapters 82.08 and 82.14 RCW or the use tax payable under chapters 82.12 and 82.14 RCW on machinery, materials, labor, and services directly utilized in a certified eligible investment project (~~undertaken~~) paid for by a firm engaged in or to be engaged in manufacturing: PROVIDED, That after March 1, 1981, no taxpayer may be certified by the authority as eligible for tax deferral for any investment project costs over thirty million dollars, cumulative on all outstanding and subsequent projects: PROVIDED FURTHER, That taxpayer applications certified by the authority as eligible for tax deferral after March 1, 1981 and before the effective date of this 1981 act shall be null and void and of no force and effect.

NEW SECTION. Sec. 3. The economic assistance authority shall be reviewed and analyzed during the interim between the 1981 and 1982 legislative sessions by the ways and means committees of the house of representatives and senate and a report shall be presented, with any recommendations, to the forty-seventh legislature which convenes in January, 1982.

NEW SECTION. Sec. 4. The economic assistance authority established by section 2, chapter 117, Laws of 1972 ex. sess. as amended by section 111, chapter 34, Laws of 1975-'76 2nd ex. sess. is abolished, effective June 30, 1982. Any remaining duties of the economic assistance authority are transferred to the department of revenue on that date.

Sec. 5. Section 11, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.110 are each amended to read as follows:

Public facilities grants or loans by the authority shall be subject to the following conditions:

(1) The moneys in the public facilities construction loan and grant revolving account are to be used solely to fulfill commitments arising from

loans and grants authorized ((m)) under RCW 43.31A.070~~((The total outstanding amount which the authority may dispense at any time pursuant to this section shall not exceed the moneys available for grants and loans from said account))~~ prior to June 30, 1982. New grants or loans shall not be made after June 30, 1982;

(2) Financial assistance through such grants or loans may be used directly or indirectly for any facility for public purposes, including, but not limited to, sewer or other waste disposal facilities, arterials, bridges, access roads, port facilities, or water distribution and purification facilities;

(3) On contracts made for public facilities loans the ~~((authority))~~ department of revenue shall determine the interest rate which advances shall bear, such interest rate not to exceed ten percent per annum, and the ~~((authority))~~ department of revenue shall provide such reasonable terms and conditions for repayment of advances as it may determine; said loans not to exceed twenty years in duration.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed effective June 30, 1982:

(1) Section 1, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.010;

(2) Section 2, chapter 117, Laws of 1972 ex. sess., section 111, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.31A.020;

(3) Section 3, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.030;

(4) Section 4, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.040;

(5) Section 5, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.050;

(6) Section 6, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.060;

(7) Section 7, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.070;

(8) Section 8, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.080;

(9) Section 9, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.090;

(10) Section 10, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.100;

(11) Section 14, chapter 117, Laws of 1972 ex. sess., section 2 of this 1981 act and RCW 43.31A.140;

(12) Section 15, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.150;

(13) Section 20, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.200;

(14) Section 21, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.210;

(15) Section 22, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.220;

(16) Section 23, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.230;

(17) Section 24, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.240;

(18) Section 25, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.250;

(19) Section 26, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.260;

(20) Section 27, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.270;

(21) Section 28, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.280;

(22) Section 29, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.290;

(23) Section 30, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.300;

(24) Section 31, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.310;

(25) Section 33, chapter 117, Laws of 1972 ex. sess., section 55, chapter 75, Laws of 1977 and RCW 43.31A.330;

(26) Section 34, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A-.900; and

(27) Section 37, chapter 117, Laws of 1972 ex. sess. and RCW 43.31A.920.

NEW SECTION. Sec. 7. This act does not affect any duty owed by a taxpayer, political subdivision of the state, or Indian tribe under the statutes repealed under section 6 of this act. The duties owed shall be administered as if the laws in section 6 of this act were not repealed. New investment tax deferral certificates under chapter 43.31A RCW shall not be issued on or after June 30, 1982. The deferral of taxes and the repayment schedules under tax deferral certificates issued before June 30, 1982, are not affected.

NEW SECTION. Sec. 8. 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. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions. Sections 1 and 2 of this act

shall take effect March 1, 1981. Section 3 of this act shall take effect May 1, 1981. Sections 4, 5, 6, and 7 of this act shall take effect June 30, 1982.

Passed the House April 26, 1981.

Passed the Senate April 25, 1981.

Approved by the Governor May 6, 1981.

Filed in Office of Secretary of State May 6, 1981.

CHAPTER 77

[House Bill No. 160]

RETAIL INSTALLMENT SALES—SERVICE CHARGE

AN ACT Relating to retail installment sales; amending section 1, chapter 236, Laws of 1963 as amended by section 1, chapter 47, Laws of 1972 ex. sess. and RCW 63.14.010; amending section 3, chapter 236, Laws of 1963 as amended by section 2, chapter 234, Laws of 1967 and RCW 63.14.030; amending section 4, chapter 236, Laws of 1963 as last amended by section 2, chapter 47, Laws of 1972 ex. sess. and RCW 63.14.040; amending section 12, chapter 236, Laws of 1963 as last amended by section 3, chapter 47, Laws of 1972 ex. sess. and RCW 63.14.120; amending section 13, chapter 236, Laws of 1963 as last amended by section 3, chapter 2, Laws of 1969 and RCW 63.14.130; adding new sections to chapter 19.52 RCW; adding new sections to chapter 63.14 RCW; creating a new section; and declaring an emergency.

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

Section 1. Section 1, chapter 236, Laws of 1963 as amended by section 1, chapter 47, Laws of 1972 ex. sess. and RCW 63.14.010 are each amended to read as follows:

In this chapter, unless the context otherwise requires:

(1) "Goods" means all chattels personal when purchased primarily for personal, family or household use and not for commercial or business use, but not including money or, except as provided in the next sentence, things in action. The term includes but is not limited to merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods or services sold by such a seller and goods which, at the time of sale or subsequently, are to be so affixed to real property as to become a part thereof, whether or not severable therefrom;

(2) "Services" means work, labor or services of any kind when purchased primarily for personal, family or household use and not for commercial or business use whether or not furnished in connection with the delivery, installation, servicing, repair or improvement of goods and includes repairs, alterations or improvements upon or in connection with real property, but does not include services for which the price charged is required by law to be determined or approved by or to be filed, subject to approval or disapproval, with the United States or any state, or any department, division, agency, officer or official of either as in the case of transportation services;

(3) "Retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished, from a retail seller;

(4) "Retail seller" or "seller" means a person engaged in the business of selling goods or services to retail buyers;

(5) "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract or a retail charge agreement, as defined in this section, which provides for a service charge, as defined in this section, and under which the buyer agrees to pay the unpaid balance in one or more installments or which provides for no service charge and under which the buyer agrees to pay the unpaid balance in more than four installments;

(6) "Retail installment contract" or "contract" means a contract, other than a retail charge agreement or an instrument reflecting a sale made pursuant thereto, entered into or performed in this state for a retail installment transaction. The term "retail installment contract" may include a chattel mortgage, a conditional sale contract and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease;

(7) "Retail charge agreement," "revolving charge agreement" or "charge agreement" means an agreement entered into or performed in this state prescribing the terms of retail installment transactions which may be made thereunder from time to time and under the terms of which a service charge, as defined in this section, is to be computed in relation to the buyer's unpaid balance from time to time;

(8) "Service charge" however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. It does not include the amount, if any, charged for insurance premiums, delinquency charges, attorneys' fees, court costs or official fees;

(9) "~~((Cash))~~ Sale price" means the price for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of a retail installment transaction(~~(, if the sale had been a sale for cash)~~). The ~~((cash))~~ sale price may include any taxes, registration and license fees, and charges for transferring vehicle titles, delivery, installation, servicing, repairs, alterations or improvements;

(10) "Official fees" means the amount of the fees prescribed by law for filing, recording or otherwise perfecting, and releasing or satisfying, a retained title, lien or other security interest created by a retail installment transaction;

(11) "Time balance" means the principal balance plus the service charge;

(12) "Principal balance" means the ((cash)) sale price of the goods or services which are the subject matter of a retail installment contract less the amount of the buyer's down payment in money or goods or both, plus the amounts, if any, included therein, if a separate identified charge is made therefor and stated in the contract, for insurance and official fees;

(13) "Person" means an individual, partnership, joint venture, corporation, association or any other group, however organized;

(14) "Rate" means the percentage which, when multiplied times the outstanding balance for each month or other installment period, yields the amount of the service charge for such month or period.

Sec. 2. Section 3, chapter 236, Laws of 1963 as amended by section 2, chapter 234, Laws of 1967 and RCW 63.14.030 are each amended to read as follows:

The retail seller shall deliver to the retail buyer, at the time the buyer signs the contract a copy of the contract as signed by the buyer, unless the contract is completed by the buyer in situations covered by RCW 63.14.060, and if the contract is accepted at a later date by the seller the seller shall mail to the buyer at his address shown on the retail installment contract a copy of the contract as accepted by the seller or a copy of the memorandum as required in RCW 63.14.060. Until the seller does so, the buyer shall be obligated to pay only the ((cash)) sale price. Any acknowledgment by the buyer of delivery of a copy of the contract shall be in a size equal to at least ten point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

Sec. 3. Section 4, chapter 236, Laws of 1963 as last amended by section 2, chapter 47, Laws of 1972 ex. sess. and RCW 63.14.040 are each amended to read as follows:

(1) The retail installment contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence or other address of the buyer as specified by the buyer and a description or identification of the goods sold or to be sold, or service furnished or rendered or to be furnished or rendered. The contract also shall contain the following items, which shall be set forth in the sequence appearing below:

- (1) (a) The ((cash)) sale price of each item of goods or services;
- (2) (b) The amount of the buyer's down payment, if any, identifying the amounts paid in money and allowed for goods traded in;
- (3) (c) The difference between items (1)(a) and (2)(b);

(4) (d) The aggregate amount, if any, included for insurance, specifying the type or types of insurance and the terms of coverage;

(5) (e) The aggregate amount of official fees, if any;

(6) (f) The principal balance, which is the sum of items (3)(c), (4)(d) and (5)(e);

(7) (g) The dollar amount or rate of the service charge;

(8) (h) The amount of the time balance owed by the buyer to the seller, which is the sum of items (6)(f) and (7)(g), if (7)(g) is stated in a dollar amount; and

(9) (i) Except as otherwise provided in the next two sentences, the maximum number of installment payments required and the amount of each installment and the due date of each payment necessary to pay such balance. If installment payments other than the final payment are stated as a series of equal scheduled amounts and if the amount of the final installment payment does not substantially exceed the scheduled amount of each preceding installment payment, the maximum number of payments and the amount and due date of each payment need not be separately stated and the amount of the scheduled final installment payment may be stated as the remaining unpaid balance. The due date of the first installment payment may be fixed by a day or date or may be fixed by reference to the date of the contract or to the time of delivery or installation.

Additional items may be included to explain the calculations involved in determining the balance to be paid by the buyer.

(2) Every retail installment contract shall contain the following notice in ten point bold face type or larger directly above the space reserved in the contract for the signature of the buyer: "NOTICE TO BUYER:

(a) Do not sign this contract before you read it or if any spaces intended for the agreed terms, except as to unavailable information, are blank.

(b) You are entitled to a copy of this contract at the time you sign it.

(c) You may at any time pay off the full unpaid balance due under this contract, and in so doing you may receive a partial rebate of the service charge.

(d) The service charge does not exceed % (must be filled in) per annum computed monthly (~~and may not lawfully exceed twelve percent per annum computed monthly~~).

(e) You may cancel this contract if it is solicited in person, and you sign it, at a place other than the seller's business address shown on the contract, by sending notice of such cancellation by certified mail return receipt requested to the seller at his address shown on the contract which notice shall be posted not later than midnight of the third day (excluding Sundays and holidays) following your signing this contract. If you choose to cancel this contract, you must return or make available to the seller at the place of delivery any merchandise, in its original condition, received by you under this contract."

Clause (2)(e) needs to be included in the notice only if the contract is solicited in person by the seller or his representative, and the buyer signs it, at a place other than the seller's business address shown on the contract.

Sec. 4. Section 12, chapter 236, Laws of 1963 as last amended by section 3, chapter 47, Laws of 1972 ex. sess. and RCW 63.14.120 are each amended to read as follows:

(1) At or prior to the time a retail charge agreement is made the seller shall advise the buyer in writing, on the application form or otherwise, or orally that a service charge will be computed on the outstanding balance for each month (which need not be a calendar month) or other regular period agreed upon, the schedule or rate by which the service charge will be computed, and that the buyer may at any time pay his total unpaid balance: PROVIDED, That if this information is given orally, the seller shall, upon approval of the buyer's credit, deliver to the buyer or mail to him at his address, a memorandum setting forth this information.

(2) The seller or holder of a retail charge agreement shall promptly supply the buyer with a statement as of the end of each monthly period (which need not be a calendar month) or other regular period agreed upon, in which there is any unpaid balance thereunder, which statement shall set forth the following:

(a) The unpaid balance under the retail charge agreement at the beginning and at the end of the period;

(b) Unless otherwise furnished by the seller to the buyer by sales slip, memorandum, or otherwise, a description or identification of the goods or services purchased during the period, the ((cash)) sale price and the date of each purchase;

(c) The payments made by the buyer to the seller and any other credits to the buyer during the period;

(d) The amount, if any, of any service charge for such period; and

(e) A legend to the effect that the buyer may at any time pay his total unpaid balance.

(3) Every retail charge agreement shall contain the following notice in ten point bold face type or larger directly above the space reserved in the charge agreement for the signature of the buyer: NOTICE TO BUYER:

(a) Do not sign this retail charge agreement before you read it or if any spaces intended for the agreed terms are left blank.

(b) You are entitled to a copy of this charge agreement at the time you sign it.

(c) You may at any time pay off the full unpaid balance under this charge agreement.

(d) ~~((The monthly service charge may not lawfully exceed the greater of one percent of the outstanding balance (twelve percent per year computed monthly) or one dollar.~~

~~(c)~~) You may cancel any purchases made under this charge agreement if the seller or his representative solicited in person such purchase, and you sign an agreement for such purchase, at a place other than the seller's business address shown on the charge agreement, by sending notice of such cancellation by certified mail return receipt requested to the seller at his address shown on the charge agreement, which notice shall be posted not later than midnight of the third day (excluding Sundays and holidays) following your signing of the purchase agreement. If you choose to cancel this purchase, you must return or make available to seller at the place of delivery any merchandise, in its original condition, received by you under this purchase agreement.

Sec. 5. Section 13, chapter 236, Laws of 1963 as last amended by section 3, chapter 2, Laws of 1969 and RCW 63.14.130 are each amended to read as follows:

The service charge shall be inclusive of all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments thereunder and no other fee, expense or charge whatsoever shall be taken, received, reserved or contracted therefor from the buyer.

(1) The service charge, in a retail installment contract, shall not exceed the highest of the following:

(a) ~~((One percent per month on the outstanding unpaid balances; or))~~ A rate on outstanding unpaid balances which exceeds six percentage points above the average, rounded to the nearest one-quarter of one percent, of the equivalent coupon issue yields (as published by the Federal Reserve Bank of San Francisco) of the bill rates for twenty-six week treasury bills for the last market auctions conducted during February, May, August, and November of the year prior to the year in which the retail installment contract is executed; or

(b) Ten dollars.

(2) The service charge in a retail charge agreement, revolving charge agreement or charge agreement, shall not exceed one and one-half percent per month on the outstanding unpaid balances. If the service charge so computed is less than one dollar for any month, then one dollar may be charged.

(3) A service charge may be computed on the median amount within a range which does not exceed ten dollars and which is a part of a published schedule of consecutive ranges applied to an outstanding balance, provided the median amount is used in computing the service charge for all balances within such range.

~~(((4) The service charge in a retail installment contract or charge agreement shall not exceed the rate of twelve percent per annum, computed monthly. A service charge computed by one of the foregoing methods, or~~

~~within the permitted minimum charges, shall be deemed not to be in excess of twelve percent per annum computed monthly:))~~

****NEW SECTION. Sec. 6. This chapter shall not apply to a retail installment transaction, as defined by RCW 63.14.010, whether it be construed to be a loan or forbearance of any money, goods, or things in action.***

**Sec. 6. was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 7. A sales contract for goods or services providing for the deferred payment of the purchase price shall not be subject to this chapter, regardless of who seeks to enforce the contract, notwithstanding the existence or occurrence of any one or more of the following events:

(1) That the seller may have arranged to sell, pledge, indorse, negotiate, assign, or transfer the obligations thereof to any person, including a financing organization, prior to or subsequent to or concurrently with the making of the sales transaction;

(2) That the amount of the finance charge, however denominated, is determined by reference to charts, computations or information supplied by such person;

(3) That the form or forms of instruments used to evidence the sales transaction have been supplied or prepared by such person;

(4) That the credit standing of the purchaser is or may have been evaluated by such person;

(5) That the sales transaction and the execution of any instrument evidencing the same is negotiated in the presence or with the assistance of a representative of such person;

(6) That the instrument or instruments used to evidence the sales transaction are pledged, indorsed, negotiated, assigned, or transferred by the seller to such person;

(7) That there is an underlying agreement between the seller and such person concerning the pledging, indorsing, negotiation, assigning, or transferring of sales contracts; or

(8) That the financing organization or its affiliates also provide franchising, financing, or other services to the seller-assignor.

NEW SECTION. Sec. 8. (1) Nothing contained in this chapter shall be deemed to limit any charge made by an assignee of a retail installment contract or charge agreement to the seller-assignor upon the sale, transfer, assignment, or discount of the contract or agreement, notwithstanding retention by the assignee of recourse rights and notwithstanding duties retained by the assignee to service delinquencies, perform service or warranty agreements regarding the property which is the subject matter of the assigned or discounted contracts or charge agreements, or to do or perform any other duty with respect to the account or contract assigned or the subject matter of such account or contract.

(2) No agreement between a credit card issuing bank and retailer shall prohibit the retailer from granting general discounts for the payment of cash, not in excess of the percentage allowed by Regulation Z, the Federal Truth in Lending Act.

NEW SECTION. Sec. 9. There is added to chapter 63.14 RCW a new section to read as follows:

Any retail installment contract or retail charge agreement which complies with the disclosure requirements of Title I of the federal consumer protection act (82 Stat. 146, 15 U.S.C. 1601) which is also known as the truth in lending act, as of the date upon which said retail installment contract or revolving charge agreement is executed, shall be deemed to comply with the disclosure provisions of chapter 63.14 RCW.

NEW SECTION. Sec. 10. There is added to chapter 63.14 RCW a new section to read as follows:

A lender credit card is a card or device issued under an arrangement pursuant to which the issuer gives to a card holder residing in this state the privilege of obtaining credit from the issuer or other persons in purchasing or leasing property or services, obtaining loans, or otherwise, and the issuer of which is not principally engaged in the business of selling goods.

A lender credit card agreement and credit extended pursuant to it is not subject to the provisions of this chapter but shall be subject to the provisions of chapter 19.52 RCW.

NEW SECTION. Sec. 11. Sections 6 through 8 of this act are each added to chapter 19.52 RCW.

NEW SECTION. Sec. 12. 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. 13. This act applies only to loans, forbearances, or transactions which are entered into after the effective date of this act or to existing loans, forbearances, contracts, or agreements which were not primarily for personal, family, or household use in which there is an addition to the principal amount of the credit outstanding after the effective date of this act.

NEW SECTION. Sec. 14. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 25, 1981.

Passed the Senate April 17, 1981.

Approved by the Governor May 8, 1981, with the exception of Section 6 which is vetoed.

Filed in Office of Secretary of State May 8, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section House Bill No. 160 entitled:

"AN ACT Relating to retail installment sales."

Section 6 of this bill duplicates the substance of a section contained in House Bill 137, but uses slightly different wording. I have determined to veto this section in order to avoid difficulties in codification and future interpretation of the section.

With the exception of Section 6 which I have vetoed, House Bill No. 160 is approved."

CHAPTER 78

[House Bill No. 137]

INTEREST—LEGAL RATE—USURY DEFENSE

AN ACT Relating to usury; amending section 2, chapter 80, Laws of 1899 as amended by section 4, chapter 23, Laws of 1967 ex. sess. and RCW 19.52.020; amending section 1, chapter 142, Laws of 1969 ex. sess. as last amended by section 1, chapter 180, Laws of 1975 1st ex. sess. and RCW 19.52.080; adding new sections to chapter 19.52 RCW; adding a new section to chapter 63.14 RCW; and declaring an emergency.

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

Section 1. Section 2, chapter 80, Laws of 1899 as amended by section 4, chapter 23, Laws of 1967 ex. sess. and RCW 19.52.020 are each amended to read as follows:

Any rate of interest not exceeding the higher of twelve percent per annum or four percentage points above the equivalent coupon issue yield (as published by the Federal Reserve Bank of San Francisco) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the preceding calendar month, agreed to in writing by the parties to the contract, shall be legal, and no person shall directly or indirectly take or receive in money, goods, or things in action, or in any other way, any greater interest (~~(sum or value)~~) for the loan or forbearance of any money, goods, or things in action (~~(than twelve percent per annum)~~): PROVIDED, That in any loan of money in which the funds advanced do not exceed the sum of five hundred dollars, a setup charge may be charged and collected by the lender, and such setup charge shall not be considered interest hereunder: PROVIDED FURTHER, That such setup charge does not exceed four percent of the amount of funds advanced, or fifteen dollars, whichever is the lesser, except that on loans of under one hundred dollars a minimum not exceeding four dollars may be so charged.

Any loan made pursuant to a commitment to lend at an interest rate permitted at the time the commitment is made shall not be usurious. Credit extended pursuant to an open-end credit agreement upon which interest is computed on the basis of a balance or balances outstanding during a billing cycle shall not be usurious if the rate at which interest is charged is not usurious on any day during the billing cycle.

Sec. 2. Section 1, chapter 142, Laws of 1969 ex. sess. as last amended by section 1, chapter 180, Laws of 1975 1st ex. sess. and RCW 19.52.080 are each amended to read as follows:

Profit and nonprofit corporations, Massachusetts trusts, associations, trusts, general partnerships, joint ventures, limited partnerships, and governments and governmental subdivisions, agencies, or instrumentalities may not plead the defense of usury nor maintain any action thereon or therefor, and persons may not plead the defense of usury nor maintain any action thereon or therefor if the transaction was ((exclusively)) primarily for agricultural, commercial, investment, or business purposes: PROVIDED, HOWEVER, That this section shall not apply to a consumer transaction of any amount((; or to a commercial or business transaction not exceeding fifty thousand dollars)).

Consumer transactions, as used in this section, shall mean transactions primarily for personal, family, or household purposes.

NEW SECTION. Sec. 3. There is added to chapter 19.52 RCW a new section to read as follows:

This chapter shall not apply to a retail installment transaction, as defined by RCW 63.14 010, whether or not it is construed to be a loan or forbearance of any money, goods, or things in action.

***NEW SECTION. Sec. 4. There is added to chapter 19.52 RCW a new section to read as follows:**

A sale contract for goods or services providing for the deferred payment of the purchase price is not subject to this chapter, regardless of by whom the contract is sought to be enforced, notwithstanding the existence or occurrence of any one or more of the following events:

(1) That the seller has arranged to sell, pledge, indorse, negotiate, assign, or transfer the obligations thereof to any person, including a financing organization, prior to, subsequent to, or concurrently with the making of the sale transaction;

(2) That the amount of the finance charge, however denominated, is determined by reference to charts, computations, or information supplied by the person;

(3) That the form or forms of instruments used to evidence the sale transaction have been supplied or prepared by the person;

(4) That the credit standing of the purchaser is evaluated by the person;

(5) That the sale transaction and the execution of any instrument evidencing the transaction is negotiated in the presence or with the assistance of a representative of the person;

(6) That the instruments used to evidence the sales transaction are pledged, indorsed, negotiated, assigned, or transferred by the seller to the person;

(7) That there is an underlying agreement between the seller and the person concerning the pledging, indorsing, negotiation, assigning, or transferring of sale contracts; or

(8) That the financing organization or its affiliates also provide franchising, financing, or other services to the seller-assignor.

*Sec. 4. was vetoed, see message at end of chapter.

***NEW SECTION. Sec. 5.** *There is added to chapter 19.52 RCW a new section to read as follows:*

Nothing contained in this chapter limits any charge made by an assignee of a retail installment contract or charge agreement to the seller-assignor upon the sale, transfer, assignment, or discount of the contract or agreement.

*Sec. 5. was vetoed, see message at end of chapter.

***NEW SECTION. Sec. 6.** *There is added to chapter 63.14 RCW a new section to read as follows:*

A lender credit card is a card or device issued under an arrangement pursuant to which the issuer gives to a card holder residing in this state the privilege of obtaining credit from the issuer or other persons in purchasing or leasing property or services, obtaining loans, or otherwise, and the issuer of which is not principally engaged in the business of selling goods.

A lender credit card agreement and credit extended pursuant to it is not subject to the provisions of this chapter.

*Sec. 6. was vetoed, see message at end of chapter.

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, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.*

NEW SECTION. Sec. 9. *There is added to chapter 19.52 RCW a new section to read as follows:*

No person may plead the defense of usury or maintain any action thereon or therefor for the interest charged on the unpaid balance of a contract for the sale and purchase of personal property which was not purchased primarily for personal, family or household use or real property if the purchase was made after May 1, 1980 and prior to March 1, 1981.

NEW SECTION. Sec. 10. *Sections 1 through 8 of this act shall apply only to loans or forbearances or transactions which are entered into after the effective date of this act or to existing loans or forbearances, contracts or agreements which were not primarily for personal, family or household use to which there is an addition to the principal amount of the credit outstanding after the effective date of this act: PROVIDED, HOWEVER,*

That nothing in this act shall be construed as implying that agricultural or investment purposes are not already included within the meaning of "commercial or business purposes" as used in section 1, chapter 142, Laws of 1969 ex. sess. and RCW 19.52.080 as in effect prior to the effective date of this act.

Passed the House April 1, 1981.

Passed the Senate April 25, 1981.

Approved by the Governor May 8, 1981, with the exception of Sections 4, 5 and 6 which are vetoed.

Filed in Office of Secretary of State May 8, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to three sections House Bill No. 137 entitled:

"AN ACT relating to usury."

Sections 4, 5, and 6 of this bill duplicate the substance of three sections contained in House Bill 160, but use slightly different wording. I have determined to veto these sections in order to avoid difficulties in codification and future interpretation of these sections.

With the exception of sections 4, 5, and 6 which I have vetoed, House Bill No. 137 is approved."

CHAPTER 79

[House Bill No. 96]

SECURITIES BROKER-DEALERS—INTEREST CHARGES

AN ACT Relating to commercial lending; and adding a new section to chapter 19.52 RCW.

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

NEW SECTION. Section 1. There is added to chapter 19.52 RCW a new section to read as follows:

The interest charged by any broker-dealer registered under chapter 21-.20 RCW and under the federal securities and exchange act of 1934, as amended, shall not be subject to the limitations imposed by this chapter if the underlying loans (1) may be paid in full at the option of the borrower and (2) are subject to the credit regulations of the board of governors of the federal reserve system, or its successor.

Passed the House April 20, 1981.

Passed the Senate April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 80

[House Bill No. 136]

INTEREST RATE IN ABSENCE OF AGREEMENT

AN ACT Relating to interest rates where no rate is agreed to in writing between the parties; and amending section 1, chapter 80, Laws of 1899 and RCW 19.52.010.

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

Section 1. Section 1, chapter 80, Laws of 1899 and RCW 19.52.010 are each amended to read as follows:

Every loan or forbearance of money, goods, or thing in action shall bear interest at the rate of ~~((six))~~ twelve percent per annum where no different rate is agreed to in writing between the parties. The discounting of commercial paper, where the borrower makes himself liable as maker, guarantor, or indorser, shall be considered as a loan for the purposes of this ~~((act))~~ chapter.

Passed the House March 30, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 81

[House Bill No. 143]

CREDIT UNIONS

AN ACT Relating to credit unions; amending section 3, chapter 23, Laws of 1957 as last amended by section 1, chapter 8, Laws of 1973 1st ex. sess. and RCW 31.12.020; amending section 4, chapter 23, Laws of 1957 and RCW 31.12.030; amending section 4, chapter 173, Laws of 1933 as last amended by section 1, chapter 41, Laws of 1980 and RCW 31.12.080; amending section 9, chapter 173, Laws of 1933 as last amended by section 3, chapter 41, Laws of 1980 and RCW 31.12.130; amending section 15, chapter 173, Laws of 1933 as last amended by section 4, chapter 41, Laws of 1980 and RCW 31.12.190; amending section 18, chapter 173, Laws of 1933 as last amended by section 5, chapter 41, Laws of 1980 and RCW 31.12.220; amending section 8, chapter 23, Laws of 1957 as last amended by section 9, chapter 8, Laws of 1973 1st ex. sess. and RCW 31.12.245; amending section 20, chapter 173, Laws of 1933 as last amended by section 5, chapter 222, Laws of 1975 1st ex. sess. and RCW 31.12.260; amending section 12, chapter 23, Laws of 1957 as last amended by section 7, chapter 41, Laws of 1980 and RCW 31.12.280; amending section 13, chapter 23, Laws of 1957 as last amended by section 13, chapter 8, Laws of 1973 1st ex. sess. and RCW 31.12.290; amending section 25, chapter 173, Laws of 1933 as last amended by section 8, chapter 222, Laws of 1975 1st ex. sess. and RCW 31.12.310; amending section 27, chapter 173, Laws of 1933 as last amended by section 14, chapter 180, Laws of 1967 and RCW 31.12.330; creating new sections; and declaring an emergency.

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

Section 1. Section 3, chapter 23, Laws of 1957 as last amended by section 1, chapter 8, Laws of 1973 1st ex. sess. and RCW 31.12.020 are each amended to read as follows:

A credit union is a cooperative society incorporated for the two-fold purpose of promoting thrift among its members and creating a source of credit for them (~~((at legitimate rates of interest not to exceed one percent per month on the unpaid balance or the equivalent thereto,))~~) for provident, productive, and educational purposes. Credit unions, in the event of default of such credit, may impose financing and reasonable late charges in accordance with their bylaws and may recover reasonable costs and expenses incurred in the collection of any sums due if provided for in the note or agreement signed by the borrower.

Sec. 2. Section 4, chapter 23, Laws of 1957 and RCW 31.12.030 are each amended to read as follows:

A corporation organized under this chapter shall include in its name the words "credit union," and other distinguishing words may be used, and an exception is made for a sole proprietorship, partnership or corporation which is solely in the business of managing one or more credit unions. No person, partnership, or association and no corporation except one incorporated under this chapter shall receive payment on shares or deposits from its members, or loan such payment on shares or deposits in the manner provided hereby, or transact business under a name or title containing the words "credit union," without compliance with the provisions hereof. Exception is made of an organization incorporated and composed of corporations organized under this chapter or under federal laws. Nothing herein shall affect corporations organized under federal laws, nor shall this chapter repeal, amend, or affect laws relating to savings and loan associations.

Sec. 3. Section 4, chapter 173, Laws of 1933 as last amended by section 1, chapter 41, Laws of 1980 and RCW 31.12.080 are each amended to read as follows:

Credit union membership shall consist of the incorporators and such other persons as may be elected to membership and subscribe for at least one share and pay the initial installment thereon and the entrance fee, if any. However, the board may establish a minimum number of shares that must be held by any one member. Any fraternal organization, partnership or corporation having a usual place of business within the state and composed principally of individual members or stockholders who are themselves eligible to membership in a credit union, may become a member of a credit union, but, except with the consent of the supervisor, the credit union shall make no loan to such a member in excess of the total of its shares and deposits therein; nor shall a credit union receive from any such member money in payment for shares or on deposit to such an amount that the total of such payment by all members of the class described in this section shall exceed at any time twenty-five percent of the assets of the credit union. Credit

union organization shall be limited to groups of both large and small membership having a common bond of occupation or association, or to groups within a well defined neighborhood, community or rural district.

Sec. 4. Section 9, chapter 173, Laws of 1933 as last amended by section 3, chapter 41, Laws of 1980 and RCW 31.12.130 are each amended to read as follows:

The capital of a credit union shall be unlimited in amount. Deposits and shares of capital stock may be subscribed and paid for in such manner as the bylaws prescribe. A shareholder may purchase shares in a credit union and may also make deposits therein to an amount in the aggregate not exceeding five hundred dollars or twenty percent of the total shares and deposits of the credit union, whichever is greater. Shares and deposits may be withdrawn for payment to the account holder or to third parties, in such manner and in accordance with such procedures as may be established by the board of directors. A credit union may require from a member ninety days' notice of his intention to withdraw any or all of his shares and sixty days' notice of intention to withdraw any or all of his deposits, except that the notices may be extended beyond such time limits with the written consent of the supervisor.

Sec. 5. Section 15, chapter 173, Laws of 1933 as last amended by section 4, chapter 41, Laws of 1980 and RCW 31.12.190 are each amended to read as follows:

The board shall have the general direction of the affairs of the corporation and shall meet as often as may be necessary, but not less than once in each month. It shall act upon all applications for membership and upon the expulsion of members, except that a membership officer may be authorized by the board to approve applications for membership under such conditions as the board may prescribe which are consistent with the provisions of this chapter, and such membership officers so authorized shall submit to the board at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require. The board shall determine the rate of interest on loans subject to the limitations herein, determine the rate of interest to be paid on deposits, which ~~((shall not be greater than one-half of one percent less than the rate at which dividends have been declared during the immediately preceding period))~~ rate may not exceed the maximum permissible dividend rate on shares, determine the types of security which shall be acceptable on loans subject to the limitations herein, and fill vacancies in the board and in such committees for which provision as to filling of vacancies is not made herein, until the next election. The board shall make recommendations to the members relative to matters upon which it deems the members should act at any regular or special meeting. The board from time to time shall set the amount of shares and deposits which any one member may hold in the credit union,

and set the amount which may be loaned, secured or unsecured, to any one member, all subject to the limitations contained in this chapter. At each annual, semiannual, or quarterly period the board may declare a dividend from net earnings, which shall be paid on all shares outstanding at the time of declaration, and which may be paid to members on shares withdrawn during the period. Shares which become paid up during the year shall be entitled to a proportional part of the dividend calculated from the first day of the month following such payment in full: PROVIDED, That the board may compute such full shares if purchased on or before the tenth day of any month, as of the first day of the month, and from the date of deposit to date of withdrawal. The board may borrow money in behalf of the credit union, for the purpose of making loans, and the payment of debts or withdrawals. The aggregate amount of such loans shall not exceed thirty-three and one-third percent of the credit union's paid-in and unimpaired capital and surplus except with the approval of the supervisor. It may, by a two-thirds vote, remove from office any officer for cause; or suspend any member of the board, credit committee, investment committee, or audit committee, for cause, until the next membership meeting, which meeting shall be held within fifteen days of the suspension, and at which meeting the suspension shall be acted upon by the members. Notwithstanding any other provision of this section, a director who fails to attend three consecutive regular meetings of the board and whose reason for absence is not deemed justifiable by the remaining members of the board shall be subject to removal at their discretion by majority vote; the vacant office shall then be filled as prescribed in the bylaws. The board shall make a written report to the members at each annual meeting.

Sec. 6. Section 18, chapter 173, Laws of 1933 as last amended by section 5, chapter 41, Laws of 1980 and RCW 31.12.220 are each amended to read as follows:

At the end of each accounting period and before the payment of any dividend there shall be set apart as a guaranty fund, reserves against losses (~~(on loans)~~), an amount in accordance with the following schedule:

(1) A credit union in operation for more than four years and having assets of five hundred thousand dollars or more shall set aside (a) ten percent of gross income until the guaranty fund shall equal four percent of the total of outstanding loans, then (b) five percent of gross income until the guaranty fund shall equal six percent of the total of outstanding loans.

(2) A credit union in operation less than four years or having assets of less than five hundred thousand dollars shall set aside (a) ten percent of gross income until the guaranty fund shall equal seven and one-half percent of the total of outstanding loans, then (b) five percent of gross income until the guaranty fund shall equal ten percent of the total of outstanding loans.

Whenever the guaranty fund falls below the stated percentage of the total of outstanding loans, it shall be replenished by regular contributions in

such amounts as may be needed to maintain the stated guaranty fund reserve.

The supervisor may, if deemed necessary, require the establishment of a liquidity reserve of up to five percent of unimpaired capital.

This liquidity reserve shall be in cash or investments with maturities of one year or less.

In computing total loans, credit unions may exclude to the extent of such coverage: (i) Loans secured by shares, and (ii) loans insured or guaranteed by the federal government.

Credit unions with shares insured by the National Credit Union Administration, may in the alternative comply with reserve requirements and regulations promulgated by the National Credit Union Administration. All entrance fees shall be added to the guaranty fund at the close of the dividend period, and shall never exceed five dollars for each member. The guaranty fund and the investments thereof shall be held to meet contingencies or losses in the business of the credit union, and shall not be distributed to its members, except in the case of dissolution.

Sec. 7. Section 8, chapter 23, Laws of 1957 as last amended by section 9, chapter 8, Laws of 1973 1st ex. sess. and RCW 31.12.245 are each amended to read as follows:

The board of any credit union organized under this chapter whose assets are in excess of two hundred thousand dollars may appoint such loan officers as it deems advisable for the purpose of approving certain types of loans without further authorization from the credit committee. Credit unions with assets of two hundred thousand dollars or less may appoint such loan officers: PROVIDED, That the supervisor has given his prior approval thereto.

~~((All loans not approved by a loan officer shall be acted upon by the credit committee.))~~

Sec. 8. Section 20, chapter 173, Laws of 1933 as last amended by section 5, chapter 222, Laws of 1975 1st ex. sess. and RCW 31.12.260 are each amended to read as follows:

The capital, deposits, and surplus of a credit union shall be invested in loans to members, with the approval of the credit committee or the loan officer where permitted herein, and also when required herein, of the board of directors or of the investment committee. Any capital, deposits, or surplus funds in excess of the amount for which loans may be approved, may be deposited or invested:

(a) In banks or trust companies or in state or national banks located in this state or in checking accounts of banks in other states in which accounts are insured by the Federal Deposit Insurance Corporation;

(b) In any bond or securities or other investments which are fully guaranteed as to payment of principal and interest by the United States

government, and general obligations of this state and general obligations of counties, municipalities, or public purpose districts of this state;

(c) In obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, or any corporation designated in section 846 of Title 31 U.S.C. as a wholly owned government corporation; or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by the Federal National Mortgage Association or the Government National Mortgage Association;

(d) In participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections therefrom, which obligations have been subjected by one or more government agencies to a trust or trusts for which any executive department, agency or instrumentality of the United States (or the head thereof) has been named to act as trustee;

(e) In the shares, share certificates or share deposits of other credit unions or savings and loan associations organized or authorized to do business under the laws of this state or the United States, or in the notes of such credit unions in the process of liquidation;

(f) In the ICU government securities program of ICU Services Corporation owned by CUNA, Incorporated, or up to two percent thereof in a corporation owned by the Washington Credit Union League;

(g) In such other investments authorized in accordance with rules and regulations prescribed by the supervisor consistent with chapter 31.12 RCW as now or hereafter amended:

PROVIDED, That any such securities shall not be eligible for investment if they have been in default either as to principal or interest within five years prior to date of purchase.

No credit union shall carry on a banking business or carry any (~~de-~~mand;) commercial(~~(; or checking)~~) accounts(~~(; nor issue any time or de-~~mand certificates of deposit)). Investments other than loans to members shall be made only with the approval of the board or of the investment committee.

Sec. 9. Section 12, chapter 23, Laws of 1957 as last amended by section 7, chapter 41, Laws of 1980 and RCW 31.12.280 are each amended to read as follows:

Personal loans shall be payable within five years from the date thereof: PROVIDED, That loans with adequate security may be made payable within ten years. Unsecured loans may be made to members not to exceed five hundred dollars for credit unions whose unimpaired capital and surplus is less than eight thousand dollars or up to two and one-half percent of the unimpaired capital and surplus of any other credit union not to exceed four thousand dollars. Members may make share secured loans up to the full

extent of their share holdings. Additionally, other loans with adequate security may be made to members (~~(of a family community)~~) in an aggregate amount not to exceed five hundred dollars or ~~((ten))~~ five percent of the credit union's unimpaired capital and surplus, whichever is greater: PROVIDED, That personal loans not totally secured by share deposits shall not exceed, in the aggregate, twelve thousand dollars. The supervisor may waive the restrictions in this section.

Sec. 10. Section 13, chapter 23, Laws of 1957 as last amended by section 13, chapter 8, Laws of 1973 1st ex. sess. and RCW 31.12.290 are each amended to read as follows:

The total amount which a credit union may lend on the security of mortgages on, or contracts relating to, real estate shall not exceed the following limits:

(a) Ten percent of its total assets if its assets are under one hundred thousand dollars.

(b) Twenty percent of its total assets if its assets are over one hundred thousand dollars but under one million dollars.

(c) Thirty percent of its total assets if its assets are in excess of one million dollars.

All loans secured by mortgages or contracts on real estate shall be subject to the following restrictions:

(1) Loans secured by first mortgages shall be only on real estate improved by a home, a combination home and business building, or a two unit residential building in which the owner-borrower is the occupant of one unit; loans may be made for the construction of any such improvements. Additional parcels of noncontiguous, improved, habitable, residential real estate may be included in the same loan as such security together with the principal property.

(2) Any loans made on a real estate contract must be through warranty deed and assignment of the seller's interest, and the principal amount of the purchase price must have been reduced by twenty-five percent; the monthly payments must not be delinquent at time of the loan and the real estate must be such as would qualify for a mortgage loan under paragraph (1) hereof.

(3) The total amount which may be loaned on any one property or to any one (~~(family community)~~) borrower shall not exceed two and one-half percent of the assets of the credit union, or ten thousand dollars, whichever is greater, except with the prior approval of the supervisor. Such loan shall not exceed seventy-five percent of the appraised value of the real estate if there is located thereon a home or if the loan is made for the construction or completion of improvements.

All taxes and assessments must be paid currently, and all such loans must be amortized within a maximum period of twenty years by weekly, semimonthly or monthly payments, which payments, including interest,

shall be at the rate of not less than seven and one-half percent per year of the original principal.

The real estate covered by any such mortgage or contract must be inspected and appraised by an appraiser who has had two or more years experience in appraising real estate for loan purposes within the area in which the property is located. The credit union must have a policy of title insurance issued concurrently by an insurance company licensed to do business in the state of Washington, insuring the interest of the credit union in the real estate in the full amount of the loan, or must have an abstract brought up to date of the loan and certified by a practicing attorney; also with fire insurance covering at least the interest of the credit union.

Sec. 11. Section 25, chapter 173, Laws of 1933 as last amended by section 8, chapter 222, Laws of 1975 1st ex. sess. and RCW 31.12.310 are each amended to read as follows:

Dividends may be declared only from the earnings which remain after the deduction of all expenses, interest on deposits and the amounts required to be set apart to the guaranty fund and to the reserve fund, or such dividend may be declared in whole or in part from the undivided earnings of preceding years remaining after the aforesaid deductions for said years. Dividends due to a member shall, at his election, be paid to him in cash or be credited to his account in either shares or deposits. No dividend exceeding seven percent per annum shall be paid, unless the guaranty fund and undivided profits exceed ~~((fifteen))~~ five percent of assets, ~~((but))~~ except with express permission of the supervisor. Surplus earnings may be distributed to the borrowers as a patronage dividend ratably in proportion to interest paid by them.

Sec. 12. Section 27, chapter 173, Laws of 1933 as last amended by section 14, chapter 180, Laws of 1967 and RCW 31.12.330 are each amended to read as follows:

The expenses of a credit union shall be paid from its earnings. No credit union shall pay or become liable to pay in any calendar year as salaries, fees, wages, or other compensations to officers, directors, agents, attorneys, clerks, and employees and for rent, advertising, and all other operating expenses, sums of money, the aggregate of which exceeds ~~((five))~~ seven and one-half percent of the average amount of the assets of the union during such year: PROVIDED, That a credit union shall not thereby be limited in its expenditures to a sum less than six hundred dollars in any calendar year. No credit union shall pay any fee, commission, or other compensation, directly or indirectly, to a person for soliciting the purchase of or selling its shares of stock or for soliciting loans or deposits.

NEW SECTION. Sec. 13. If any provision of this amendatory 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. 14. This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 12, 1981.

Passed the Senate April 20, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 82

[House Bill No. 701]

BANKS, FINANCIAL INSTITUTIONS—DEPOSITOR CLASSIFICATION,
INTEREST COMPUTATION, PAYMENT

AN ACT Relating to financial institutions; adding a new chapter to Title 30 RCW; and creating a new section.

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

NEW SECTION. Section 1. The legislature finds that current rates of interest paid for deposits is significantly less than rates paid for other types of monetary instruments. The purpose of this chapter is to permit financial institutions to compete for the funds now being transferred out of state to money market mutual funds.

It is not the purpose of this chapter to deny savers or investors the highest rates of return on their savings and investments commensurate with the risk they are taking but rather to permit the financial institutions in this state to compete for such funds by offering the maximum rate of return commensurate with the risk.

It is the further purpose of this chapter to permit all financial institutions, both large and small, to establish a convenient and inexpensive way to compete adequately for deposits now being transferred out of the state, and the regulators in proceeding under this chapter should endeavor to fulfill this purpose.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, definitions in this section apply throughout this chapter.

(1) "Financial institution" means any:

(a) Bank or trust company organized under the provisions of Title 30 RCW; or any

(b) "Mutual savings bank" organized under the provisions of Title 32 RCW; or any

(c) "Savings and loan association" organized under the provisions of Title 33 RCW.

(2) "Regulator" means:

- (a) The supervisor of banking in the case of a bank, trust company, or mutual savings bank; or
- (b) The supervisor of savings and loan associations in the case of a savings and loan association.

NEW SECTION. Sec. 3. A financial institution organized under any of the laws of this state, in addition to all other provisions relating to deposits and accounts, may classify depositors or account holders in separate classifications according to the character, amount, regularity or duration of their dealings with the financial institution or in such other reasonable classes as the financial institution may determine and may pay interest in a manner so that each depositor or account holder shall receive the same ratable portion of interest as all others of his class.

NEW SECTION. Sec. 4. (1) A financial institution may compute interest for any class of depositors by:

(a) Computing the income on a part of its assets, which the financial institution shall designate from time to time as the basis for that computation and for the purposes of computations under the provisions of section 5 (1) and (2) of this act;

(b) Deducting from that computation reasonable sums for the expenses and cost of the financial institution's doing business and for handling such accounts and an adequate amount to be added to its reserves and surplus; and

(c) Paying the balance of that income ratably to all depositors in the class based on the dollar amount of each depositor's account.

(2) The computations and payment of interest as specified in subsection (1) of this section can be made at reasonable intervals determined by the financial institution not less often than annually and provision can be made to pay interest on funds withdrawn before the end of an interest period at a rate or rates determined by the bank.

NEW SECTION. Sec. 5. (1) In the event of a loss or if the financial institution anticipates a loss on the portion of assets designated under section 4(1) of this act, that loss or a provision for anticipated loss may be deducted from the income in computing the interest to be paid.

(2) If a loss sustained or anticipated on the portion of assets designated under section 4(1) of this act exceeds the income after deduction of costs and expenses provided in section 4(1)(b) of this act, the financial institution may on notice to the appropriate regulator issue an order of reduction of the liability to each depositor so classified for this purpose, including liability for interest accrued on such class of deposits so as to divide the loss ratably among all the depositors of such class based on the dollar amount of each depositor's deposit. If, after causing a reduction of the liability to each depositor, the financial institution realizes from the remaining assets a greater

amount than was fixed in the order of reduction, that excess shall be divided among the depositors whose accounts were reduced, but only to the extent of that reduction, at which time the provisions of section 4(1) of this act would apply.

(3) Before a financial institution may classify its depositors in a classification to which the provisions of subsection (2) of this section apply, it shall prepare a brochure describing the classification of accounts to be offered, the terms under which the accounts will be held, and the method of computing interest to be paid on them, and must submit to the regulator of the financial institution for written approval that brochure together with a written explanation of how the class or classes of accounts will be made available to the public. Upon receipt of written approval from the regulator, the bank may proceed to offer the accounts to the public in the manner and under the terms described in the brochure.

NEW SECTION. Sec. 6. All accounts in a class subject to the provisions of this chapter are subject to such additional conditions as the regulator may from time to time reasonably impose to effect the purposes of this chapter and to protect the depositors and the safety and soundness of the financial institution.

NEW SECTION. Sec. 7. (1) The depositor in any account subject to the provisions of this chapter must be advised in writing by the bank in a manner approved by the regulator as to the following matters:

(a) That the interest received by the depositor on an account subject to this section may vary;

(b) That the bank reserves the right to repay less than the full amount deposited under certain circumstances as set out in section 5(2) of this act;

(c) If it is the fact, that deposits made to an account subject to this chapter are not insured by an agency of the federal government or other private insurance, or, if it is the fact, that the amount being insured is the amount of the deposit less any reduction provided in section 5(2) of this act; and

(d) That the deposit is a general obligation of the bank subject only to reduction as provided in section 5(2) of this act and is unsecured and has no prior claim on any assets, but the depositor's claim is not subordinate to claims of other depositors or general creditors.

(2) The disclosure required under subsection (1)(b) of this section shall be more conspicuous than all other disclosure required under this section and shall be in at least ten-point type or its equivalent.

(3) Each depositor must sign the notice of disclosure and must be given a signed copy of such notice.

NEW SECTION. Sec. 8. Accounts which comply with the provisions of this chapter are obligations of the financial institution which are deposits to

the same extent that other accounts are obligations of the financial institution and deposits therein.

NEW SECTION. Sec. 9. This chapter should be liberally construed to effect the purpose as stated in section 1 of this act, limiting it only as necessary to properly inform the public of the nature of their deposits and as necessary for the safety and soundness of the financial institution offering such deposits.

NEW SECTION. Sec. 10. (1) The state of Washington hereby requests that the federal depository institutions deregulation committee designate Washington as an experimental area in which all financial institutions may offer depository accounts as authorized by this act.

(2) The secretary of state shall forward copies of this act to the Honorable Ronald Reagan, President of the United States, the Senate and House of Representatives of the United States, and the federal depository institutions deregulation committee.

NEW SECTION. Sec. 11. 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. 12. Sections 1 through 9 of this act shall constitute a new chapter in Title 30 RCW.

Passed the House April 1, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 83

[Senate Bill No. 3042]

BANKS, FINANCIAL INSTITUTIONS—SATELLITE FACILITIES

AN ACT Relating to satellite facilities; amending section 2, chapter 166, Laws of 1974 ex. sess. and RCW 30.43.020; and adding a new section to chapter 30.43 RCW.

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

Section 1. Section 2, chapter 166, Laws of 1974 ex. sess. and RCW 30.43.020 are each amended to read as follows:

A financial institution may, subject to the conditions hereof, and with the approval of the appropriate supervisor, provide satellite facilities in addition to its main office and such branches as are authorized by law. The supervisor's approval shall be conditioned on a finding that the public convenience will be served by the proposed satellite facility. A satellite facility may be located anywhere within the state of Washington and, subject to

section 2 of this 1981 act, may be located anywhere outside the state of Washington.

NEW SECTION. Sec. 2. There is added to chapter 30.43 RCW a new section to read as follows:

Subject to the approval of the appropriate supervisor, a financial institution may operate or use satellite facilities located outside the state of Washington, and, subject to the approval of the appropriate supervisor, satellite facilities located within the state of Washington may be made available to banks, trust companies, mutual savings banks, savings and loan associations, and credit unions which do not have offices in this state.

The supervisor's approval shall be conditioned on a finding that the public convenience will be served by the proposed use or operation of the satellite facility. The supervisor shall not grant approval for the use or operation of satellite facilities by banks, trust companies, mutual savings banks, savings and loan associations, and credit unions which do not have offices in this state unless like facilities located in the jurisdiction in which these institutions are organized are made available on a reciprocal basis for the benefit of financial institutions which have offices in this state.

The supervisor's approval of the use or operation of satellite facilities located within the state of Washington by banks, trust companies, mutual savings banks, savings and loan associations, and credit unions which do not have offices in this state is not approval or authority to conduct or transact any other business in this state by these banks, trust companies, mutual savings banks, savings and loan associations, and credit unions which is not otherwise permitted by the laws of this state.

Passed the Senate February 24, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 84

[Substitute Senate Bill No. 3205]

SAVINGS AND LOAN ASSOCIATIONS—GUARANTY STOCK—CONTINGENT FUND

AN ACT Relating to savings and loan associations; amending section 4, chapter 122, Laws of 1955 as last amended by section 7, chapter 107, Laws of 1969 and RCW 33.48.030; amending section 5, chapter 122, Laws of 1955 as amended by section 14, chapter 113, Laws of 1979 and RCW 33.48.040; amending section 51, chapter 235, Laws of 1945 as last amended by section 4, chapter 246, Laws of 1963 and RCW 33.12.150; and adding a new section to chapter 33.48 RCW.

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

Section 1. Section 4, chapter 122, Laws of 1955 as last amended by section 7, chapter 107, Laws of 1969 and RCW 33.48.030 are each amended to read as follows:

Associations chartered under this chapter 33.48 RCW shall be known as guaranty stock savings and loan associations, and shall have a permanent nonwithdrawable stock (~~(of the par value of not less than one dollar per share))~~ which may be issued with or without par value but with a statement of value of nonpar stock in accordance with Title 23A RCW. The minimum amount of such stock shall be twenty-five thousand dollars in the case of associations outside of incorporated cities, or in cities of less than twenty-five thousand population. Associations located in cities of greater population shall have as a minimum, fifty thousand dollars of such stock. The board of such association is authorized and directed to issue and maintain the guaranty stock in the following percentages: Three percent upon the first five million dollars; two percent upon the next three million dollars, and one percent upon all additional withdrawable savings: PROVIDED, That associations whose savings are insured by the Federal Savings and Loan Insurance Corporation shall not be required to maintain stock in excess of three hundred thousand dollars. A guaranty stock association may issue preferred or special classes of shares as provided in chapter 23A.08 RCW.

Sec. 2. Section 5, chapter 122, Laws of 1955 as amended by section 14, chapter 113, Laws of 1979 and RCW 33.48.040 are each amended to read as follows:

(1) The guaranty stock provided for in RCW 33.48.030 shall be paid for in cash (~~(at par)~~), except as provided in subsection (3) of this section, and shall not be eligible as security for loans from the association, nor withdrawable except upon liquidation or dissolution.

(2) No dividends shall be declared on guaranty stock until the association has met the net worth and federal insurance (~~(reserve)~~) requirements of the federal savings and loan insurance corporation. Subject to the provisions of this chapter, guaranty stock shall be entitled to such rate of dividend, if earned, as fixed by the board. Stock dividends may be declared and issued by the board at any time, payable from otherwise unallocated surplus and undivided profits.

(3) With the consent of the supervisor, guaranty stock may be issued for a consideration other than cash in connection with mergers, consolidations, or transfers.

Sec. 3. Section 51, chapter 235, Laws of 1945 as last amended by section 4, chapter 246, Laws of 1963 and RCW 33.12.150 are each amended to read as follows:

The contingent fund shall constitute a reserve for the absorption of losses of an association.

Members shall not have, individually or collectively, any right or claim to the contingent fund except upon dissolution of the association.

Every association, as of June 30th and December 31st in each year, shall determine its net semiannual earnings, and shall credit to the contingent fund an amount equal to two percent of the amount by which the aggregate of loans and real estate contracts outstanding at the end of said six months' period exceeds the amount of such loans and real estate contracts outstanding at the beginning of the period or one-twentieth of one percent of the total savings accounts in the association at the end of the period, whichever is the greater, such sum so credited from earnings into the contingent fund to be in no event less than five percent of the net earnings of the association for such period. The amount so credited need not exceed fifteen percent of the net earnings during the first three years after an association opens for business. The amount required herein shall not be greater than the ~~((amount of)) insurance ((reserve allocations required by))~~ requirements of the Federal Savings and Loan Insurance Corporation for associations whose savings accounts are insured by that corporation.

NEW SECTION. Sec. 4. There is added to chapter 33.48 RCW a new section to read as follows:

Except to the extent provided otherwise in Title 33 RCW, guaranty stock associations shall be subject to those provisions in chapter 23A.08 RCW, as now or hereafter amended, relating to issuance, sale, and repurchase of shares.

Passed the Senate March 9, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 85

[Substitute Senate Bill No. 3320]

MUTUAL SAVINGS BANKS—CONVERSION TO CAPITAL STOCK SAVINGS BANKS

AN ACT Relating to mutual savings banks; amending section 32.04.010, chapter 13, Laws of 1955 and RCW 32.04.010; amending section 32.04.020, chapter 13, Laws of 1955 and RCW 32.04.020; adding a new chapter to Title 32 RCW; and prescribing penalties.

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

NEW SECTION. Section 1. This chapter shall exclusively govern the conversion of mutual savings banks to capital stock savings banks. No mutual savings bank may convert to the capital stock form of organization without the prior written approval of the supervisor pursuant to this chapter, except that the supervisor may waive requirements of this chapter in appropriate cases.

NEW SECTION. Sec. 2. The supervisor may prescribe under this chapter such forms as the supervisor deems appropriate for use by a mutual

savings bank seeking to convert to a capital stock savings bank pursuant to this chapter.

NEW SECTION. Sec. 3. (1) If an applicant finds that compliance with any provision of this chapter would be in conflict with applicable federal law, the supervisor shall grant or deny a request of noncompliance with the provision. The request may be incorporated in the application for conversion; otherwise, the applicant shall file the request in accordance with the requirements of the supervisor.

(2) In making any such request, the applicant shall:

(a) Specify the provision or provisions of this chapter with respect to which the applicant desires waiver;

(b) Furnish an opinion of counsel demonstrating that applicable federal law is in conflict with the specified provision or provisions of this chapter; and

(c) Demonstrate that the requested waiver would not result in any effects that would be inequitable or detrimental to the applicant, its account holders, or other financial institutions or would be contrary to the public interest.

NEW SECTION. Sec. 4. As used in this chapter, the following definitions apply, unless the context otherwise requires:

(1) Except as provided in section 45 of this act, an "affiliate" of, or a person "affiliated" with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) The term "amount", when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(3) An "applicant" is a mutual savings bank which has applied to convert pursuant to this chapter.

(4) The term "associate", when used to indicate a relationship with any person, means (a) any corporation or organization (other than the applicant or a majority-owned subsidiary of the applicant) of which the person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities, (b) any trust or other estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar fiduciary capacity, and (c) any relative who would be a "class A beneficiary" under RCW 83.08.005 if the person were a decedent.

(5) The term "broker" means any person engaged in the business of effecting transactions in securities for the account of others.

(6) The term "capital stock" includes permanent stock, guaranty stock, permanent reserve stock, or any similar certificate evidencing nonwithdrawable capital.

(7) The term "charter" includes articles of incorporation, articles of re-incorporation, and certificates of incorporation, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated person.

(8) Except as provided in section 45 of this act, the term "control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(9) The term "dealer" means any person who engages either for all or part of his time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

(10) The term "director" means any director of a corporation, any trustee of a mutual savings bank, or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

(11) The term "eligibility record date" means the record date for determining eligible account holders of a converting mutual savings bank.

(12) The term "eligible account holder" means any person holding a qualifying deposit as determined in accordance with section 35 of this act.

(13) The term "employee" does not include a director or officer.

(14) The term "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

(15) The term "market maker" means a dealer who, with respect to a particular security, (a) regularly publishes bona fide, competitive bid and offer quotations in a recognized interdealer quotation system; or (b) furnishes bona fide competitive bid and offer quotations on request; and (c) is ready, willing, and able to effect transaction in reasonable quantities at his quoted prices with other brokers or dealers.

(16) The term "material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor ought reasonably to be informed before purchasing an equity security of the applicant.

(17) The term "mutual savings bank" means a mutual savings bank organized and operating under Title 32 RCW.

(18) Except as provided in section 86 of this act, the term "offer", "offer to sell", or "offer of sale" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. These terms shall not include preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with an applicant.

(19) The term "officer", for purposes of the purchase of stock in a conversion under this chapter or the sale of this stock, means the chairman of the board, president, vice president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

(20) Except as provided in section 86 of this act, the term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

(21) The term "proxy" includes every form of authorization by which a person is or may be deemed to be designated to act for a stockholder in the exercise of his voting rights in the affairs of an institution. Such an authorization may take the form of failure to dissent or object.

(22) The terms "purchase" and "buy" include every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

(23) The terms "sale" and "sell" include every contract to sell or otherwise dispose of a security or interest in a security for value; but these terms do not include an exchange of securities in connection with a merger or acquisition approved by the supervisor.

(24) The term "savings account" means deposits established in a mutual savings bank and includes certificates of deposit.

(25) Except as provided in section 86 of this act, the term "security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-trust certificate, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase any of the foregoing.

(26) The term "subscription offering" refers to the offering of shares of capital stock, through nontransferable subscription rights issued to: (a) Eligible account holders as required by section 8 of this act; (b) supplemental eligible account holders as required by section 10 of this act; (c) directors, officers, and employees, as permitted by section 27 of this act; and (d) eligible account holders and supplemental eligible account holders as permitted by section 28 of this act.

(27) A "subsidiary" of a specified person is an affiliate controlled by the person, directly or indirectly through one or more intermediaries.

(28) The term "supervisor" means the supervisor of banking.

(29) The term "supplemental eligibility record date" means the supplemental record date for determining supplemental eligible account holders of a converting savings bank required by section 10 of this act. The date shall be the last day of the calendar quarter preceding supervisor approval of the application for conversion.

(30) The term "supplemental eligible account holder" means any person holding a qualifying deposit, except officers, directors, and their associates, as of the supplemental eligibility record date.

(31) The term "underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for an applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking; but the term does not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers commission. The term "principal underwriter" means an underwriter in privity of contract with the applicant or other issuer of securities as to which that person is the underwriter.

Terms defined in other chapters of this title, when used in this chapter, shall have the meanings given in those definitions, to the extent those definitions are not inconsistent with the definitions contained in this chapter unless the context otherwise requires.

NEW SECTION. Sec. 5. No application for conversion may be approved by the supervisor if:

(1) The plan of conversion adopted by the applicant's board of directors is not in accordance with this chapter;

(2) The conversion would result in a reduction of the applicant's net worth below requirements established by the supervisor;

(3) The conversion may result in a taxable reorganization of the applicant under the United States Internal Revenue Code of 1954, as amended; or

(4) The converted savings bank does not meet the insurance requirements as established by the supervisor.

NEW SECTION. Sec. 6. The plan of conversion shall contain all of the provisions set forth in sections 7 through 24 of this act.

NEW SECTION. Sec. 7. The converting savings bank shall issue and sell its capital stock at a total price equal to the estimated pro forma market value of the stock in the converted savings bank, based on an independent valuation, as provided in section 60 of this act.

NEW SECTION. Sec. 8. Each eligible account holder shall receive, without payment, nontransferable subscription rights to purchase capital stock in an amount equal to the greatest of two hundred shares, one-tenth of one percent of the total offering of shares, or fifteen times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the eligible account holder and the denominator is the total amount of qualifying deposits of all eligible account holders in the converting savings bank. If the allotment made in this section results in an oversubscription, shares shall be allocated

among subscribing eligible account holders so as to permit each such account holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation equal to one hundred shares. Any shares not so allocated shall be allocated among the subscribing eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits, as may be provided in the plan of conversion.

NEW SECTION. Sec. 9. Nontransferable subscription rights to purchase capital stock received by officers and directors and their associates of the converting savings bank based on their increased deposits in the converting savings bank in the one-year period preceding the eligibility record date shall be subordinated to all other subscriptions involving the exercise of nontransferable subscription rights to purchase shares pursuant to section 8 of this act.

NEW SECTION. Sec. 10. In plans involving an eligibility record date that is more than fifteen months prior to the date of the latest amendment to the application for conversion filed prior to the supervisor approval, a supplemental eligibility record date shall be determined whereby each supplemental eligible account holder of the converting savings bank shall receive, without payment, nontransferable subscription rights to purchase supplemental shares in an amount equal to the greatest of two hundred shares, one-tenth of one percent of the total offering of shares, or fifteen times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the supplemental eligible account holder and the denominator is the total amount of the qualifying deposits of all supplemental eligible account holders in the converting savings bank on the supplemental eligibility record date.

(1) Subscription rights received pursuant to this section shall be subordinated to all rights received by eligible account holders to purchase shares pursuant to sections 8 and 9 of this act.

(2) Any nontransferable subscription rights to purchase shares received by an eligible account holder in accordance with section 8 of this act shall be applied in partial satisfaction of the subscription rights to be distributed pursuant to this section.

(3) In the event of an oversubscription for supplemental shares pursuant to this section, shares shall be allocated among the subscribing supplemental eligible account holders as follows:

(a) Shares shall be allocated among subscribing supplemental eligible account holders so as to permit each such supplemental account holder, to the extent possible, to purchase a number of shares sufficient to make the supplemental account holder's total allocation (including the number of shares, if any, allocated in accordance with section 8 of this act) equal to one hundred shares.

(b) Any shares not allocated in accordance with subsection (3)(a) of this section shall be allocated among the subscribing supplemental eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits, as may be provided in the plan of conversion.

NEW SECTION. Sec. 11. Any shares of the converting savings bank not sold in the subscription offering shall either be sold in a public offering through an underwriter or directly by the converting savings bank in a direct community marketing, subject to the applicant demonstrating to the supervisor the feasibility of the method of sale and to such conditions as may be provided in the plan of conversion. The conditions shall include, but not be limited to:

(1) A condition limiting purchases by each officer and director or their associates in this phase of the offering to one-tenth of one percent of the total offering of shares.

(2) A condition limiting purchases by any person and that person's associates in this phase of the offering to a number of shares or a percentage of the total offering so long as the limitation does not exceed two percent of the shares to be sold in the total offering.

(3) A condition that any direct community offering by the converting savings bank shall give a preference to natural persons residing in the counties in which the savings bank has an office. The methods by which preference shall be given shall be approved by the supervisor.

NEW SECTION. Sec. 12. The number of shares which any person together with any associate or group of persons acting in concert may subscribe for or purchase in the conversion shall not exceed five percent of the total offering of shares. For purposes of this section, the members of the converting savings bank's board of directors shall not be deemed to be associates or a group acting in concert solely as a result of their board membership.

NEW SECTION. Sec. 13. The number of shares which officers and directors of the converting savings bank and their associates may purchase in the conversion shall not exceed twenty-five percent of the total offering of shares.

NEW SECTION. Sec. 14. No officer or director, or their associates, may purchase without the prior written approval of the supervisor the capital stock of the converted savings bank except from a broker or a dealer registered with the Securities and Exchange Commission for a period of three years following the conversion. This provision shall not apply to negotiated transactions involving more than one percent of the outstanding capital stock of the converted savings bank.

As used in this section, the term "negotiated transactions" means transactions in which the securities are offered and the terms and arrangements

relating to any sale of the securities are arrived at through direct communications between the seller or any person acting on the seller's behalf and the purchaser or the purchaser's investment representative. The term "investment representative" means a professional investment adviser acting as agent for the purchaser and independent of the seller and not acting on behalf of the seller in connection with the transaction.

NEW SECTION. Sec. 15. The sales price of the shares of capital stock to be sold in the conversion shall be a uniform price determined in accordance with sections 57, 60, and 64 of this act. The applicant shall specify in its conversion application the underwriting and/or other marketing arrangements to be made to assure the sale of all shares not sold in the subscription offering.

NEW SECTION. Sec. 16. Each savings account holder of the converting savings bank shall receive, without payment, a withdrawable savings account or accounts in the converted savings bank equal in withdrawable amount to the withdrawal value of the account holder's savings account or accounts in the converting savings bank.

NEW SECTION. Sec. 17. A converting savings bank shall establish and maintain a liquidation account for the benefit of eligible account holders and supplemental eligible account holders in the event of a subsequent complete liquidation of the converted savings bank, in accordance with sections 36 through 40 of this act.

NEW SECTION. Sec. 18. The applicant shall establish an eligibility record date, which shall not be less than ninety days prior to the date of adoption of the plan by the converting savings bank's board of directors.

NEW SECTION. Sec. 19. The holders of the capital stock of the converted savings bank shall have exclusive voting rights.

NEW SECTION. Sec. 20. The plan of conversion adopted by the applicant's board of directors may be amended by the board of directors with the concurrence of the supervisor at any time prior to final approval of the supervisor and may be terminated with the concurrence of the supervisor at any time prior to issuance of the authorization certificate by the supervisor.

NEW SECTION. Sec. 21. All shares of capital stock purchased by directors and officers on original issue in the conversion either directly from the savings bank (by subscription or otherwise) or from an underwriter of the shares shall be subject to the restriction that the shares shall not be sold for a period of not less than three years following the date of purchase, except in the event of death of the director or officer.

NEW SECTION. Sec. 22. In connection with shares of capital stock subject to restriction on sale for a period of time:

(1) Each certificate for the stock shall bear a legend giving appropriate notice of the restriction;

(2) Appropriate instructions shall be issued to the transfer agent for the converted savings bank's capital stock with respect to applicable restrictions on transfer of any such restricted stock; and

(3) Any shares issued as a stock dividend, stock split, or otherwise with respect to any such restricted stock shall be subject to the same restrictions as may apply to the restricted stock.

NEW SECTION. Sec. 23. The converting savings bank shall:

(1) Promptly following the conversion register the securities issued in connection therewith pursuant to the Securities and Exchange Act of 1934 and undertake not to deregister the securities for a period of three years thereafter;

(2) Use its best efforts to encourage and assist a market maker to establish and maintain a market for the securities issued in connection with the conversion; and

(3) Use its best efforts to list those shares issued in connection with the conversion on a national or regional securities exchange or on the NASDAQ quotation system.

NEW SECTION. Sec. 24. The expenses incurred in the conversion shall be reasonable.

NEW SECTION. Sec. 25. The plan of conversion shall contain no provision which the supervisor determines to be inequitable or detrimental to the applicant, its savings account holders, or other savings banks or to be contrary to the public interest.

NEW SECTION. Sec. 26. The plan of conversion may contain any of the provisions set forth in sections 27 through 33 of this act.

NEW SECTION. Sec. 27. Directors, officers, and employees of the converting savings bank, as part of the subscription offering, may be entitled to purchase shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders and supplemental eligible account holders, subject to the following conditions:

(1) The total number of shares which may be purchased under this section shall not exceed twenty-five percent of the total number of shares to be issued in the case of a converting savings bank with total assets of less than fifty million dollars or fifteen percent in the case of a converting savings bank with total assets of five hundred million dollars or more; in the case of a converting savings bank with total assets of fifty million dollars or more but less than five hundred million dollars, the percentage shall be no more than a correspondingly appropriate number of shares based on total asset size (for example, twenty percent in the case of a converting savings bank with total assets of approximately two hundred seventy five million dollars); and

(2) The shares shall be allocated among directors, officers, and employees on an equitable basis such as by giving weight to period of service,

compensation, and position, subject to a reasonable limitation on the amount of shares which may be purchased by any person or associate thereof, or group of affiliated persons or group of persons otherwise acting in concert.

NEW SECTION. Sec. 28. Any account holder receiving rights to purchase stock in the subscription offering may also receive, without payment, nontransferable subscription rights to purchase up to one percent of the total offering of shares of capital stock, to the extent that the shares are available after satisfying the subscription under sections 8 and 10 of this act, subject to such conditions as may be provided in the plan of conversion. In the event of an oversubscription for the additional shares, the shares available shall be allocated among the subscribing eligible account holders and supplemental eligible account holders on such equitable basis, related to the amounts of their respective subscriptions, as may be provided in the plan of conversion. Where possible the subscriptions shall be allocated in such a manner that total purchases by eligible account holders and supplemental eligible account holders shall be rounded to the nearest one hundred shares.

NEW SECTION. Sec. 29. Any insignificant residue of shares of the converting savings bank not sold in the subscription offering or in a public offering referred to in section 11 of this act may be sold in such other manner as provided in the plan with supervisor approval.

NEW SECTION. Sec. 30. The number of shares which any person, or group of persons affiliated with each other or otherwise acting in concert, may subscribe for in the subscription offering may be made subject to a limit of not less than one percent of the total offering of shares.

NEW SECTION. Sec. 31. Any person exercising subscription rights to purchase capital stock may be required to purchase a minimum of up to twenty-five shares to the extent the shares are available (but the aggregate price for any minimum share purchase shall not exceed five hundred dollars).

NEW SECTION. Sec. 32. A stock option plan may be adopted by the board of directors at the meeting at which the plan of conversion is voted upon. The number of shares reserved for the stock option plans should be limited to ten percent of the number of shares sold in the conversion.

NEW SECTION. Sec. 33. The converted savings bank may issue and sell, in lieu of shares of its capital stock, units of securities consisting of capital stock or other equity securities, in which event any reference in this chapter to capital stock shall apply to the units of equity securities unless the context otherwise requires.

NEW SECTION. Sec. 34. The supervisor may approve such other equitable provisions as are necessary to avert imminent injury to the converting savings bank.

NEW SECTION. Sec. 35. (1) Unless otherwise provided in the plan of conversion, the amount of the qualifying deposit of an eligible account holder or supplemental eligible account holder shall be the total of the deposit balances in the eligible account holder's or supplemental eligible account holder's savings accounts in the converting savings bank as of the close of business on the eligibility record date or supplemental eligibility record date. However, the plan of conversion may provide that any savings accounts with total deposit balances of less than fifty dollars (or any lesser amount) shall not constitute a qualifying deposit.

(2) As used in this section, the term "savings account" includes a predecessor or successor account of a given savings account which is held only in the same right and capacity and on the same terms and conditions as the given savings account. However, the plan of conversion may provide for lesser requirements for consideration as a predecessor or successor account.

NEW SECTION. Sec. 36. Each converted savings bank shall, at the time of conversion, establish a liquidation account in an amount equal to the amount of net worth of the converting savings bank as of the latest practicable date prior to conversion. For the purposes of this section, the savings bank shall use the net worth figure no later than that set forth in its latest statement of financial condition contained in the final offering circular. The function of the liquidation account is to establish a priority on liquidation and, except as provided in section 42 of this act, the existence of the liquidation account shall not operate to restrict the use or application of any of the net worth accounts of the converted savings bank.

NEW SECTION. Sec. 37. The liquidation account shall be maintained by the converted savings bank for the benefit of eligible account holders and supplemental eligible account holders who maintain their savings accounts in the bank. Each such eligible account holder shall, with respect to each savings account, have a related inchoate interest in a portion of the liquidation account balance ("subaccount").

NEW SECTION. Sec. 38. In the event of a complete liquidation of the converted savings bank (and only in this event), each eligible account holder and supplemental eligible account holder shall be entitled to receive a liquidation distribution from the liquidation account, in the amount of the then current adjusted subaccount balances for savings accounts then held, before any liquidation distribution may be made with respect to capital stock. No merger, consolidation, purchase of bulk assets with assumption of savings accounts and other liabilities, or similar transaction, in which the converted savings bank is not the survivor, is considered to be a complete liquidation

for this purpose. In these transactions, the liquidation account shall be assumed by the surviving institution.

NEW SECTION. Sec. 39. The initial subaccount balance for a savings account held by an eligible account holder and/or supplemental eligible account holder shall be determined by multiplying the opening balance in the liquidation account by a fraction of which the numerator is the amount of qualifying deposits in the savings account on the eligibility record date and/or the supplemental eligibility record date and the denominator is the total amount of qualifying deposits of all eligible account holders and supplemental eligible account holders in the converting savings bank on these dates. For savings accounts in existence at both dates, separate subaccounts shall be determined on the basis of the qualifying deposits in these savings accounts on these record dates. The initial subaccount balances shall not be increased, and it shall be subject to downward adjustment as provided in section 40 of this act.

NEW SECTION. Sec. 40. If the deposit balance in any savings account of an eligible account holder or supplemental eligible account holder at the close of business on any annual closing date subsequent to the respective record dates is less than the lesser of (1) the deposit balance in the savings account at the close of business on any other annual closing date subsequent to the eligibility record date or (2) the amount of qualifying deposit as of the eligibility record date or the supplemental eligibility record date, the subaccount balance for the savings account shall be adjusted by reducing the subaccount balance in an amount proportionate to the reduction in the deposit balance. In the event of such a downward adjustment, the subaccount balance shall not be subsequently increased, notwithstanding any increase in the deposit balance of the related savings account. If any such savings account is closed, the related subaccount balance shall be reduced to zero.

NEW SECTION. Sec. 41. No converted savings bank may repurchase any of its capital stock from any person unless approved by the supervisor.

NEW SECTION. Sec. 42. No converted savings bank may declare or pay a cash dividend unless the declaration or payment of the dividend would be in accordance with the requirements of RCW 30.04.180 and would not have the effect of reducing the net worth of the converted savings bank below (1) the amount required for the liquidation account or (2) the amount required by the supervisor.

NEW SECTION. Sec. 43. Without the prior approval of the supervisor, no converted savings bank may, for a period of ten years after the date of its conversion, declare or pay a cash dividend on its capital stock in an amount in excess of one-half of the greater of:

- (1) The savings bank's net income for the current fiscal year; or

(2) The average of the savings bank's net income for the current fiscal year and not more than two of the immediately preceding fiscal years.

For purposes of this chapter, "net income" shall be determined by generally accepted accounting principles.

NEW SECTION. Sec. 44. In the offer, sale, or purchase of securities issued incident to its conversion, no savings bank, or any director, officer, attorney, agent, or employee thereof, may (1) employ any device, scheme, or artifice to defraud, or (2) obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (3) engage in any act, transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser or seller.

NEW SECTION. Sec. 45. (1) No conversion may be approved by the supervisor unless the plan of conversion provides that the converted savings bank shall enter into an agreement with the supervisor, in form satisfactory to the supervisor, which shall provide that for a period of three years following the conversion any company significantly engaged in an unrelated business activity, either directly or through an affiliate thereof, shall not be permitted, regardless of the form of the transaction, to acquire control of the converted savings bank. Any acquisition of a converted savings bank shall also comply with RCW 30.04.400 through 30.04.410.

(2) As used in this section:

(a) The term "affiliate" means any person or company which controls, is controlled by, or is under common control with, a specified company.

(b) A person or company shall be deemed to have "control" of:

(i) A savings bank if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty-five percent of the voting shares of the savings bank, or controls in any manner the election of a majority of the directors of the bank;

(ii) Any other company if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty-five percent of the voting shares or rights of the other company, or controls in any manner the election or appointment of a majority of the directors or trustees of the other company, or is a general partner in or has contributed more than twenty-five percent of the capital of the other company;

(iii) A trust if the person is a trustee thereof; or

(iv) A savings bank or any other company if the supervisor determines, after reasonable notice and opportunity for hearing, that the person directly

or indirectly exercises a controlling influence over the management or policies of the savings bank or other company.

(c) A company shall be deemed to be "significantly engaged" in an unrelated business activity if its unrelated business activities would represent, on either an actual or a pro forma basis, more than fifteen percent of its consolidated net worth at the close of this preceding fiscal year or of its consolidated net earnings for such fiscal year.

(d) The term "unrelated business activity" means any business activity not authorized for a savings bank or any subsidiary thereof.

NEW SECTION. Sec. 46. To the extent permitted by applicable federal or state law, a plan of conversion may provide for a provision in the charter of the converted savings bank containing, in substance, the restriction set forth in section 45 of this act. There may also be included a restriction providing that the charter provision may be amended only by a vote of up to seventy-five percent of the votes eligible to be cast at a regular or special meeting of shareholders of the converted savings bank. If the converted savings bank elects to adopt the foregoing optional charter provision, the supervisor shall impose, as a condition to approval of the conversion, a requirement that the converted savings bank fully enforce the charter provision.

NEW SECTION. Sec. 47. A savings bank which is considering converting pursuant to this chapter and its directors, officers, and employees shall keep this consideration in the strictest confidence and shall only discuss the potential conversion as would be consistent with the need to prepare information for filing an application for conversion. Should this confidence be breached the supervisor may require remedial measures including:

(1) A public statement by the savings bank that its board of directors is currently considering converting pursuant to this chapter;

(2) Providing for an eligibility record date which shall be as of such a date prior to the adoption of the plan by the converting savings bank's board of directors as to assure the equitability of the conversion;

(3) Limitation of the subscription rights of any person violating or aiding the violation of this section to an amount deemed appropriate by the supervisor; and

(4) Any other actions the supervisor may deem appropriate and necessary to assure the fairness and equitability of the conversion.

NEW SECTION. Sec. 48. If it should become essential as a result of rumors prior to the adoption of a plan of conversion by the applicant's board of directors, a public statement limited to that purpose may be made by the applicant.

NEW SECTION. Sec. 49. Promptly after the adoption of a plan of conversion by not less than two-thirds of its board of directors, the savings bank shall:

(1) Notify its account holders of the action by publishing a statement in a newspaper having general circulation in each community in which an office of the savings bank is located and/or by mailing a letter to each of its account holders; and

(2) Have copies of the adopted plan of conversion available for inspection by its account holders at each office of the savings bank.

The savings bank may also issue a press release with respect to the action. Copies of the proposed statement, letter, and press release are not required to be filed with the supervisor but may be submitted to the supervisor for comment. Copies of the definitive statement, letter, and press release shall be filed with the supervisor as part of the application for conversion.

NEW SECTION. Sec. 50. The statement, letter, and press release of the applicant issued pursuant to section 49 of this act, unless otherwise authorized by the supervisor, shall contain only (but need not contain all of) the following:

(1) A statement that the board of directors has adopted a plan to convert the savings bank from a mutual savings bank to a capital stock savings bank;

(2) A statement that the plan of conversion is subject to approval by the supervisor of banking and by the appropriate federal regulatory authority or authorities (naming such an authority or authorities) before the plan can become effective and that account holders of the applicant will have an opportunity to file written comments including objections and materials supporting the objections with the supervisor;

(3) A statement that the plan of conversion is contingent upon obtaining favorable tax rulings from the Internal Revenue Service or an appropriate tax opinion;

(4) A statement that there is no assurance that the approval of the supervisor of banking or the approval of any appropriate federal authority or authorities will be obtained, and also no assurance that the favorable tax rulings or tax opinion will be received;

(5) The proposed record date for determining the eligible account holders entitled to receive nontransferable subscription rights to purchase capital stock of the applicant;

(6) A brief statement describing the circumstances that would require supplemental eligible account holders to receive nontransferable subscription rights to purchase capital stock of the applicant;

(7) A brief description of the plan of conversion;

(8) The par value and approximate number of shares of capital stock to be issued and sold under the plan of conversion;

(9) A brief statement as to the extent to which directors, officers, and employees will participate in the conversion;

(10) A statement that savings account holders will continue to hold accounts in the converted savings bank identical as to dollar amount, rate of return, and general terms and that their accounts will continue to be insured by the Federal Deposit Insurance Corporation;

(11) A statement that borrowers' loans will be unaffected by conversion and that the amount, rate, maturity, security, and other conditions will remain contractually fixed as they existed prior to conversion;

(12) A statement that the normal business of the savings bank in accepting savings and making loans will continue without interruption; that the converted savings bank will continue after conversion to conduct its present services to savings account holders and borrowers under current policies to be carried on in existing offices and by the present management and staff;

(13) A statement that the plan of conversion may be substantively amended or terminated by the board of directors with the concurrence of the supervisor of banking; and

(14) A statement that questions of account holders may be answered by telephoning or writing to the savings bank.

NEW SECTION. Sec. 51. The statement, letter, and press release of the applicant issued pursuant to section 49 of this act shall not include financial statements or describe the benefits of conversion or the value of the capital stock of the savings bank upon conversion. In replying to inquiries, the savings bank should limit its answers to the matters listed in section 50 of this act.

NEW SECTION. Sec. 52. Upon determination that an application for conversion is properly executed and is not materially incomplete, the supervisor shall advise the applicant, in writing, to publish notices of the filing of the application. Promptly after receipt of the advice, the applicant shall furnish a written notice of the filing to each eligible account holder and also publish a notice of the filing in a newspaper printed in the English language and having general circulation in each community in which an office of the applicant is located, as follows:

**NOTICE OF FILING OF AN APPLICATION FOR
APPROVAL TO CONVERT TO A
STOCK SAVINGS BANK**

Notice is hereby given that, pursuant to chapter 32.— (sections 1 through 104 of this act) of the Revised Code of Washington

.....

(fill in name of applicant)

has filed an application with the Supervisor of Banking for approval

to convert to the stock form of organization. Copies of the application have been delivered to _____ (address) _____

Written comments, including objections to the plan of conversion and materials supporting the objections, from any account holder of the applicant or aggrieved person, will be considered by the supervisor if filed within twenty business days after the date of this notice. Failure to make written comments in objection may preclude the pursuit of any administrative or judicial remedies. Three copies of the comments should be sent to the aforementioned. The proposed plan of conversion and any comments thereon will be available for inspection by any account holder of the applicant at _____ (address) _____. A copy of the plan may also be inspected at each office of the applicant.

If a significant number of the applicant's account holders speak a language other than English and a newspaper in that language is published in the area served by the applicant, an appropriate translation of the notice shall also be published in that newspaper.

NEW SECTION. Sec. 53. Promptly after publication of the notices prescribed in section 52 of this act, the applicant shall file with the supervisor the notice and affidavit of publication from each newspaper publisher in the manner the supervisor shall require.

NEW SECTION. Sec. 54. Should the applicant desire to submit any information it deems to be of a confidential nature regarding any item or a part of any exhibit included in any application under this chapter, the information pertaining to the item or exhibit shall be separately bound and labeled "confidential", and a statement shall be submitted therewith briefly setting forth the grounds on which the information should be treated as confidential. Only general reference thereto need be made in that portion of the application which the applicant deems not to be confidential. Applications under this chapter shall be made available for inspection by the public, except for portions which are bound and labeled "confidential" and which the supervisor determines to withhold from public availability under RCW 42.17.250 through 42.17.340. The applicant shall be advised of any decision by the supervisor to make public information designated as "confidential" by the applicant. Even though sections of the application are considered "confidential" as far as public inspection thereof is concerned, to the extent the supervisor deems necessary the supervisor may comment on the confidential submissions in any public statement in connection with the supervisor's decision on the application without prior notice to the applicant.

NEW SECTION. Sec. 55. No offer to sell securities of an applicant pursuant to a plan of conversion may be made prior to approval by the supervisor of the application for conversion. No sale of these securities in the subscription offering may be made except by means of the final offering

circular for the subscription offering. No sale of unsubscribed securities may be made except by means of the final offering circular for the public offering or direct community marketing. The offering of shares in the direct community marketing may commence during the subscription offering upon the declaration of effectiveness by the supervisor of the offering circular proposed for the community offering. This section shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are to be in privity of contract with the applicant.

NEW SECTION. Sec. 56. Any preliminary offering circular for the subscription offering, the public offering, or the direct community marketing which has been filed with the supervisor may be distributed to eligible account holders or supplemental eligible account holders and to others in connection with the offering after the supervisor has advised the applicant in writing that the application is properly executed and is not materially incomplete under section 52 of this act. No final offering circular may be distributed until the offering circular has been declared effective by the supervisor.

NEW SECTION. Sec. 57. With respect to the capital stock of the applicant to be sold under the plan of conversion, any preliminary offering circular for the subscription offering shall set forth the estimated subscription price range. The maximum of the price range should normally be no more than fifteen percent above the average of the minimum and maximum of the price range and the minimum should normally be no more than fifteen percent below this average. The maximum price used in the price range should normally be no more than fifty dollars per share and the minimum no less than five dollars per share. The minimum par value of each share of the capital stock of a converted savings bank shall be one dollar.

NEW SECTION. Sec. 58. The supervisor shall review the price information required under section 57 of this act in determining whether to give approval to an application for conversion. No representations may be made in any manner that the price information has been approved by the supervisor or that the shares of capital stock sold pursuant to the plan of conversion have been approved or disapproved by the supervisor or that the supervisor has passed upon the accuracy or adequacy of any offering circular covering the shares.

NEW SECTION. Sec. 59. Underwriting commissions shall not exceed an amount or percentage per share acceptable to the supervisor. No underwriting commission may be allowed or paid with respect to shares of capital stock sold in the subscription offering; however, an underwriter may be reimbursed for accountable expenses in connection with the subscription offering where the public offering is so small that reasonable underwriting

commissions thereon would not be sufficient to cover total accountable expenses. The term "underwriting commissions" includes underwriting discounts.

NEW SECTION. Sec. 60. In considering the pricing information required under section 57 of this act, the supervisor shall apply the following guidelines:

- (1) The materials shall be prepared by persons independent of the applicant, experienced and expert in the area of corporate appraisal, and acceptable to the supervisor;
- (2) The materials shall contain data which are sufficient to support the conclusions reached therein;
- (3) The materials shall contain a complete and detailed description of the appraisal methodology employed; and
- (4) To the extent that the appraisal is based on a capitalization of the pro forma income of the converted savings bank, the materials shall indicate the basis for determination of the income to be derived from the proceeds of the sale of stock and demonstrate the appropriateness of the earnings multiple used, including assumptions made as to future earnings growth. To the extent that the appraisal is based on comparison of the capital stock of the applicant with outstanding capital stock of existing stock savings banks or stock savings and loan associations, the materials shall demonstrate the appropriate comparability of the form and substance of the outstanding capital stock and the appropriate comparability of the existing stock savings banks and stock savings and loan associations in terms of such factors as size, market area, competitive conditions, profit history, and expected future earnings.

NEW SECTION. Sec. 61. In addition to the information required in section 60 of this act, the applicant shall submit information demonstrating to the satisfaction of the supervisor the independence and expertise of any person preparing materials under section 60 of this act. However, a person will not be considered as lacking independence for the reason that the person will participate in effecting a sale of capital stock under the plan of conversion or will receive a fee from the applicant for services rendered in connection with the appraisal.

NEW SECTION. Sec. 62. Promptly after the supervisor has declared the offering circular for the subscription offering effective, the applicant shall distribute order forms for the purchase of shares of capital stock in the subscription offering to all eligible account holders, supplemental eligible account holders (if applicable), and other persons who may subscribe for the shares under the plan of conversion.

NEW SECTION. Sec. 63. Each order form distributed pursuant to section 62 of this act shall be accompanied or preceded by the final offering

circular for the subscription offering and a set of detailed instructions explaining how to properly complete the order forms.

NEW SECTION. Sec. 64. The maximum subscription price stated on each order form distributed pursuant to section 62 of this act shall be the amount to be paid when the order form is returned. The maximum subscription price and the actual subscription price shall be within the subscription price range stated in the supervisor's approval and the offering circular. If either the maximum subscription price or the actual subscription price is not within this subscription price range, the applicant shall obtain an amendment to the supervisor's approval. If appropriate, the supervisor shall condition the giving of amended approval by requiring a resolicitation of order forms. If the actual public offering price is less than the maximum subscription price stated on the order form, the actual subscription price shall be correspondingly reduced and the difference shall be refunded to those who have paid the maximum subscription price.

NEW SECTION. Sec. 65. Each order form distributed pursuant to section 62 of this act shall be prepared so as to indicate to the person receiving it, in as simple, clear, and intelligible a manner as possible, the actions which are required or available to the person with respect to the form and the capital stock offered for purchase thereby. Specifically, each order form shall:

(1) Indicate the maximum number of shares that may be purchased pursuant to the subscription offering;

(2) Indicate the period of time within which the subscription rights must be exercised, which period of time shall not be less than twenty days following the date of the mailing of the order form;

(3) State the maximum subscription price per share of capital stock;

(4) Indicate any requirements as to the minimum number of shares of capital stock which may be purchased;

(5) Provide a specifically designated blank space or spaces for indicating the number of shares of capital stock which the eligible account holder or other person wishes to purchase;

(6) Indicate that payment may be made by cash if delivered in person or by check or by withdrawal from an account holder's savings account. If payment is to be made by withdrawal, a box to check should be provided;

(7) Provide specifically designated blank spaces for dating and signing the order form;

(8) Contain an acknowledgment by the account holder or other person signing the order form that the person has received the final offering circular for the subscription offering prior to signing; and

(9) Indicate the consequences of failing to properly complete and return the order form, including a statement that the subscription rights are non-transferable and will become void at the end of the subscription period. The order form may, and the set of instructions shall, indicate the place or

places to which the order forms are to be returned and when the applicant will consider order forms received, such as by date and time of actual receipt in the applicant's offices or by date and time of postmark.

NEW SECTION. Sec. 66. The order form distributed pursuant to section 62 of this act may provide that it may not be modified without the applicant's consent after its receipt by the applicant. If payment is to be made by withdrawal from a savings account the applicant may, but need not, cause the withdrawal to be made upon receipt of the order form. If the withdrawal is made at any time prior to the closing date of the public offering, the applicant shall pay interest to the account holder on the account withdrawn as if the amount had remained in the account from which it was withdrawn until the closing date.

NEW SECTION. Sec. 67. The sale of all shares of capital stock of the converting savings bank to be made under the plan of conversion, including any sale in a public offering or direct community marketing, shall be completed as promptly as possible and within forty-five calendar days after the last day of the subscription period, unless extended by the supervisor.

NEW SECTION. Sec. 68. An applicant that desires to convert in accordance with this chapter shall file copies of an application for approval in the form and number prescribed by the supervisor.

NEW SECTION. Sec. 69. Any application for approval that is improperly executed, or that does not contain copies of a plan of conversion, amendments to the charter of the applicant in the form of new articles of incorporation, and preliminary offering circulars for the subscription offering and for the public offering or direct community marketing shall not be accepted for filing and shall be returned to the applicant. Any application for approval containing a materially incomplete plan of conversion or offering circular may be returned by the supervisor to the applicant.

NEW SECTION. Sec. 70. Upon the filing of the articles of incorporation of a converted savings bank with the secretary of state in accordance with section 96 of this act, the corporate existence of the mutual savings bank converting to a stock savings bank pursuant to this chapter shall not terminate but the converted savings bank shall be deemed to be a continuation of the entity of the mutual savings bank so converted having the same rights and obligations as it had prior to the conversion.

NEW SECTION. Sec. 71. The form of the application shall comply with the requirements of the supervisor.

NEW SECTION. Sec. 72. Except as provided in section 73 of this act, the filing of any application or amendment thereto under this chapter shall constitute a representation of the applicant by its duly authorized representative, the applicant's principal executive officer, the applicant's principal financial officer, and the applicant's principal accounting officer, and each

member of the applicant's board of directors (whether or not the director has signed the application or any amendment thereto) severally that (1) he or she has read the application or amendment, (2) in the opinion of each such person he or she has made such examination and investigation as is necessary to enable him or her to express an informed opinion that the application or amendment complies to the best of his or her knowledge and belief with the applicable requirements of this chapter, and (3) each such person holds this informed opinion.

NEW SECTION. Sec. 73. The representations specified in section 72 of this act shall not be deemed to have been made by any director of the applicant who did not sign the application or any amendment thereto, if, and only to the extent that, the director files with the supervisor within ten business days after the filing of the application or amendment a statement describing those portions of the filing as to which he or she does not so represent.

NEW SECTION. Sec. 74. Every application shall furnish information in accordance with this chapter and with the requirements and forms prescribed by the supervisor.

NEW SECTION. Sec. 75. In addition to the information expressly required to be included in any application under this chapter, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

NEW SECTION. Sec. 76. Information required need be given only insofar as it is known or reasonably available to the applicant. If any required information is unknown and not reasonably available to the applicant, either because the obtaining thereof would involve unreasonable effort or expense or because it rests peculiarly within the knowledge of another person not affiliated with the applicant, the information may be omitted, subject to the following conditions:

(1) The applicant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

(2) The applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.

NEW SECTION. Sec. 77. The information required in an offering circular shall not be set forth in such fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading.

NEW SECTION. Sec. 78. The form and contents of any filing made under this chapter need conform only to the applicable requirements and

forms prescribed by the supervisor then in effect, and contain the information, including financial statements, required at the time the filing is made, notwithstanding subsequent changes, except as otherwise provided in any such amendment or in section 79 of this act.

NEW SECTION. Sec. 79. Whenever the supervisor prohibits by order or otherwise the use of any filing under this chapter, the form and contents of any filing used thereafter shall conform to the requirements of the order.

NEW SECTION. Sec. 80. (1) If any accountant, attorney, investment banker, appraiser, or other persons whose professions give authority to a statement made in any application under this chapter is named as having prepared, reviewed, passed upon, or certified any part thereof, or any report or valuation for use in connection therewith, the written consent of the person shall be filed with the application. If any portion of a report of an expert is quoted or summarized as such in any filing under this chapter, the written consent of the expert shall expressly state that the expert consents to this quotation or summarization.

(2) All written consents filed pursuant to this section shall be dated and signed manually. A list of the consents shall be filed with the application. Where the consent of the expert is contained in the expert's report, a reference shall be made in the list to the report containing the consent.

NEW SECTION. Sec. 81. If any person who has not signed an application is named in the offering circular as about to become a director, the written consent of this person shall be filed with the supervisor in the form the supervisor prescribes.

NEW SECTION. Sec. 82. The date on which any documents are actually received by the office of the supervisor of banking shall be the date of filing thereof.

NEW SECTION. Sec. 83. (1) The staff of the supervisor shall be available for conferences with prospective applicants or their representatives in advance of filing an application to convert. These conferences may be held for the purpose of discussing generally the problems confronting an applicant in effecting conversion or to resolve specific problems of an unusual nature.

(2) Prefiling review of an application may be refused by the staff of the supervisor if the review would delay the examination and processing of material which has already been filed or would favor certain applicants at the expense of others. In any conference under this section, the staff of the supervisor shall not undertake to prepare material for filing but shall limit itself to indicating the kind of information required, leaving the actual drafting to the applicant and its representatives.

NEW SECTION. Sec. 84. From the supervisor's refusal to approve an application for conversion, the applicant may, within thirty days from the date of the mailing by the supervisor of notice of refusal to approve, appeal

to a board of appeal composed of the governor or the governor's designee, the attorney general, and the supervisor of banking by filing in the office of the supervisor a notice that it appeals to this board from the supervisor's refusal. The procedure upon the appeal shall be such as the board may prescribe, and its determination shall be certified, filed, and recorded in the same manner as the supervisor's, and shall be final.

NEW SECTION. Sec. 85. The applicant shall file such postconversion reports concerning its conversion as the supervisor may require.

NEW SECTION. Sec. 86. For purposes of sections 87 through 94 of this act, the following definitions shall apply:

(1) The term "offer" includes every offer to buy or acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of, a security or interest in a security for value.

(2) The term "person" means an individual, a group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, and any unincorporated organization or similar company.

(3) Without limitation on the generality of its meaning, the term "security" includes nontransferable subscription rights issued to a plan of conversion.

NEW SECTION. Sec. 87. Prior to completion of a conversion, no person may transfer or enter into any agreement or understanding to transfer the legal or beneficial ownership of conversion subscription rights, or the underlying securities, to the account of another.

NEW SECTION. Sec. 88. Prior to completion of a conversion, no person may make any offer, or announcement of an offer or intent to make an offer, for any security of a converting savings bank issued or to be issued in connection with the conversion.

NEW SECTION. Sec. 89. No person for a period of three years following the date of the conversion may directly or indirectly offer to acquire or acquire the beneficial ownership of more than ten percent of any class of an equity security of any savings bank converted in accordance with this chapter without the prior written approval of the supervisor of banking.

NEW SECTION. Sec. 90. Sections 87 and 88 of this act shall not apply to a transfer, agreement or understanding to transfer, offer, or announcement of an offer or intent to make an offer which (1) pertains only to securities to be purchased pursuant to sections 11, 29, or 34 of this act; and (2) has prior written approval of the supervisor.

NEW SECTION. Sec. 91. Sections 88 and 89 of this act shall not apply to any offer with a view toward public resale made exclusively to the savings bank or underwriters or selling group acting on its behalf.

NEW SECTION. Sec. 92. Unless made applicable by the supervisor by prior advice in writing, the prohibition contained in section 89 of this act

shall not apply to any offer or announcement of an offer which if consummated would result in acquisition by a person, together with all other acquisitions by the person of the same class of securities during the preceding twelve-month period, of not more than one percent of the same class of securities.

NEW SECTION. Sec. 93. The supervisor shall not approve an application involving an offer for, an announcement thereof, or an acquisition of any security of a converted savings bank submitted under section 89 of this act if the supervisor finds that the offer frustrates the purposes of this chapter, is manipulative or deceptive, subverts the fairness of the conversion, is likely to result in injury to the savings bank, is not consistent with savings banking under Title 32 RCW, or is otherwise violative of law or regulation.

NEW SECTION. Sec. 94. For wilful violation or assistance of such a violation of any provision of sections 87 through 93 of this act, any person who (1) has any connection with the management of a converting or converted savings bank, including any director, officer, employee, attorney, or agent, or (2) controls more than ten percent of the outstanding shares of any class of equity security or voting rights thereto of a converting or converted savings bank shall be subject to a civil penalty of not more than five hundred dollars (which penalty shall be cumulative to any other remedies) for each day that the violation continues, which penalty the supervisor may recover by suit or otherwise for the supervisor's own use. The supervisor in his discretion may, at any time before collection of the penalty (whether before or after the bringing of any action or other legal proceedings, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process thereof), compromise or remit in whole or in part the penalty.

NEW SECTION. Sec. 95. The name of a mutual savings bank converted to a stock savings bank under this chapter shall contain the words "savings bank."

NEW SECTION. Sec. 96. (1) An application for conversion under this chapter shall include amendments to the charter of the converting savings bank. The charter of the converted savings bank, as amended, shall be known after the conversion as the articles of incorporation of the converted savings bank. The articles of incorporation may limit or permit the preemptive rights of a shareholder to acquire unissued shares of the converted savings bank and may thereafter by amendment limit, deny, or grant to shareholders of any class of stock the preemptive right to acquire additional shares of the converted savings bank whether then or thereafter authorized. The articles of incorporation shall contain such other provisions not inconsistent with this chapter as the board of directors of the converting savings bank shall determine and as shall be approved by the supervisor.

(2) When all of the stock of a converting savings bank has been subscribed for in accordance with the plan and any amendments thereto, the board of trustees shall thereupon issue the stock and shall cause to be filed with the supervisor of banking, in quadruplicate, a certificate subscribed and acknowledged by the persons who are to be directors of the converted savings bank, stating:

(a) That all of the stock of the converted mutual savings bank has been issued;

(b) That the attached articles of incorporation have been executed by all of the persons who are to be directors of the converted mutual savings bank;

(c) 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 mutual savings bank has theretofore been located;

(d) The name, occupation, residence, and post office address of each signer of the certificate;

(e) The amount of the assets of the mutual savings bank, the amount of its liabilities, and the amount of its guaranty fund and nondivided profits as of the first day of the current calendar month; and

(f) A declaration that each signer will accept the responsibilities and faithfully discharge the duties of a director of the converted savings bank and is free from all the disqualifications specified in the laws applicable to converted mutual savings banks.

(3) Upon the filing of the certificate in quadruplicate, the supervisor of banking shall, within thirty days thereafter, if satisfied that the corporation has complied with all the provisions of this chapter, issue in quadruplicate 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 articles of incorporation the business of a converted mutual savings bank. One of the supervisor's quadruplicate certificates of authorization shall be attached to each of the quadruplicate articles of incorporation, and one set of these shall be filed and retained by the supervisor of banking, one set shall be filed in the office of the county auditor of the county in which the bank is located, 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 county auditor and secretary of state shall record the same; whereupon the conversion of the mutual savings bank shall be deemed complete, and the signers of the articles of incorporation and their successors shall be a corporation having the powers and being subject to the duties and obligations prescribed by the laws of this state applicable to converted mutual savings banks, and the time of existence of the corporation shall be perpetual, unless terminated pursuant to law.

NEW SECTION. Sec. 97. Amendments to the articles of incorporation of the converted savings bank shall be made in accordance with the procedures specified in RCW 30.08.088 and 30.08.090, provided that the amendments are also approved by the supervisor.

NEW SECTION. Sec. 98. Every converted savings bank shall be managed by not less than five directors, except that a bank having a capital of fifty thousand dollars or less may have only three directors. Directors shall be elected by the stockholders and hold office for one year and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the annual meeting of the stockholders to be held at least once each year on a day to be specified by the converted savings bank's bylaws but not later than May 15th of each year. If for any cause an election is not held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. The directors shall meet at least once each month and whenever required by the supervisor. A majority of the board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote, unless the articles of incorporation provide otherwise. Any stockholder may vote in person or by written proxy.

Immediately upon election, each director shall take, subscribe, swear to, and file with the supervisor an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the corporation and will not knowingly violate or willingly permit to be violated any provision of law applicable to the corporation. Vacancies on the board of directors shall be filled by the board.

NEW SECTION. Sec. 99. A mutual savings bank or bank converted under this chapter may merge with, consolidate with, convert into, acquire the assets of, or sell its assets to any other financial institution chartered under Titles 30, 32, or 33 RCW or under the National Bank Act, as amended, or the National Housing Act, as amended, or to a holding company thereof, subject to (1) the approval of the supervisor of banking if the surviving institution is one chartered under Title 30 or 32 RCW, or (2) approval of the supervisor of savings and loans if the surviving institution is one chartered under Title 33 RCW, or (3) if the surviving institution is to be a national bank, the comptroller of currency under 12 U.S.C. Sec. 35, 12 U.S.C. Sec. 215, 12 U.S.C. Sec. 215a, and 12 U.S.C. Sec. 1828c, or (4) if the surviving institution is to be a federal savings and loan association, the Federal Home Loan Bank Board under 12 U.S.C. Sec. 1464 (d)(11), or (5) if the surviving institution is to be a bank holding company, the Federal Reserve Board under 12 U.S.C. Sec. 1842 (a) and (d).

In the case of a liquidation, acquisition, merger, consolidation, or conversion of a converted savings bank, chapters 30.44 and 30.49 RCW shall apply.

NEW SECTION. Sec. 100. (1) It is the intention of the legislature to grant, by this chapter, authority to permit conversions by mutual savings banks to capital stock form, and the rights, powers, restrictions, limitations, and requirements of Title 32 RCW shall apply to a converted mutual savings bank except that, in the event of conflict between the provisions of this chapter and other provisions of Title 32 RCW, the other provisions shall be construed in favor of the accomplishment of the purposes of this chapter.

(2) References in the Revised Code of Washington to mutual savings banks shall refer also to stock savings banks converted from mutual form under this chapter. References in the Revised Code of Washington to the board of trustees of a mutual savings bank shall refer also to the board of directors of a stock savings bank converted from mutual form under this chapter. The provisions of Title 30 RCW shall not apply to a converted mutual savings bank except insofar as the provisions would apply to a mutual savings bank.

NEW SECTION. Sec. 101. A savings bank converted under this chapter may pay interest on deposits at such rates as its board of directors shall from time to time determine.

NEW SECTION. Sec. 102. The guaranty fund of a mutual savings bank converted under this chapter shall become surplus of the converted savings bank, but shall not be available after conversion for purposes other than those purposes for which a guaranty fund may be used by a mutual savings bank under Title 32 RCW. No contribution need be made to the guaranty fund by the converted savings bank after conversion.

NEW SECTION. Sec. 103. The "funds" of a converted savings bank, as the term is used in Title 32 RCW, shall mean deposits, sums credited to the liquidation account, capital stock, the principal balance of any outstanding capital notes, capital debentures, undivided profits and income derived from the foregoing.

NEW SECTION. Sec. 104. After the effective date of this act, no converted savings bank may make any loan or discount on the security of its own capital stock, nor be the purchaser or holder of any such shares, unless the security or purchase is necessary to prevent loss upon a debt previously contracted in good faith, in which case the stocks so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition.

Sec. 105. Section 32.04.010, chapter 13, Laws of 1955 and RCW 32-.04.010 are each amended to read as follows:

This title shall not be construed as amending or repealing any other law of the state authorizing the incorporation of banks or regulating the same,

but shall be deemed to be additional legislation for the sole purpose of authorizing the incorporation and operation of mutual savings banks and mutual savings banks converted under chapter 32.— RCW (sections 1 through 104 of this 1981 act) to stock form, as herein prescribed. Savings banks incorporated on the stock plan, other than converted mutual savings banks, and other stock banks having savings departments as authorized by RCW 30.20.060, or by any other law of the state heretofore or hereafter enacted, shall not be in any manner affected by the provisions of this title, or any amendment thereto.

Sec. 106. Section 32.04.020, chapter 13, Laws of 1955 and RCW 32.04.020 are each amended to read as follows:

The use of the term "savings bank" in this title refers to mutual savings banks and converted mutual savings banks only.

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.

The use of the term "supervisor" in this title refers to the supervisor of banking.

NEW SECTION. Sec. 107. 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. 108. Sections 1 through 104 of this act shall constitute a new chapter in Title 32 RCW.

Passed the Senate March 30, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 86

[Senate Bill No. 3327]

MUTUAL SAVINGS BANKS—EXPENSES—BORROWING, INVESTMENT, LENDING POWERS

AN ACT Relating to mutual savings banks; amending section 32.04.060, chapter 13, Laws of 1955 as amended by section 1, chapter 171, Laws of 1977 ex. sess. and RCW 32.04.060; amending section 32.08.140, chapter 13, Laws of 1955 as last amended by section 1, chapter 104, Laws of 1977 ex. sess. and RCW 32.08.140; amending section 32.08.150, chapter 13, Laws of 1955 as last amended by section 1, chapter 51, Laws of 1979 and RCW 32.08.150; amending section 32.20.280, chapter 13, Laws of 1955 as last amended by section 6, chapter 31, Laws of 1973 1st ex. sess. and RCW 32.20.280; amending section 15, chapter 55, Laws of 1969 and RCW 32.20.285; amending section 16, chapter 176, Laws of 1963 and RCW 32.20.380; amending section 18, chapter 176, Laws of 1963 as last amended by section 6, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.400;

amending section 19, chapter 176, Laws of 1963 as last amended by section 7, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.410; amending section 2, chapter 31, Laws of 1973 1st ex. sess. as amended by section 9, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.460; adding new sections to chapter 13, Laws of 1955 and to chapters 32.08 and 32.20 RCW; repealing section 15, chapter 176, Laws of 1963 and RCW 32.20.235; repealing section 32.20.250, chapter 13, Laws of 1955, section 5, chapter 80, Laws of 1955, section 4, chapter 41, Laws of 1959, section 4, chapter 80, Laws of 1961, section 7, chapter 176, Laws of 1963, section 6, chapter 145, Laws of 1967, section 6, chapter 55, Laws of 1969, section 3, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.250; repealing section 16, chapter 55, Laws of 1969, section 8, chapter 222, Laws of 1971 ex. sess., section 4, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.255; repealing section 32.20.260, chapter 13, Laws of 1955, section 5, chapter 80, Laws of 1961, section 8, chapter 176, Laws of 1963 and RCW 32.20.260; repealing section 32.20.270, chapter 13, Laws of 1955, section 5, chapter 41, Laws of 1959, section 6, chapter 80, Laws of 1961, section 9, chapter 176, Laws of 1963, section 7, chapter 145, Laws of 1967, section 5, chapter 222, Laws of 1971 ex. sess. and RCW 32.20.270; repealing section 32.20.275, chapter 13, Laws of 1955, section 7, chapter 80, Laws of 1961 and RCW 32.20.275; repealing section 11, chapter 145, Laws of 1967, section 11, chapter 55, Laws of 1969, section 8, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.420; and repealing section 5, chapter 31, Laws of 1973 1st ex. sess. and RCW 32.20.490.

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

Section 1. Section 32.04.060, chapter 13, Laws of 1955 as amended by section 1, chapter 171, Laws of 1977 ex. sess. and RCW 32.04.060 are each amended to read as follows:

No savings bank shall in the course of any fiscal year (which fiscal year shall be deemed to expire on the last day of December in each year) pay or become liable to pay either directly or indirectly for expenses of management and operation more than (~~two and one-half~~) three percent of its average assets during such year: PROVIDED, That a mutual savings bank with less than (~~one~~) five hundred million dollars in deposits may pay or become liable to pay either directly or indirectly for expenses of management and operation up to (~~three and one-half~~) six percent of its average assets during the year (~~if, during two of the three prior fiscal years, excluding the present fiscal year, its net current earnings less the sum of the interest paid to its depositors and less the required contributions to its guaranty fund and reserves exceeded two percent of its gross current operating earnings~~)).

Sec. 2. Section 32.08.140, chapter 13, Laws of 1955 as last amended by section 1, chapter 104, Laws of 1977 ex. sess. and RCW 32.08.140 are each amended to read as follows:

Every mutual savings bank incorporated under this title shall have, subject to the restrictions and limitations contained in this title, the following powers:

(1) To receive deposits of money, to invest the same in the property and securities prescribed in this title, to declare dividends in the manner prescribed in this title, and to exercise by its board of trustees or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of a savings bank.

(2) To issue transferable certificates showing the amounts contributed by any incorporator or trustee to the guaranty fund of such bank, or for the purpose of paying its expenses. Every such certificate shall show that it does not constitute a liability of the savings bank, except as otherwise provided in this title.

(3) To purchase, hold and convey real property as prescribed in RCW 32.20.280.

(4) To pay depositors as hereinafter provided, and when requested, pay them by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge current rates of exchange for such drafts.

(5) To borrow money in pursuance of a resolution adopted by a vote of a majority of its board of trustees duly entered upon its minutes whereon shall be recorded by ayes and noes the vote of each trustee, for the purpose of repaying depositors, and to pledge or hypothecate securities as collateral for loans so obtained. Immediate written notice shall be given to the supervisor of all amounts so borrowed, and of all assets so pledged or hypothecated.

(6) Subject to such regulations and restrictions as the supervisor finds to be necessary and proper, to borrow money in pursuance of a resolution adopted by a vote of a majority of its board of trustees duly entered upon its minutes whereon shall be recorded by ayes and noes the vote of each trustee, for purposes other than that of repaying depositors and to pledge or hypothecate its assets as collateral for any such loans, provided that no amount shall at any time be borrowed by a savings bank pursuant to this subsection (6), if such amount, together with the amount then remaining unpaid upon prior borrowings by such savings bank pursuant to this subsection (6), exceeds (~~ten~~) thirty percent of the assets of the savings bank.

The sale of securities or loans by a bank subject to an agreement to repurchase the securities or loans shall not be considered a borrowing. Borrowings from federal, state, or municipal governments or agencies or instrumentalities thereof shall not be subject to the limits of this subsection.

(7) To collect or protest promissory notes or bills of exchange owned by such bank or held by it as collateral, and remit the proceeds of the collections by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge the usual rates or fees for such collection and remittance for such protest.

(8) To sell gold or silver received in payment of interest or principal of obligations owned by the savings bank or from depositors in the ordinary course of business.

(9) To act as insurance agent for the purpose of writing fire insurance on property in which the bank has an insurable interest, the property to be located in the city in which the bank is situated and in the immediate contiguous suburbs, notwithstanding anything in any other statute to the contrary.

(10) To let vaults, safes, boxes or other receptacles for the safekeeping or storage of personal property, subject to laws and regulations applicable to, and with the powers possessed by, safe deposit companies.

(11) To elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, to fix their compensation, subject to the provisions of this title, and to define their powers and duties, and to remove them at will.

(12) To make and amend bylaws consistent with law for the management of its property and the conduct of its business.

(13) To wind up and liquidate its business in accordance with this title.

(14) To adopt and use a common seal and to alter the same at pleasure.

(15) To do all other acts authorized by this title.

Sec. 3. Section 32.08.150, chapter 13, Laws of 1955 as last amended by section 1, chapter 51, Laws of 1979 and RCW 32.08.150 are each amended to read as follows:

~~((1) A savings bank shall not purchase, deal or trade in any goods, wares, merchandise, or commodities whatsoever except such personal property as may be necessary for the transaction of its authorized business.~~

~~(2) Such bank shall not make or issue any certificate of deposit payable either on demand or at a fixed day, except the))~~ A mutual savings bank may issue savings certificates of deposit in such form and upon such terms as the bank may determine ((upon the following terms:

~~(a) The certificates may provide for the payment of interest at a rate fixed in advance by the bank;~~

~~(b) The certificates may be payable at a fixed future time not less than thirty days after the date of issuance or may contain provisions requiring thirty or more days' notice of demand for payment;~~

~~(c) The certificates may be issued at a discount instead of stipulating a rate of interest, or interest thereon may be deferred to be paid at maturity or other stipulated date)).~~

Sec. 4. Section 32.20.280, chapter 13, Laws of 1955 as last amended by section 6, chapter 31, Laws of 1973 1st ex. sess. and RCW 32.20.280 are each amended to read as follows:

A mutual savings bank may invest its funds in real estate as follows:

(1) A tract of land whereon there is or may be erected a building or buildings suitable for the convenient transaction of the business of the savings bank, from portions of which not required for its own use revenue may be derived: PROVIDED, That the cost of the land and building or buildings for the transaction of the business of the savings bank shall in no case exceed fifty percent of the guaranty fund, undivided profits, reserves, and subordinated securities of the savings bank, except with the approval of the supervisor; and before the purchase of such property is made, or the erection of a building or buildings is commenced, the estimate of the cost thereof, and the cost of the completion of the building or buildings, shall be

submitted to and approved by the supervisor. "The cost of the land and building or buildings" means the amounts paid or expended therefor less the reasonable depreciation thereof taken by the bank against such improvements during the time they were held by the bank.

(2) Such lands as shall be conveyed to the savings bank in satisfaction of debts previously contracted in the course of its business.

(3) Such lands as the savings bank shall purchase at sales under judgments, decrees, or mortgages held by it.

All real estate purchased by any such savings bank, or taken by it in satisfaction of debts due it, under this section, shall be conveyed to it directly by name, or in the name of a corporation all of the stock of which is owned by the bank, or in such other manner as the bank shall determine to be in the best interest of the bank, and the conveyance shall be immediately recorded in the office of the proper recording officer of the county in which such real estate is situated.

(4) Every parcel of real estate purchased or acquired by a savings bank under subsections (2) and (3) of this section, shall be sold by it within five years from the date on which it was purchased or acquired, or in case it was acquired subject to a right of redemption, within five years from the date on which the right of redemption expires, unless:

~~((1))~~ (a) There is a building thereon occupied by the savings bank and its offices, ~~((or~~

~~(2))~~ (b) The supervisor, on application of the board of trustees of the savings bank, extends the time within which such sale shall be made, or

(c) The property is held by the bank as an investment under the provisions of RCW 32.20.285, as now or hereafter amended.

Sec. 5. Section 15, chapter 55, Laws of 1969 and RCW 32.20.285 are each amended to read as follows:

A mutual savings bank may invest its funds in such real estate, improved or unimproved, and its fixtures and equipment, as the savings bank shall purchase either alone or with others or through ownership of interests in entities holding such real estate. The savings bank may improve property which it owns, and rent, lease, sell, and otherwise deal in such property, the same as any other owner thereof. The total amount a mutual savings bank may invest pursuant to this section shall not exceed ~~((fifty percent of the total of its guaranty fund, undivided profits, and unallocated reserves, or five))~~ twenty percent of its funds~~((, whichever is less))~~. No officer or trustee of the bank shall own or hold any interest in any property in which the bank owns an interest, and in the event the bank owns an interest in property hereunder with or as a part of another entity, no officer or trustee of the bank shall own more than two and one-half percent of the equity or stock of any entity involved, and all of the officers and trustees of the bank shall not own more than five percent of the equity or stock of any entity involved.

Sec. 6. Section 16, chapter 176, Laws of 1963 and RCW 32.20.380 are each amended to read as follows:

A mutual savings bank may invest its funds in stocks or other securities of corporations (~~((other than banks whose home offices are located in the state of Washington))~~) not otherwise eligible for investment by the savings bank which are prudent investments for the bank in the opinion of its board of trustees or of a committee thereof whose action is ratified by the board at its regular meeting next following the investment. The total amount a mutual savings bank may invest pursuant to this section shall not exceed fifty percent of the total of its guaranty fund, undivided profits, and unallocated reserves, or five percent of its deposits, whichever is less.

Sec. 7. Section 18, chapter 176, Laws of 1963 as last amended by section 6, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.400 are each amended to read as follows:

A mutual savings bank may invest not to exceed ~~((ten))~~ twenty percent of its funds in loans for home or property repairs, alterations, appliances, improvements, or additions, home furnishings, for installation of underground utilities, for educational purposes, or for nonbusiness family purposes: PROVIDED, That

~~((1) The principal amount of any loan shall not exceed ten thousand dollars;~~

~~((2))~~ the application therefor shall state that the proceeds are to be used for one of the above purposes(;

~~((3) The term of the loan shall not exceed eighty-five months, except in the case of loans for underground utilities or educational loans which may require repayment at such time and upon such terms as the bank may determine; and~~

~~((4) Nothing in this section shall permit a mutual savings bank to make secured or unsecured loans on or for inventory as that term is defined in section 9-109(4), chapter 157, Laws of 1965, RCW 62A.9-109(4)).~~

Sec. 8. Section 19, chapter 176, Laws of 1963 as last amended by section 7, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.410 are each amended to read as follows:

The aggregate total amount a mutual savings bank may invest in the following shall not exceed the sum of eighty-five percent of its funds and one hundred percent of its borrowings as permitted under RCW 32.08.140, as now or hereafter amended and RCW 32.08.190, as now or hereafter amended:

- (1) Mortgages upon real estate and participations therein;
- (2) Contracts for the sale of realty;
- (3) Mortgages upon leasehold estates; and
- (4) Notes secured by pledges or assignments of first mortgages or real estate contracts.

The limitation of this section shall not apply to GNMA certificates, mortgage backed bonds, mortgage passthrough certificates or other similar securities purchased or held by the bank.

Sec. 9. Section 2, chapter 31, Laws of 1973 1st ex. sess. as amended by section 9, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.460 are each amended to read as follows:

In addition to the portions of its funds permitted to be invested in real estate loans under RCW 32.20.410, a mutual savings bank may invest not to exceed fifteen percent of its funds in loans and investments as follows:

(1) ~~Loans for the rehabilitation, remodeling, or expansion of existing housing((, if it is arranged that the loan proceeds will be used for such purpose. Such loans may be secured by second mortgages, shall require the payment of principal and interest in annual, semiannual, quarterly, or monthly payments at a rate or rates which if continued would repay the loan in full in not more than fifteen years, and shall be in a principal amount not to exceed twenty thousand dollars per living unit for single family housing or twelve thousand five hundred dollars per living unit for multi-family housing)).~~

(2) Loans in connection with, or participation in:

(a) Housing programs of any agency of federal, state, or local government; and

(b) Housing programs of any nonprofit, union, community, public, or quasi-public corporation or entity.

Such housing must be made available to all without regard to race, creed, sex, color, or national origin.

(3) Loans for purchasing or constructing factory built housing, including but not limited to mobile homes ~~((used or to be used for permanent or semipermanent housing))~~. The bank shall determine the amount, security, and repayment basis which it considers prudent for the loans. ~~((The loan shall be secured by a first mortgage on the real estate, except that no real estate mortgage need be obtained if provision satisfactory to the bank is made for removal of the mobile home or other housing in the event of default and realization on the security.))~~

(4) In mobile home chattel paper which finances the acquisition of inventory by a mobile home dealer if the inventory is to be held for sale in the ordinary course of business by the mobile home dealer, the monetary obligation evidenced by such chattel paper is the obligation of the mobile home dealer and the amount thereof does not exceed the amount allowed to be loaned on such mobile homes under subsection (3) of this section.

NEW SECTION. Sec. 10. There is added to chapter 13, Laws of 1955 and to chapter 32.08 RCW a new section to read as follows:

In addition to all powers, express or implied, that a mutual savings bank has under the laws of this state, a mutual savings bank shall have the powers of federal mutual savings banks formed under the provisions of 12 U.S.C. Sec. 1464.

The restrictions, limitations, and requirements applicable to specific powers of federal mutual savings banks shall apply to mutual savings banks exercising those powers permitted under this section insofar as the restrictions, limitations and requirements relate to exercising the powers granted mutual savings banks solely under this section.

NEW SECTION. Sec. 11. There is added to chapter 13, Laws of 1955 and to chapter 32.08 RCW a new section to read as follows:

The legislature finds that state of Washington needs investment of funds from out of state and from investors in the state of Washington to keep money for real estate and other forms of financing reasonably available for the needs of Washington citizens. Many innovations have taken place in the last several years to aid in the sale of loans or portions thereof to others including the sale of mortgage passthrough certificates, mortgage backed bonds, participation sales with varying rates, terms or priorities to various participants and the like. As the marketing of such investments continues, further innovations can be expected. It will benefit the state if mutual savings banks subject to the laws of this state have the broadest powers possible commensurate with their safety and soundness to take part in such activities. It is the purpose of sections 12 and 13 of this act to grant a broad power.

NEW SECTION. Sec. 12. There is added to chapter 13, Laws of 1955 and to chapter 32.08 RCW a new section to read as follows:

Any mutual savings bank may through any device sell, purchase, exchange, issue evidence of a sale or exchange of, or in any manner deal in any form of sale or exchange of, loans or any interest therein including but not being limited to mortgage passthrough issues, mortgage backed bond issues, and loan participations and may purchase a subordinated portion thereof, issue letters of credit to insure against losses on a portion thereof, agree to repurchase all or a portion thereof, guarantee all or a portion of the payments thereof, and without any implied limitation by the foregoing or otherwise, do any and all things necessary or convenient to take part in or effectuate any loan sales or exchanges by a mutual savings bank itself or by a subsidiary thereof.

NEW SECTION. Sec. 13. There is added to chapter 13, Laws of 1955 and to chapter 32.08 RCW a new section to read as follows:

Any mutual savings bank engaging in any activity contemplated in section 12 of this act, whereby it holds or purchases subordinated securities, issues letters of credit to secure a portion of any sale or issue of loans sold or exchanged, or in any manner acts as a partial guarantor or insurer or

repurchaser of any loans sold or exchanged, shall do so only in accordance with such reasonable restrictions and requirements as the supervisor of banking shall require and shall report and carry such transactions on its books and records in such manner as the supervisor shall require. In establishing any requirements and restrictions hereunder, the supervisor shall consider the effect the transaction and the reporting thereof will have on the safety and soundness of the mutual savings bank engaging in it.

NEW SECTION. Sec. 14. There is added to chapter 13, Laws of 1955 and to chapter 32.20 RCW a new section to read as follows:

A mutual savings bank may invest its funds in loans secured by real estate or on the security of mobile homes or other movable buildings or any interest or estate in any of the foregoing. Such loans may be on such terms and conditions and subject to such limitations and restrictions as the board of trustees shall from time to time establish.

NEW SECTION. Sec. 15. There is added to chapter 13, Laws of 1955 and to chapter 32.20 RCW a new section to read as follows:

In addition to all other investments and loans authorized for mutual savings banks in this state, a mutual savings bank may invest not more than twenty percent of its funds in secured or unsecured loans on such terms and conditions as the bank may determine.

NEW SECTION. Sec. 16. The following acts or parts of acts are each repealed:

- (1) Section 15, chapter 176, Laws of 1963 and RCW 32.20.235;
- (2) Section 32.20.250, chapter 13, Laws of 1955, section 5, chapter 80, Laws of 1955, section 4, chapter 41, Laws of 1959, section 4, chapter 80, Laws of 1961, section 7, chapter 176, Laws of 1963, section 6, chapter 145, Laws of 1967, section 6, chapter 55, Laws of 1969, section 3, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.250;
- (3) Section 16, chapter 55, Laws of 1969, section 8, chapter 222, Laws of 1971 ex. sess., section 4, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.255;
- (4) Section 32.20.260, chapter 13, Laws of 1955, section 5, chapter 80, Laws of 1961, section 8, chapter 176, Laws of 1963 and RCW 32.20.260;
- (5) Section 32.20.270, chapter 13, Laws of 1955, section 5, chapter 41, Laws of 1959, section 6, chapter 80, Laws of 1961, section 9, chapter 176, Laws of 1963, section 7, chapter 145, Laws of 1967, section 5, chapter 222, Laws of 1971 ex. sess. and RCW 32.20.270;
- (6) Section 32.20.275, chapter 13, Laws of 1955, section 7, chapter 80, Laws of 1961 and RCW 32.20.275;
- (7) Section 11, chapter 145, Laws of 1967, section 11, chapter 55, Laws of 1969, section 8, chapter 104, Laws of 1977 ex. sess. and RCW 32.20.420; and

(8) Section 5, chapter 31, Laws of 1973 1st ex. sess. and RCW 32.20.490.

NEW SECTION. Sec. 17. 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 9, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 87

[Engrossed Senate Bill No. 3536]

SAVINGS AND LOAN ASSOCIATIONS—FEDERAL PARITY

AN ACT Relating to savings and loan associations; adding new sections to chapter 33.12 RCW; repealing section 8, chapter 257, Laws of 1947 and RCW 33.24.190; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 33.12 RCW a new section to read as follows:

Notwithstanding any other provision of law, a savings and loan association may exercise any of the powers conferred as of the effective date of this act upon a federal savings and loan association doing business in this state.

NEW SECTION. Sec. 2. There is added to chapter 33.12 RCW a new section to read as follows:

Notwithstanding any other provision of law, the supervisor may make reasonable rules authorizing a savings and loan association to exercise any of the powers conferred at the time of the adoption of the rules upon a federal savings and loan association doing business in this state, or may modify or reduce reserve or other requirements if an association is insured by federal savings and loan insurance corporation, if the supervisor finds that the exercise of the power:

(1) Serves the convenience and advantage of depositors and borrowers; and

(2) Maintains the fairness of competition and parity between state-chartered savings and loan associations and federally-chartered savings and loan associations.

NEW SECTION. Sec. 3. Section 8, chapter 257, Laws of 1947 and RCW 33.24.190 are each repealed.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 9, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 88

[Senate Bill No. 3785]

LENDERS, REAL ESTATE—MORTGAGE BANKING IDENTIFICATION

AN ACT Relating to banking; and amending section 30.04.020, chapter 33, Laws of 1955 and RCW 30.04.020.

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

Section 1. Section 30.04.020, chapter 33, Laws of 1955 and RCW 30.04.020 are each amended to read as follows:

The name of every bank shall contain the word "bank" and the name of every trust company shall contain the word "trust," or the word "bank." No person except:

- (1) A national bank;
- (2) A bank or trust company authorized by the laws of this state;
- (3) A foreign corporation authorized by this title so to do, shall,

(a) Use as a part of his or its name or other business designation or in any manner as if connected with his or its business or place of business any of the following words or the plural thereof, to wit: "bank," "banking," "banker," "trust."

(b) Use any sign at or about his or its place of business or use or circulate any advertisement, letterhead, billhead, note, receipt, certificate, blank, form, or any written or printed or part written and part printed paper, instrument or article whatsoever, directly or indirectly indicating that the business of such person is that of a bank or trust company.

This section shall not prevent a lender approved by the United States secretary of housing and urban development for participation in any mortgage insurance program under the National Housing Act from using the words "mortgage banker" or "mortgage banking" in the conduct of its business, but only if both words are used together in either of the forms which appear in quotations in this sentence.

Every person who, and every director and officer of every corporation which, to the knowledge of such director or officer violates any provision of this section shall be guilty of a gross misdemeanor.

Passed the Senate March 24, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 89

[Senate Bill No. 3893]

BANKS AND TRUST COMPANIES—DIVIDENDS—PREFERRED STOCK— STOCK ACQUISITION

AN ACT Relating to banks and banking; amending section 30.04.180, chapter 33, Laws of 1955 as amended by section 2, chapter 136, Laws of 1969 and RCW 30.04.180; amending section 30.04.230, chapter 33, Laws of 1955 as last amended by section 1, chapter 92, Laws of 1973 1st ex. sess. and RCW 30.04.230; amending section 30.12.010, chapter 33, Laws of 1955 as last amended by section 1, chapter 35, Laws of 1975 and RCW 30.12.010; adding new sections to chapter 30.08 RCW; repealing section 30.04.090, chapter 33, Laws of 1955, section 1, chapter 356, Laws of 1955, section 2, chapter 106, Laws of 1959, section 1, chapter 194, Laws of 1963, section 1, chapter 133, Laws of 1967, section 1, chapter 54, Laws of 1967 ex. sess. and RCW 30.04.090; and declaring an emergency.

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

Section 1. Section 30.04.180, chapter 33, Laws of 1955 as amended by section 2, chapter 136, Laws of 1969 and RCW 30.04.180 are each amended to read as follows:

No bank or trust company shall declare or pay any dividend to an amount greater than its net profits then on hand, which net profits shall be determined only after deducting:

(1) All losses;

(2) All assets or depreciation that the supervisor or a duly appointed examiner may have required to be charged off; and no bank or trust company shall enter or at any time carry on its books any of its assets at a valuation exceeding the actual cost. However, amortizing the discount on municipal and United States government securities is permitted on a pro rata basis, over the life of the security, providing that the approval of the supervisor has been obtained and maintained by each individual bank;

(3) All expenses, interest and taxes due or accrued from said bank or trust company;

(4) Bad debts as defined by RCW 30.04.130 owing to such bank or trust company.

After providing for the above deductions the board of directors of any bank or trust company may at any regular meeting thereof declare a dividend out of so much of the undivided profits of such bank or trust company as they shall judge expedient: PROVIDED, HOWEVER, That before any such dividend is declared or the net profits in any way disposed of, not less

than ~~((one-fourth))~~ one-tenth of such net profits shall be carried to a surplus fund until the amount in such surplus fund shall be equal to twenty-five percent of the paid-in common capital of such bank or trust company: PROVIDED, FURTHER, That for the purposes of this section, any amounts paid into a fund for the retirement of any preferred stock of any such bank and trust company out of its net profits for such period or periods shall be deemed to be additions to its surplus fund if, upon the retirement of such preferred stock, the amounts so paid into such retirement fund may then properly be carried to surplus. In any such case the bank and trust company shall be obligated to transfer to surplus the amounts so paid into such retirement fund on account of the preferred stock as such stock is retired: PROVIDED FURTHER, That the supervisor shall in his discretion have the power to require any bank or trust company to suspend the payment of any and all dividends until all requirements that may have been made by the supervisor or any duly appointed examiner shall have been complied with; and upon notice to suspend dividends no bank or trust company shall thereafter declare or pay any dividends until such notice has been rescinded in writing. As to banks or trust companies having segregated savings, sums carried to surplus shall be apportioned between or among departments as the capital is apportioned.

Sec. 2. Section 30.04.230, chapter 33, Laws of 1955 as last amended by section 1, chapter 92, Laws of 1973 1st ex. sess. and RCW 30.04.230 are each amended to read as follows:

A corporation or association organized under the laws of this state, or licensed to transact business in the state, ~~((shall not hereafter))~~ may acquire any or all shares of stock of any bank, trust company, or national banking association ~~((which, in the aggregate, enable it to own, hold, or control more than twenty-five percent of the capital stock of more than one such bank, trust company, or national banking association: PROVIDED, HOWEVER, That the foregoing restriction shall not apply as to any legal commitments existing on February 27, 1933: AND PROVIDED, FURTHER, That the foregoing restriction shall not apply to prevent any such corporation or association which has its principal place of business in this state from acquiring additional shares of stock in a bank, trust company, or national banking association in which such corporation or association owned twenty-five percent or more of the capital stock on January 1, 1961.~~

~~A person who does, or conspires with another or others in doing, an act in violation of this section shall be guilty of a gross misdemeanor. A corporation that violates this section, or a corporation whose stock is acquired in violation hereof, shall forfeit its charter if it be a domestic corporation, or its license to transact business if it be a foreign corporation, and the forfeiture shall be enforced in an action by the state brought by the attorney general)).~~

Nothing in this section shall be construed to permit a bank holding company the operations of which are principally conducted outside this state to acquire more than five percent of the shares of stock or the assets of a bank, trust company, or national banking association the principal operations of which are conducted within this state.

Sec. 3. Section 30.12.010, chapter 33, Laws of 1955 as last amended by section 1, chapter 35, Laws of 1975 and RCW 30.12.010 are each amended to read as follows:

Every bank and trust company shall be managed by not less than five directors, excepting that a bank having a capital of fifty thousand dollars or less may have only three directors. Directors shall be elected by the stockholders and hold office for one year and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the annual meeting of the stockholders to be held at least once each year on a day to be specified by the bank's or trust company's bylaws but not later than May 15th of each year. If for any cause no election is held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. The directors shall meet at least once each month and whenever required by the supervisor. A majority of the board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote, unless the articles of incorporation provide otherwise. Any stockholder may vote in person or by written proxy. Every director must own in his own right shares of the capital stock of the bank or trust company of which he is a director the aggregate par value of which shall not be less than four hundred dollars, unless the capital of the bank or trust company shall not exceed fifty thousand dollars, in which case he must own in his own right shares of such capital stock the aggregate par value of which shall not be less than two hundred dollars. Any director who ceases to be the owner of the required number of shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place.

Immediately upon election, each director shall take, subscribe, swear to, and file with the supervisor an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such corporation and will not knowingly violate or willingly permit to be violated any provision of law applicable to such corporation and that he is the beneficial owner in good faith of the number of shares of stock required by this section, and that the same is fully paid, is not hypothecated or in any way pledged as security for any loan or debt. Vacancies in the board of directors shall be filled by the board.

NEW SECTION. Sec. 4. There is added to chapter 30.08 RCW a new section to read as follows:

Notwithstanding any other provisions of law, any bank and trust company may, pursuant to action taken by its board of directors with the approval of the supervisor, and in the manner provided in the case of a capital increase, issue preferred stock of one or more classes in such amount and with such par value as shall be approved by the supervisor, and make such amendments to its articles of incorporation as may be necessary for this purpose; but, in the case of any newly organized bank and trust company which has not yet issued common stock, the requirements of notice to and vote of shareholders shall not apply. No increase of preferred stock shall be valid until the amount thereof shall have been subscribed and actually paid in and a certificate of increase is received from the supervisor.

NEW SECTION. Sec. 5. There is added to chapter 30.08 RCW a new section to read as follows:

Notwithstanding any other provisions of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise, the holders of preferred stock issued pursuant to section 5 of this act shall be entitled to receive such cumulative dividends on the purchase price received by the bank and trust company for such stock and shall have such voting and conversion rights and such control of management and in the event of the retirement of such stock shall receive such retirement price, not in excess of such purchase price plus all accumulated dividends, as may be provided by the articles of incorporation with the approval of the supervisor.

The holders of such preferred stock shall not be held individually responsible as such holders for any debts, contracts, or engagements of such bank and trust company and shall not be liable for assessments to restore impairments in the capital of such bank and trust company as is now provided by law with reference to holders of common stock.

No dividends shall be declared or paid on common stock until the cumulative dividends on the preferred stock shall have been paid in full; and, if the supervisor takes possession of a bank or trust company for purposes of liquidation, no payments shall be made to the holders of the common stock until the holders of the preferred stock shall have been paid in full such amount as may be provided in the articles of incorporation with the approval of the supervisor, not in excess of such purchase price of such preferred stock plus all accumulated dividends.

NEW SECTION. Sec. 6. There is added to chapter 30.08 RCW a new section to read as follows:

If any part of the capital of a bank and trust company consists of preferred stock, the determination of whether or not the capital of such bank is impaired and the amount of such impairment shall be based on the par value of its stock even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the par value of such preferred stock.

NEW SECTION. Sec. 7. Section 30.04.090, chapter 33, Laws of 1955, section 1, chapter 356, Laws of 1955, section 2, chapter 106, Laws of 1959, section 1, chapter 194, Laws of 1963, section 1, chapter 133, Laws of 1967, section 1, chapter 54, Laws of 1967 ex. sess. and RCW 30.04.090 are each repealed.

NEW SECTION. Sec. 8. 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. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 27, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 90

[Engrossed Senate Bill No. 3018]

CREDIT UNIONS—FEDERAL PARITY

AN ACT Relating to credit unions; adding new sections to chapter 31.12 RCW; repealing section 1, chapter 98, Laws of 1979 ex. sess. and RCW 31.12.375; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 31.12 RCW a new section to read as follows:

Notwithstanding any other provision of law, a credit union may exercise any of the powers or authority conferred as of the effective date of this act upon a federal credit union doing business in this state.

NEW SECTION. Sec. 2. Section 1, chapter 98, Laws of 1979 ex. sess. and RCW 31.12.375 are each repealed.

NEW SECTION. Sec. 3. There is added to chapter 31.12 RCW a new section to read as follows:

Notwithstanding any other provision of law, the supervisor may make reasonable rules authorizing a credit union to exercise any of the powers conferred at the time of the adoption of the rules upon a federal credit union doing business in this state if the supervisor finds that the exercise of the power:

(1) Serves the convenience and advantage of depositors and borrowers; and

(2) Maintains the fairness of competition and parity between state-chartered credit unions and federally-chartered credit unions.

NEW SECTION. Sec. 4. This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 24, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 91

[Senate Bill No. 3051]

MOTOR VEHICLE DRIVERS—LICENSE REVOCATION, IMPLIED CONSENT—FINANCIAL RESPONSIBILITY

AN ACT Relating to motor vehicles; and amending section 27, chapter 121, Laws of 1965 ex. sess. as last amended by section 60, chapter 136, Laws of 1979 ex. sess. and RCW 46.20.311.

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

Section 1. Section 27, chapter 121, Laws of 1965 ex. sess. as last amended by section 60, chapter 136, Laws of 1979 ex. sess. and RCW 46.20.311 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 permitted under RCW 46.20.342. Whenever the license of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, or pursuant to RCW 46.20.291, such suspension shall remain in effect and the department shall not issue to such person any new or renewal of license until such person shall pay a reinstatement fee of ten dollars and shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of six months in cases of revocation for refusal to submit to a chemical test under the provisions of RCW 46.20.308 as now or hereafter amended, and in all other revocation cases after the expiration of one year from the date on which the revoked license was surrendered to and received by the department, such person may make application for a new license as provided by law together with an additional fee in the amount of ten dollars, but the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of such person that it will be safe to grant the privilege of driving a

motor vehicle on the public highways, and until such person shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW. A resident without a license or permit whose license or permit was denied under RCW 46.20.308(3) shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW.

Passed the Senate February 24, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 92

[Senate Bill No. 3053]

MOTOR VEHICLES—IDENTICARDS—VIOLATIONS

AN ACT Relating to motor vehicles; amending section 41, chapter 121, Laws of 1965 ex. sess. and RCW 46.20.336; and amending section 4, chapter 155, Laws of 1969 ex. sess. as amended by section 1, chapter 65, Laws of 1971 ex. sess. and RCW 46.20.117.

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

Section 1. Section 41, chapter 121, Laws of 1965 ex. sess. and RCW 46.20.336 are each amended to read as follows:

It is a misdemeanor for any person:

(1) To display or cause or permit to be displayed or have in his possession any canceled, revoked, suspended, fictitious or fraudulently altered driver's license or identicard;

(2) To lend his driver's license or identicard to any other person or knowingly permit the use thereof by another;

(3) To display or represent as one's own any driver's license or identicard not issued to him;

(4) Wilfully to fail or refuse to surrender to the department upon its lawful demand any driver's license or identicard which has been suspended, revoked or canceled;

(5) To use a false or fictitious name in any application for a driver's license or identicard or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application;

(6) To permit any unlawful use of a driver's license or identicard issued to him.

Sec. 2. Section 4, chapter 155, Laws of 1969 ex. sess. as amended by section 1, chapter 65, Laws of 1971 ex. sess. and RCW 46.20.117 are each amended to read as follows:

(1) The department shall issue "identicards", containing a picture, to nondrivers for a fee of three dollars, such fee shall be deposited in the highway safety fund: PROVIDED, That the fee shall be the actual cost of

production to recipients of continuing public assistance grants under Title 74 RCW who are referred in writing to the department by the secretary of social and health services. To be eligible, each applicant shall produce evidence commensurate to the regulations adopted by the director that positively proves identity. The "identocard" shall be distinctly designed so that it will not be confused with the official driver license. The identocard shall be valid for five years.

(2) The department may cancel an "identocard" upon a showing by its records or other evidence that the holder of such "identocard" has committed a violation relating to "identocards" defined in RCW 46.20.336.

Passed the Senate February 20, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 93

[Senate Bill No. 3055]

REAL ESTATE EXCISE TAX—EXEMPT TRANSFERS—CODE REFERENCES

AN ACT Relating to excise taxes on real estate transfers; amending section 28A.45.010, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 65, Laws of 1970 ex. sess. and RCW 28A.45.010; amending section 14, chapter 154, Laws of 1980 (uncodified); and providing an effective date.

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

Section 1. Section 28A.45.010, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 65, Laws of 1970 ex. sess. and RCW 28A.45.010 are each amended to read as follows:

As used in this chapter, the term "sale" shall have its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person by his direction, which title is retained by the vendor as security for the payment of the purchase price.

The term shall not include a transfer by gift, devise, or inheritance, a transfer of any leasehold interest other than of the type mentioned above, a cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, or deed in lieu of foreclosure of a mortgage or the assumption by a grantee of the balance owing on an obligation which is secured by a mortgage or deed in lieu of forfeiture of the vendee's interest in a contract of sale where no

consideration passes otherwise or the partition of property by tenants in common by agreement or as the result of a court decree, any transfer, conveyance, or assignment of property or interest in property from one spouse to the other in accordance with the terms of a decree of divorce or in fulfillment of a property settlement agreement incident thereto, the assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved, transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation, a mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof, any transfer or conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage, a conveyance to the federal housing administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration, nor a transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into prior to the date this tax was first imposed, nor the sale of any grave or lot in an established cemetery, nor a sale by or to the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

The term sale shall further not include a transfer to a corporation or partnership which is wholly owned by the transferor(~~(, his spouse or his))~~ and/or the transferor's spouse or children: PROVIDED, That if thereafter such transferee corporation or partnership voluntarily transfers such real property, or such transferor, ((his) spouse, or ((his)) children voluntarily transfer ((the property or the)) stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than (1) the transferor and/or the transferor's spouse or children, (2) a trust having the transferor and/or the transferor's spouse or children as the only beneficiaries at the time of the transfer to the trust, or (3) a corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or children, within five years of the ((exchange)) original transfer to which this exemption applies, excise taxes shall become due and payable on the original transfer as otherwise provided by law.

Sec. 2. Section 14, chapter 154, Laws of 1980 (uncodified) is amended to read as follows:

Chapter 28A.45 RCW, as amended, repealed, and added to by ~~((this 1980 act))~~ chapter 134, Laws of 1980 and chapter 154, Laws of 1980 and as amended, repealed, and added to by any other enactment during a regular or extraordinary session of this ~~((forty-sixth))~~ forty-seventh legislature,

is hereby added to and shall be recodified as (~~a new~~) chapter (~~in Title~~) 82.45 RCW.

References to chapter 28A.45 RCW and its sections shall be considered references to chapter 82.45 RCW and its sections, and the code reviser shall change references to chapter 28A.45 RCW and its sections to refer to chapter 82.45 RCW and its sections.

NEW SECTION. Sec. 3. Section 2 of this act shall take effect September 1, 1981.

Passed the Senate March 30, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 94

[Engrossed Senate Bill No. 3057]

CLASS C, H LICENSED PREMISES—UNCONSUMED WINE REMOVAL

AN ACT Relating to alcoholic beverages; amending section 23-0 added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 217, Laws of 1937 as last amended by section 3, chapter 9, Laws of 1977 ex. sess. and RCW 66.24.340; and amending section 23-S-1 added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 5, Laws of 1949 as last amended by section 4, chapter 9, Laws of 1977 ex. sess. and RCW 66.24.400.

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

Section 1. Section 23-0 added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 217, Laws of 1937 as last amended by section 3, chapter 9, Laws of 1977 ex. sess. and RCW 66.24.340 are each amended to read as follows:

There shall be a wine retailer's license to be designated as a class C license to sell wine at retail, for consumption on the premises only: PROVIDED, That a patron of a hotel, restaurant, or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine which was purchased for consumption with a meal; such license to be issued to hotels, restaurants, dining places on boats and airplanes, clubs, and to taverns. The annual fee for said license, when issued in cities and towns, shall be graduated according to the population thereof as follows:

Cities and towns of less than 10,000; fee \$47.00;

Cities and towns of 10,000 and less than 100,000; fee \$93.75;

Cities and towns of 100,000 or over; fee \$140.50;

The annual fee, when issued outside of the limits of cities and towns, shall be forty-seven dollars: PROVIDED, HOWEVER, That where dancing is permitted on the premises, the fee shall be one hundred forty dollars and fifty cents; the annual license fee for such license, if issued to dining

places on vessels not exceeding one thousand gross tons plying only on inland waters of the state of Washington on regular schedules, shall be forty-seven dollars.

Sec. 2. Section 23-S-1 added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 5, Laws of 1949 as last amended by section 4, chapter 9, Laws of 1977 ex. sess. and RCW 66.24.400 are each amended to read as follows:

There shall be a retailer's license, to be known and designated as class H license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only: PROVIDED, That a patron of a bona fide hotel, restaurant, or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine which was purchased for consumption with a meal. Such class H license may be issued only to bona fide restaurants, hotels and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at publicly owned civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a class H license under the provisions and limitations of this title.

Passed the Senate February 24, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 95

[Senate Bill No. 3065]

LIMITED ACCESS FACILITIES—STATE AND LOCAL PLANS

AN ACT Relating to limited access facilities; amending section 2, chapter 75, Laws of 1965 ex. sess. and RCW 47.52.133; amending section 1, chapter 77, Laws of 1977 and RCW 47.52.145; and amending section 3, chapter 78, Laws of 1977 ex. sess. and RCW 47.52.210.

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

Section 1. Section 2, chapter 75, Laws of 1965 ex. sess. and RCW 47.52.133 are each amended to read as follows:

The transportation commission and the highway authorities of the ((state;)) counties((;)) and incorporated cities and towns, with regard to facilities under their respective jurisdictions, prior to the establishment of any limited access facility, shall hold a public hearing within the county, city, or town wherein the limited access facility is to be established((;)) to determine the desirability of the plan proposed by such authority. Notice of such

hearing shall be given to the owners of property abutting the section of any existing highway, road, or street being established as a limited access facility, as indicated in the tax rolls of the county, and in the case of a state limited access facility, to the county and/or city or town. Such notice shall be by United States mail in writing, setting forth a time for the hearing, which time shall be not less than fifteen days after mailing of such notice. Notice of such hearing also shall be given by publication (~~(to be)~~) not less than fifteen days prior to such hearing in one or more newspapers of general circulation within the county, city, or town. Such notice by publication shall be deemed sufficient as to any owner or reputed owner or any unknown owner or owner who cannot be located. Such notice shall indicate a suitable location where plans for such proposal may be inspected.

Sec. 2. Section 1, chapter 77, Laws of 1977 and RCW 47.52.145 are each amended to read as follows:

Whenever after the final adoption of a plan for a limited access highway by the (~~(highway)~~) transportation commission, an additional design public hearing with respect to the facility or any portion thereof is conducted pursuant to federal law resulting in a revision of the design of the limited access plan, the (~~(highway)~~) commission may modify the previously adopted limited access plan to conform to the revised design without further public hearings providing the following conditions are met:

(1) As compared with the previously adopted limited access plan, the revised plan will not require additional or different right of way with respect to that section of highway for which the design has been revised, in excess of five percent by area; and

(2) If the previously adopted limited access plan was modified by a board of review convened at the request of a county, city, or town, the legislative authority of the county, city, or town shall approve any revisions of the plan which conflict with modifications ordered by the board of review.

Sec. 3. Section 3, chapter 78, Laws of 1977 ex. sess. and RCW 47.52-.210 are each amended to read as follows:

(1) Whenever the (~~(highway)~~) transportation commission adopts a plan for a limited access highway to be constructed within the corporate limits of a city or town which incorporates existing city or town streets, title to such streets shall remain in the city or town, and the provisions of RCW 47.24-.020 as now or hereafter amended shall continue to apply to such streets until such time that the highway is operated as either a partially or fully controlled access highway. Title to and full control over that portion of the city or town street incorporated into the limited access highway shall be vested in the state upon a declaration by the (~~(highway commission)~~) secretary of transportation that such highway is operational as a limited access facility, but in no event prior to the acquisition of right of way for such highway including access rights, and not later than the final completion of construction of such highway.

(2) Upon the completion of construction of a state limited access highway within a city or town, the (~~(highway commission)~~) department of transportation may relinquish to the city or town streets constructed or improved as a functional part of the limited access highway, slope easements, landscaping areas, and other related improvements to be maintained and operated by the city or town in accordance with the limited access plan. Title to such property relinquished to a city or town shall be conveyed by a deed executed by the (~~(director of highways)~~) secretary of transportation and duly acknowledged. Relinquishment of such property to the city or town may be expressly conditioned upon the maintenance of access control acquired by the state and the continued operation of such property as a functional part of the limited access highway.

Passed the Senate February 11, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 96

[Engrossed Senate Bill No. 3067]

PUBLIC PROPERTY—INTERGOVERNMENTAL TRANSFER—SURPLUS PROPERTY DISPOSAL, PUBLIC HEARING, NOTICE

AN ACT Relating to public property; and amending section 1, chapter 133, Laws of 1953 as last amended by section 1, chapter 109, Laws of 1973 and RCW 39.33.010; and adding a new section.

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

Section 1. Section 1, chapter 133, Laws of 1953 as last amended by section 1, chapter 109, Laws of 1973 and RCW 39.33.010 are each amended to read as follows:

(1) The state or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, on such terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned(~~(- PROVIDED, That such property is determined by decree of the superior court in the county where such property is located, after publication of notice of hearing is given as fixed and directed by such court, to be either necessary, or surplus or excess to the future foreseeable needs of the state or of such municipality or any political subdivision thereof concerned, which requests authority to transfer such property))~~).

(2) This section shall be deemed to provide an alternative method for the doing of the things authorized herein, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in the state, municipalities or political subdivisions.

(3) No intergovernmental transfer, lease, or other disposition of property made pursuant to any other provision of law prior to May 23, 1972 shall be construed to be invalid solely because the parties thereto did not comply with the procedures of this section.

NEW SECTION. Sec. 2. Before disposing of surplus property with an estimated value of more than five thousand dollars, the state or political subdivision shall hold a public hearing in the county where the property or the greatest portion thereof is located. At least ten days but not more than twenty-five days prior to such hearing, there shall be published a public notice of reasonable size in display advertising form, setting forth the date, time and place of the hearing at least once in a newspaper of general circulation in the area where the property is located. A news release pertaining to the hearing shall be disseminated among printed and electronic media in the area where the property is located. If real property is involved, the public notice and news release shall identify the property using a description which can easily be understood by the public. If the surplus is real property, the public notice and news release shall also describe the proposed use of the lands involved. If there is a failure to substantially comply with the procedures set forth in this section, then the sale, transfer, exchange, lease or other disposal shall be subject to being declared invalid by a court. Any such suit must be brought within one year from the date of the disposal agreement.

Passed the Senate February 11, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 97

[Substitute Senate Bill No. 3118]

PORT DISTRICTS, FEDERAL PORTS OF ENTRY—POLICE OFFICER APPOINTMENT AUTHORITY

AN ACT Relating to port districts; and amending section 1, chapter 62, Laws of 1974 ex. sess. and RCW 53.08.280.

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

Section 1. Section 1, chapter 62, Laws of 1974 ex. sess. and RCW 53.08.280 are each amended to read as follows:

Any port district operating an airport with a police department as authorized by RCW 14.08.120 or designated as a port of entry by the federal

government is authorized to appoint police officers with full police powers to enforce all applicable federal, state, or municipal statutes, rules, regulations, or ordinances upon any port-owned or operated properties or operations: PROVIDED, That such police officers must have successfully graduated from a recognized professional police academy or training institution.

Passed the Senate April 2, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 98

[Substitute Senate Bill No. 3127]

STATE INVESTMENT BOARD—INVESTMENT POWERS—FUNDS DIVERSIFICATION, CORPORATE SECURITIES LIMITATION

AN ACT Relating to state investments; amending section 2, chapter 17, Laws of 1975-'76 2nd ex. sess. as last amended by section 20, chapter 3, Laws of 1981 and RCW 43.84.150; providing an effective date; and declaring an emergency.

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

Section 1. Section 2, chapter 17, Laws of 1975-'76 2nd ex. sess. as last amended by section 20, chapter 3, Laws of 1981 and RCW 43.84.150 are each amended to read as follows:

Except where otherwise specifically provided by law, the state investment board shall have full power to invest ((and)), reinvest ((funds over which it has investment authority in the following classes of investments, and not otherwise, and to sell or exchange investments acquired in the exercise of that authority:

(1) Bonds, notes, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, or those guaranteed by, or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof, or the obligation of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system:

(2) Bonds, debentures, notes, or other obligations issued, assumed, or unconditionally guaranteed by the international bank for reconstruction and development, the inter-American development bank, the Asian development bank, or by the federal national mortgage association; in addition to bonds, debentures, or other obligations issued by a federal land bank, or by a federal intermediate credit bank, under the act of congress of July 17, 1961, known as the "Federal Farm Loan Act", (as from time to time amended):

(3) First mortgages on unencumbered real property which are insured by the federal housing administration under the national housing act (as

from time to time amended) or are guaranteed by the veterans' administration under the servicemen's readjustment act of 1944 (as from time to time amended), or are otherwise insured or guaranteed by the United States of America, or by an agency or instrumentality thereof to the extent that the investor protection thereby given is essentially the same as that as provided under the foregoing federal enactments.

(4) Conventional fee simple or leasehold first mortgages on real property located within the state of Washington:

(5) Bonds or other evidences of indebtedness of this state or a duly authorized authority or agency thereof, bonds, notes, or other obligations of any municipal corporation, political subdivision or state supported institution of higher learning of this state, issued pursuant to the laws of this state; obligations of any public housing authority or urban redevelopment authority issued pursuant to the laws of this state relating to the creation or operation of a public housing or urban redevelopment authority:

(6) Bonds, notes, or other obligations issued, guaranteed or assumed by any other state or municipal or political subdivision thereof:

(7) Bonds, debentures, notes or other full faith and credit obligations issued, guaranteed, or assumed as to both principal and interest by the government of the Dominion of Canada, or by any province of Canada, or by any city of Canada, which has a population of not less than one hundred thousand inhabitants: PROVIDED, That the principal and interest thereof shall be payable in United States funds, either unconditionally or at the option of the holder: PROVIDED FURTHER, That such securities are rated "A" or better by at least one nationally recognized rating agency:

(8) Bonds, debentures, notes, or other obligations of any corporation duly organized and operating in any state of the United States: PROVIDED, That such securities are rated "A" or better by at least one nationally recognized rating agency:

(9) Capital notes, debentures, or other obligations of any national or state commercial or mutual savings bank doing business in the United States of America:

(10) Equipment trust certificates issued by any corporation duly organized and operating in any state of the United States of America: PROVIDED, That the bonds or debentures of the company are rated "A" or better by at least one nationally recognized rating agency:

(11) Commercial paper: PROVIDED, That it is given the highest attainable rating by at least two nationally recognized rating agencies:

(12) Subject to the limitations hereinafter provided, those funds created under chapters 2.10, 2.12, 41.24, 41.26, 41.32, 41.40, and 43.43 RCW and the accident reserve fund created by RCW 51.44.010 may be invested in the common or preferred stock or shares, whether or not convertible as well as convertible bonds and debentures of corporations created or existing under

~~the laws of the United States, or any state, district or territory thereof:
PROVIDED, That:~~

~~(a) The state investment board may either have the investment board's staff manage the classes of investments defined by subsection (12) of this section or the investment board may contract with an investment counseling firm or firms or the trust department of a national or state chartered commercial bank having its principal office or a branch in this state. No investment counseling firm shall be engaged in buying, selling, or otherwise marketing securities in which commissions or profit credits arising from these activities accrue to the firm during the time of its employment by the investment board. Nothing in the preceding sentence shall be deemed to apply to the marketing of bonds, notes or other obligations of the United States or any agency thereof, or of a state or any municipal or political subdivision thereof by a bank in the normal course of its business.~~

~~(b) Stock investments to include convertible preferred stock investments, and investments in convertible bonds and debentures shall not exceed twenty-five percent of the total investments (cost basis) of the system. PRO-VIDED, That in the case of the accident reserve fund created by RCW 51.44.030 such stock investments shall not exceed ten percent of the total investments.~~

~~(c) Investment in the stock of any one corporation shall not exceed five percent of the common shares outstanding.~~

~~(d) No single common stock investment, based on cost, may exceed two percent of the assets of the total investments (cost basis) of the system.~~

~~(e) Such corporation has paid a cash dividend on its common stock in at least eight of the ten years and in each of the last three years next preceding the date of investment.~~

~~(f) In the case of convertible bond, debenture, and convertible preferred stock investments, the common stock into which such investments are convertible otherwise qualifies as an authorized investment under the provisions of this section.~~

~~(13) Investments in savings and loan associations organized under federal or state law, insured by the federal savings and loan insurance corporation, and operating in this state, including investment in their savings accounts, deposit accounts, bonds, debentures and other obligations or securities (except capital stock) which are insured or guaranteed by an agency of the federal government or by a private corporation approved by the state insurance commissioner and licensed to insure real estate loans in the state of Washington; savings deposits in commercial banks and mutual savings banks organized under federal or state law.~~

~~(14) Appropriate contracts of life insurance or annuities from insurers duly organized to do business in the state of Washington, if and when such purchase or purchases would in the judgment of the board be appropriate or necessary to carry out the purposes of this chapter.~~

~~(15) Any obligation, equipment trust certificate, or interest in any obligation arising out of any transaction involving the sale of any equipment by, or the lease of any equipment from, any corporation engaged in the business of transportation or manufacturing, with its principal place of business located in Washington state, or by or from any wholly owned subsidiary of any such corporation, provided that either (a) the obligation shall be secured by ownership of the equipment or by a first mortgage or other security interest creating a first lien on such equipment or (b) the obligation shall be guaranteed by the United States government or any agency or instrumentality thereof or by a foreign government or any agency or instrumentality thereof or by any province of Canada.~~

~~(16) The sale of call options or the repurchase of sold call options where such options are fully covered by common stocks owned by the funds.~~

~~Subject to the above limitations, the state investment board may make purchases, sales, exchanges, investments, and reinvestments, of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any money belonging to said funds)), manage, contract, or sell or exchange investments acquired. Investments shall be made in accordance with section 14, chapter 3, Laws of 1981 and investment policy duly established and published by the state investment board. All funds shall be sufficiently diversified and no corporate fixed income issue or common stock holding may exceed three percent of the cost or six percent of the market value of the assets of any fund.~~

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981.

Passed the Senate March 24, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 99

[Engrossed Senate Bill No. 3129]

BOARD OF DENTAL EXAMINERS—CIVIL IMMUNITY

AN ACT Relating to the board of dental examiners; and adding a new section to chapter 18.32 RCW.

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

NEW SECTION. Section 1. There is added to chapter 18.32 RCW a new section to read as follows:

Members of the board of dental examiners shall be immune from suit in any civil action based upon actions taken in the course of any dental examination or any other official act performed in good faith as members of such board. Such immunity shall apply to employees and staff of the board when acting at the direction of the board in the course of its official proceedings.

Passed the Senate March 11, 1981.
 Passed the House April 16, 1981.
 Approved by the Governor May 8, 1981.
 Filed in Office of Secretary of State May 8, 1981.

CHAPTER 100

[Senate Bill No. 3140]

MUNICIPAL TRANSMISSION LINE PROPERTY—PRIVATE GARDENING LEASES

AN ACT Relating to public utilities; adding a new section to chapter 35.92 RCW; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 35.92 RCW a new section to read as follows:

A city or town owning facilities for the purpose of furnishing the city or town and its inhabitants with electricity may lease for private gardening purposes the real property under its electrical transmission and distribution lines for a nominal rent to any person who has an income of less than ten thousand dollars per year.

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

Passed the Senate February 20, 1981.
 Passed the House April 15, 1981.
 Approved by the Governor May 8, 1981.
 Filed in Office of Secretary of State May 8, 1981.

CHAPTER 101

[Senate Bill No. 3207]

PUBLIC FUND CUSTODIANS—ELECTRONIC FUND TRANSFERS

AN ACT Relating to public funds; and amending section 1, chapter 15, Laws of 1977 ex. sess. as amended by section 48, chapter 151, Laws of 1979 and RCW 39.58.150.

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

Section 1. Section 1, chapter 15, Laws of 1977 ex. sess. as amended by section 48, chapter 151, Laws of 1979 and RCW 39.58.150 are each amended to read as follows:

Notwithstanding any provision of law to the contrary, the state treasurer or any county, city, or other municipal treasurer or other custodian of public funds may receive, disburse, or transfer public funds under ~~((the treasurer's))~~ his jurisdiction by means of wire or other electronic communication in accordance with accounting standards ~~((which shall be))~~ established ~~((prior to July 1, 1977,))~~ by the state auditor under RCW 43.09.200 with regard to municipal treasurers or other custodians or by the office of financial management under RCW 43.88.160 in the case of the state treasurer and other state custodians to safeguard and insure accountability for the funds involved.

Passed the Senate February 19, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 102

[Senate Bill No. 3208]

STATE TREASURER—HIGHEST DEPOSIT BALANCE REPORT— INFORMATION DISCLOSURE

AN ACT Relating to the state treasurer; amending section 10, chapter 112, Laws of 1975-'76 2nd ex. sess. and RCW 42.17.245; and declaring an emergency.

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

Section 1. Section 10, chapter 112, Laws of 1975-'76 2nd ex. sess. and RCW 42.17.245 are each amended to read as follows:

On or after July 1st but before August 1st of each calendar year, the state treasurer, each county, public utility district, and port district treasurer, and each treasurer of an incorporated city or town whose population exceeds one thousand shall file with the commission a report disclosing for the previous twelve months ending June 30: (1) The name and address of each financial institution which holds or has held during the reporting period public accounts of governmental entities for which the treasurer is responsible; (2) the aggregate sum of time and demand deposits held in each financial institution on June 30 ~~((together with))~~; and (3) the highest balance held at any time during such reporting period: PROVIDED, That the state treasurer shall disclose the highest balance information only upon request under RCW 42.17.250 through 42.17.330.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 19, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 103

[Senate Bill No. 3239]

COMMON SCHOOLS—STATE DIVISION OF RECREATION

AN ACT Relating to recreation in the common schools; amending section 12, chapter 282, Laws of 1971 ex. sess. as amended by section 17, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.21.088; repealing section 28A.14.010, chapter 223, Laws of 1969 ex. sess. and RCW 28A.14.010; repealing section 28A.14.020, chapter 223, Laws of 1969 ex. sess., section 4, chapter 48, Laws of 1971 and RCW 28A.14.020; repealing section 28A.14.030, chapter 223, Laws of 1969 ex. sess. and RCW 28A.14.030; repealing section 28A.14.040, chapter 223, Laws of 1969 ex. sess. and RCW 28A.14.040; repealing section 28A.14.050, chapter 223, Laws of 1969 ex. sess., section 5, chapter 48, Laws of 1971, section 53, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.14.050; and repealing section 28A.14.060, chapter 223, Laws of 1969 ex. sess. and RCW 28A.14.060.

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

NEW SECTION. Section 1. The following acts or parts of acts are each hereby repealed:

- (1) Section 28A.14.010, chapter 223, Laws of 1969 ex. sess. and RCW 28A.14.010;
- (2) Section 28A.14.020, chapter 223, Laws of 1969 ex. sess., section 4, chapter 48, Laws of 1971 and RCW 28A.14.020;
- (3) Section 28A.14.030, chapter 223, Laws of 1969 ex. sess. and RCW 28A.14.030;
- (4) Section 28A.14.040, chapter 223, Laws of 1969 ex. sess. and RCW 28A.14.040;
- (5) Section 28A.14.050, chapter 223, Laws of 1969 ex. sess., section 5, chapter 48, Laws of 1971, section 53, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.14.050; and
- (6) Section 28A.14.060, chapter 223, Laws of 1969 ex. sess. and RCW 28A.14.060.

Sec. 2. Section 12, chapter 282, Laws of 1971 ex. sess. as amended by section 17, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.21.088 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

- (1) If the district board deems necessary, hold each year one or more teachers' institutes as provided for in RCW 28A.71.100, as now or hereafter amended, and one or more school directors' meetings.

(2) Cooperate with the state supervisor of special aid for handicapped children as provided in chapter 28A.13 RCW (~~and the state supervisor of recreation as provided in chapter 28A.14 RCW~~).

(3) Apportion such school funds other than state funds as otherwise authorized by law in a manner not in conflict with state or federal law or rules and regulations relating to the distribution and apportionment of such school funds.

(4) Certify statistical data as basis for apportionment purposes to county and state officials as provided in chapter 28A.44 RCW.

(5) Perform such other duties as may be prescribed by law or rule or regulation of the state board of education and/or the superintendent of public instruction as provided in RCW 28A.03.028 and 28A.04.145.

Passed the Senate March 16, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 104

[Engrossed Senate Bill No. 3293]

FIRES—UNINCORPORATED AREAS, COUNTY FIRE MARSHAL— INVESTIGATORS, JURISDICTIONAL POLICE POWERS

AN ACT Relating to fire investigators; and amending section .33.06, chapter 79, Laws of 1947 as amended by section 1, chapter 181, Laws of 1980 and RCW 48.48.060.

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

Section 1. Section .33.06, chapter 79, Laws of 1947 as amended by section 1, chapter 181, Laws of 1980 and RCW 48.48.060 are each amended to read as follows:

(1) The chief of each organized fire department, the sheriff or other designated county official, and the designated city or town official shall investigate the cause, origin, and extent of loss of all fires occurring within their respective jurisdictions, as determined by this subsection, and shall forthwith notify the state fire marshal of all fires of criminal, suspected, or undetermined cause occurring within their respective jurisdictions. The county fire marshal shall also be notified of and investigate all such fires occurring in unincorporated areas of the county. Fire departments shall have the responsibility imposed by this subsection for areas within their jurisdictions. Sheriffs or other designated county officials shall have responsibility imposed by this subsection for county areas not within the jurisdiction of a fire department, unless such areas are within the boundaries of a city or town, in which case the designated city or town official shall have the responsibility imposed by this subsection. For the purposes of this subsection, county officials shall be designated by the county legislative authority, and city or town officials shall be designated by the appropriate city or town

legislative or executive authority. In addition to the responsibility imposed by this subsection, any sheriff or chief of police may assist in the investigation of the cause, origin, and extent of loss of all fires occurring within his or her respective jurisdiction.

(2) The state fire marshal may investigate any fire for the purpose of determining its cause, origin, and the extent of the loss. The state fire marshal shall assist in the investigation of those fires of criminal, suspected, or undetermined cause when requested by the reporting agency. In the investigation of any fire of criminal, suspected, or undetermined cause, the state fire marshal, deputy state fire marshals, or resident fire marshals, acting within their jurisdiction, are vested with police powers to enforce the laws of this state. To exercise these powers, state deputy and resident fire marshals must receive prior written authorization from the state fire marshal, and have completed a course of training prescribed by the Washington state criminal justice training commission.

Passed the Senate March 30, 1981.

Passed the House April 17, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 105

[Senate Bill No. 3303]

MOTOR VEHICLES—SPEED DETERMINATION—TIMING DEVICES OPERATED FROM AIRCRAFT

AN ACT Relating to speed traps; and amending section 46.48.120, chapter 12, Laws of 1961 and RCW 46.61.470.

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

Section 1. Section 46.48.120, chapter 12, Laws of 1961 and RCW 46.61.470 are each amended to read as follows:

(1) No evidence as to the speed of any vehicle operated upon a public highway by any person arrested for violation of any of the laws of this state regarding speed or of any orders, rules, or regulations of any city or town or other political subdivision relating thereto shall be admitted in evidence in any court at a subsequent trial of such person in case such evidence relates to or is based upon the maintenance or use of a speed trap except as provided in subsection (2) of this section. A "speed trap," within the meaning of this section, is a particular section of or distance on any public highway, the length of which has been or is measured off or otherwise designated or determined, and the limits of which are within the vision of any officer or officers who calculate the speed of a vehicle passing through such speed trap by using the lapsed time during which such vehicle travels between the entrance and exit of such speed trap(~~(-PROVIDED, That)~~).

(2) Evidence shall be admissible against any person arrested or issued a notice of a traffic infraction for violation of any of the laws of this state or of any orders, rules, or regulations of any city or town or other political subdivision regarding speed if the same is determined by a particular section of or distance on a public highway, the length of which has been accurately measured off or otherwise designated or determined and either: (a) The limits of which are controlled by a mechanical, electrical, or other device capable of measuring or recording the speed of a vehicle passing within such limits ((within an)); or (b) a timing device is operated from an aircraft, which timing device when used to measure the elapsed time of a vehicle passing over such a particular section of or distance upon a public highway indicates the speed of a vehicle.

(3) The exceptions of subsection (2) of this section are limited to devices or observations with a maximum error of not to exceed five percent using the lapsed time during which such vehicle travels between such limits((: PROVIDED FURTHER, That)), and such limits shall not be closer than one-fourth mile.

Passed the Senate March 24, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 106

[Senate Bill No. 3306]

POLICE OFFICERS, ARREST WITHOUT WARRANT—OPERATOR'S LICENSE, SUSPENDED, REVOKED

AN ACT Relating to traffic laws; and amending section 1, chapter 198, Laws of 1969 ex. sess. as last amended by section 8, chapter 148, Laws of 1980 and RCW 10.31.100.

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

Section 1. Section 1, chapter 198, Laws of 1969 ex. sess. as last amended by section 8, chapter 148, Laws of 1980 and RCW 10.31.100 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 (3) 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 shall have the authority to arrest the person.

(2) 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, relating to operating a motor vehicle in a negligent manner.

(3) 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.

(4) Except as specifically provided in subsections (2) and (3) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

Passed the Senate March 18, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 107

[Engrossed Senate Bill No. 3319]

FOREIGN STUDENT SCHOLARSHIP PROGRAM—TERMINATION DATE

AN ACT Relating to institutions of higher education and the foreign student scholarship program therein; repealing section 17, chapter 99, Laws of 1979 and RCW 43.131.181; repealing section 59, chapter 99, Laws of 1979 and RCW 43.131.182; and providing an expiration date.

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

NEW SECTION. Section 1. The foreign student scholarship program under RCW 28B.10.200, as now existing or hereafter amended, shall cease to exist on June 30, 1987, unless extended by law for an additional fixed period of time.

NEW SECTION. Sec. 2. The following acts or parts thereof are each hereby repealed:

(1) Section 17, chapter 99, Laws of 1979 and RCW 43.131.181; and

(2) Section 59, chapter 99, Laws of 1979 and RCW 43.131.182.

Passed the Senate March 24, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 108

[Senate Bill No. 3338]

SCHOOL DISTRICTS—MINIMUM FUNDS GUARANTEE, 1974-'75 SCHOOL YEAR

AN ACT Relating to minimum guarantee to school districts for 1974-75 school year; and repealing section 2, chapter 89, Laws of 1974 ex. sess. and RCW 28A.41.220.

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

NEW SECTION. Section 1. Section 2, chapter 89, Laws of 1974 ex. sess. and RCW 28A.41.220 are each hereby repealed.

Passed the Senate March 16, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 109

[Senate Bill No. 3352]

SCHOOL DISTRICTS—LEARNING RESOURCES SERVICES—SURVEY, REPORT

AN ACT Relating to reports on school district maintenance of adequate resource services; and repealing section 2, chapter 127, Laws of 1975 1st ex. sess. and RCW 28A.03.095.

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

NEW SECTION. Section 1. Section 2, chapter 127, Laws of 1975 1st ex. sess. and RCW 28A.03.095 are each hereby repealed.

Passed the Senate March 9, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 110

[Senate Bill No. 3354]

SCHOOL DISTRICTS—STUDENT FINANCIAL ASSISTANCE PROGRAMS, NEEDY, DISADVANTAGED STUDENTS

AN ACT Relating to student financial assistance programs; repealing section 1, chapter 81, Laws of 1973 and RCW 28A.04.137; repealing section 2, chapter 81, Laws of 1973 and

RCW 28A.58.700; repealing section 3, chapter 81, Laws of 1973 and RCW 28A.58.701; repealing section 4, chapter 81, Laws of 1973 and RCW 28A.58.703; repealing section 5, chapter 81, Laws of 1973 and RCW 28A.58.704; repealing section 6, chapter 81, Laws of 1973 and RCW 28A.58.706; repealing section 7, chapter 81, Laws of 1973 and RCW 28A.58.707; and repealing sections 8 and 9, chapter 81, Laws of 1973 (uncodified).

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

NEW SECTION. Section 1. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 81, Laws of 1973 and RCW 28A.04.137;
- (2) Section 2, chapter 81, Laws of 1973 and RCW 28A.58.700;
- (3) Section 3, chapter 81, Laws of 1973 and RCW 28A.58.701;
- (4) Section 4, chapter 81, Laws of 1973 and RCW 28A.58.703;
- (5) Section 5, chapter 81, Laws of 1973 and RCW 28A.58.704;
- (6) Section 6, chapter 81, Laws of 1973 and RCW 28A.58.706;
- (7) Section 7, chapter 81, Laws of 1973 and RCW 28A.58.707; and
- (8) Sections 8 and 9, chapter 81, Laws of 1973 (uncodified).

Passed the Senate March 9, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 111

[Senate Bill No. 3383]

INSURANCE—LICENSE FEES, EXAMINATIONS

AN ACT Relating to insurance; amending section .14.01, chapter 79, Laws of 1947 as last amended by section 1, chapter 269, Laws of 1979 ex. sess. and RCW 48.14.010; amending section .17.12, chapter 79, Laws of 1947 as last amended by section 17, chapter 150, Laws of 1967 and RCW 48.17.120; and amending section .17.13, chapter 79, Laws of 1947 as amended by section 18, chapter 150, Laws of 1967 and RCW 48.17.130.

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

Section 1. Section .14.01, chapter 79, Laws of 1947 as last amended by section 1, chapter 269, Laws of 1979 ex. sess. and RCW 48.14.010 are each amended to read as follows:

(1) The commissioner shall collect in advance the following fees:

- (A) FOR FILING CHARTER DOCUMENTS:
 - (i) Original charter documents, bylaws or record of organization of insurers, or certified copies thereof, required to be filed..... \$250.00
 - (ii) Amended charter documents, or certified copy thereof, other than amendments of bylaws..... \$ 10.00

- (iii) No additional charge or fee shall be required for filing any of such documents in the office of the secretary of state.
- (B) CERTIFICATE OF AUTHORITY:
 - (i) Issuance \$ 25.00
 - (ii) Renewal \$ 25.00
- (C) ANNUAL STATEMENT OF INSURER, FILING \$ 20.00
- (D) ORGANIZATION OR FINANCING OF DOMESTIC INSURERS AND AFFILIATED CORPORATIONS:
 - (i) Application for solicitation permit, filing \$100.00
 - (ii) Issuance of solicitation permit \$ 25.00
- (E) AGENTS' LICENSES:
 - (i) Agent's qualification licenses each year \$ 25.00
 - (ii) Filing of appointment of each such agent, each year \$ 10.00
 - (iii) Limited license issued pursuant to RCW 48.17.190, each year \$ 10.00
- (F) BROKERS' LICENSES:
 - (i) (~~Resident or nonresident broker~~) Broker's license, each year \$ 50.00
 - (ii) Surplus line broker, each year \$100.00
- (G) SOLICITORS' LICENSE, EACH YEAR \$ 10.00
- (H) ADJUSTERS' LICENSES:
 - (i) Independent adjuster, each year \$ 25.00
 - (ii) Public adjuster, each year \$ 25.00
- (I) RESIDENT GENERAL AGENT'S LICENSE, EACH YEAR \$ 25.00
- (J) EXAMINATION FOR LICENSE, EACH EXAMINATION:
 - (i) (~~Filing~~) Application processing fee for first examination for license \$ 5.00
 - (ii) (~~Resident or nonresident~~) Broker's license \$ 50.00
 - (iii) All other examinations, except examinations administered by an independent testing service, the fees for which are to be approved by the commissioner and collected directly by such independent testing service \$ 10.00

(K) MISCELLANEOUS SERVICES:

- (i) Filing other documents \$ 5.00
- (ii) Commissioner's certificate under seal \$ 5.00
- (iii) Copy of documents filed in the commissioner's office, reasonable charge therefor as determined by the commissioner.

(2) All fees so collected shall be remitted by the commissioner to the state treasurer not later than the first business day following, and shall be placed to the credit of the general fund: PROVIDED, That fees for examinations administered by an independent testing service which are approved by the commissioner pursuant to (1)(J)(iii) of this section may be collected directly by such independent testing service.

Sec. 2. Section .17.12, chapter 79, Laws of 1947 as last amended by section 17, chapter 150, Laws of 1967 and RCW 48.17.120 are each amended to read as follows:

- (1) Each such examination shall be of sufficient scope reasonably to test the applicant's knowledge relative to the kinds of insurance which may be dealt with under the license applied for, and of the duties and responsibilities of, and laws of this state applicable to, such a licensee.
- (2) Examination as to ocean marine and related coverages may be waived by the commissioner as to any applicant deemed by the commissioner to be qualified by past experience to deal in such insurances.
- (3) The commissioner shall prepare, or approve, and make available to insurers, general agents, brokers, agents, and applicants a printed manual specifying in general terms the subjects which may be covered in any examination for a particular license.

Sec. 3. Section .17.13, chapter 79, Laws of 1947 as amended by section 18, chapter 150, Laws of 1967 and RCW 48.17.130 are each amended to read as follows:

- (1) The answers of the applicant to any such examination shall be written by the applicant under the examining authority's supervision, and any such written examination may be supplemented by oral examination at the discretion of the examining authority.
- (2) Examinations shall be given at such times and places within this state as the examining authority deems necessary reasonably to serve the convenience of both the examining authority and applicants.
- (3) The examining authority may require a waiting period of reasonable duration before giving a new examination to an applicant who has failed to pass a previous similar examination.
- (4) For each examination taken, the commissioner shall collect in advance the fee provided in RCW 48.14.010. In the event the commissioner contracts with an independent testing service for examination development

and administration, the examination fee may be collected directly by such testing service.

Passed the Senate March 23, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 112

[Engrossed Senate Bill No. 3465]

RISK MANAGEMENT OFFICE—TERMINATION DATE

AN ACT Relating to the department of general administration; repealing section 11, chapter 270, Laws of 1977 ex. sess. and RCW 43.19.19365; repealing section 15, chapter 99, Laws of 1979 RCW 43.131.177; and repealing section 57, chapter 99, Laws of 1979 and RCW 43.131.178; and providing an expiration date.

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

NEW SECTION. Section 1. The risk management office shall cease to exist on June 30, 1987, unless extended by law for an additional fixed period of time.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) Section 11, chapter 270, Laws of 1977 ex. sess. and RCW 43.19.19365;

(2) Section 15, chapter 99, Laws of 1979 and RCW 43.131.177; and

(3) Section 57, chapter 99, Laws of 1979 and RCW 43.131.178.

Passed the Senate March 18, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 113

[Senate Bill No. 3555]

INSTITUTIONS OF HIGHER EDUCATION—REMUNERATED PROFESSIONAL LEAVE REQUIREMENTS—COMPLIANCE INFORMATION

AN ACT Relating to institutions of higher education; and amending section 3, chapter 14, Laws of 1979 as amended by section 1, chapter 44, Laws of 1979 and RCW 28B.10.650.

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

Section 1. Section 3, chapter 14, Laws of 1979 as amended by section 1, chapter 44, Laws of 1979 and RCW 28B.10.650 are each amended to read as follows:

It is the intent of the legislature that when the state and regional universities, The Evergreen State College, and community colleges grant professional leaves to faculty and exempt staff, such leaves be for the purpose of providing opportunities for study, research, and creative activities for the enhancement of the institution's instructional and research programs.

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College and the board of trustees of each community college district may grant remunerated professional leaves to faculty members and exempt staff, as defined in RCW 28B.16.040, in accordance with regulations adopted by the respective governing boards for periods not to exceed twelve consecutive months in accordance with the following provisions:

(1) The remuneration from state general funds and general local funds for any such leave granted for any academic year shall not exceed the average of the highest quartile of a rank order of salaries of all full time teaching faculty holding academic year contracts or appointments at the institution or in the district.

(2) Remunerated professional leaves for a period of more or less than an academic year shall be compensated at rates not to exceed a proportional amount of the average salary as otherwise calculated for the purposes of subsection (1) hereof.

(3) The grant of any such professional leave shall be contingent upon a signed contractual agreement between the respective governing board and the recipient providing that the recipient shall return to the granting institution or district following his or her completion of such leave and serve in a professional status for a period commensurate with the amount of leave so granted. Failure to comply with the provisions of such signed agreement shall constitute an obligation of the recipient to repay to the institution any remuneration received from the institution during the leave.

(4) The aggregate cost of remunerated professional leaves awarded at the institution or district during any year, including the cost of replacement personnel, shall not exceed the cost of salaries which otherwise would have been paid to personnel on leaves: PROVIDED, That for community college districts the aggregate cost shall not exceed one hundred fifty percent of the cost of salaries which would have otherwise been paid to personnel on leaves: PROVIDED FURTHER, That this subsection shall not apply to any community college district with fewer than seventy-five full time faculty members and granting fewer than three individuals such leaves in any given year.

(5) The average number of annual remunerated professional leaves awarded at any such institution or district shall not exceed four percent of the total number of full time equivalent faculty, as defined by the office of financial management, who are engaged in instruction, and exempt staff as defined in RCW 28B.16.040.

(6) Negotiated agreements made in accordance with chapter 28B.52 RCW and entered into after July 1, 1977, shall be in conformance with the provisions of this section.

(7) The respective institutions and districts shall ~~((annually report to the council for postsecondary education))~~ maintain such information ~~((as the council deems necessary to determine))~~ which will ensure compliance with the provisions of this section. ~~((and))~~ The council for postsecondary education shall periodically ~~((report))~~ request such information ~~((to the legislature))~~ as to ensure institutions are in compliance.

Passed the Senate March 27, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 114

[Engrossed Senate Bill No. 4022]

ST. EDWARDS SEMINARY—PARKS AND RECREATION COMMISSION JURISDICTION

AN ACT Relating to Saint Edwards Seminary; adding a new section to chapter 43.51 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Section 1. The director of general administration shall transfer to the state parks and recreation commission the facility known as Saint Edwards Seminary, along with all attached real estate under the jurisdiction of the department of general administration.

NEW SECTION. Sec. 2. There is added to chapter 43.51 RCW a new section to read as follows:

The commission may not operate the swimming pool at Saint Edwards state park, but the commission may enter into a contract with one or more local governments for the operation of the pool.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 25, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 115

[Substitute Senate Bill No. 3584]

ARCHIVES AND RECORDS MANAGEMENT DIVISION—SECRETARY OF STATE'S OFFICE

AN ACT Relating to state archives and records; amending section 2, chapter 246, Laws of 1957 and RCW 40.14.020; amending section 43.19.015, chapter 8, Laws of 1965 and RCW 43.19.015; amending section 43.58.070, chapter 8, Laws of 1965 and RCW 43.58.070; adding a new section to chapter 40.14 RCW; creating new sections; providing an effective date; and declaring an emergency.

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

Section 1. Section 2, chapter 246, Laws of 1957 and RCW 40.14.020 are each amended to read as follows:

All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with the provisions of this chapter. In order to insure the proper management and safeguarding of public records, the ~~((division of archives of the department of general administration is designated as the))~~ division of archives and records management is established in the office of the secretary of state, and, under the administration of the state archivist, who shall have reasonable access to all public records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

- (1) To manage the archives of the state of Washington;
- (2) To centralize the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;
- (3) To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;
- (4) To insure the maintenance and security of all state public records and to establish safeguards against unauthorized removal or destruction;
- (5) To establish and operate such state record centers as may from time to time be authorized by appropriation, for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;
- (6) To gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures and devices for efficient and economical management of records;
- (7) To operate a central microfilming bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the

archivist; to approve microfilming projects undertaken by state departments and all other agencies of state government; and to maintain proper standards for this work;

(8) To maintain necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly to supervise such destruction of public records as shall be authorized by the terms of this chapter.

Sec. 2. Section 43.19.015, chapter 8, Laws of 1965 and RCW 43.19.015 are each amended to read as follows:

The director of general administration shall have the power and duties of the director of public institutions contained in the following chapters of RCW: Chapter 33.04 RCW concerning savings and loan associations; chapter 39.32 RCW concerning purchase of federal property; (~~chapters 40.08 and 40.12 RCW concerning archives;~~) chapter 43.90 RCW concerning central stores and chapter 73.12 RCW concerning veterans' loan insurance.

Sec. 3. Section 43.58.070, chapter 8, Laws of 1965 and RCW 43.58.070 are each amended to read as follows:

Upon ratification by the state of Oregon and approval by the Congress of the United States of the compact set forth in RCW 43.58.060, the secretary of the Washington-Oregon boundary commission is hereby directed to transmit all records, work sheets, maps, minutes and other papers of said commission to the division of archives and records management of the (~~department of general administration~~) office of the secretary of state.

NEW SECTION. Sec. 4. There is added to chapter 40.14 RCW a new section to read as follows:

The secretary of state and the director of financial management shall jointly establish a schedule of fees and charges governing the services provided by the division of archives and records management to other state agencies, offices, departments, and other entities. The schedule shall be determined such that the fees and charges will provide the division with funds to meet its anticipated expenditures during any allotment period.

There is created the archives and records management account within the general fund, which shall consist of all fees and charges collected under this section. The account shall be appropriated exclusively for use by the secretary of state for the payment of costs and expenses incurred in the operation of the division of archives and records management.

NEW SECTION. Sec. 5. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of general administration and pertaining to the division of archives and records management shall be delivered to the custody of the secretary of state. All cabinets, furniture, office equipment, motor vehicles, and other

tangible property employed by the division of archives and records management of the department of general administration shall be made available to the secretary of state. All funds, credits, or other assets held in connection with the division of archives and records management shall be assigned to the secretary of state.

Any appropriations made to the department of general administration for archives and records management shall, on the effective date of this act, be transferred and credited to the secretary of state.

If any question arises as to the transfer of any personnel, funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

NEW SECTION. Sec. 6. All classified employees of the division of archives and records management of the department of general administration are transferred to the jurisdiction of the secretary of state. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the secretary of state to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

NEW SECTION. Sec. 7. All rules and regulations and all pending business before the division of archives and records management of the department of general administration shall be continued and acted upon by the secretary of state. All existing contracts and obligations shall remain in full force and effect and shall be performed by the secretary of state.

NEW SECTION. Sec. 8. The transfer of the powers, duties, functions, and personnel of the division of archives and records management of the department of general administration shall not affect the validity of any act performed by such employee prior to the effective date of this act.

NEW SECTION. Sec. 9. If apportionments of budgeted funds are required because of the transfers directed by sections 5 through 8 of this act, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect July 1, 1981.

Passed the Senate March 10, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 116

[Senate Bill No. 3589]

RAIL CARRIER RATES—EFFECTIVE DATES

AN ACT Relating to transportation tariffs; amending section 81.28.050, chapter 14, Laws of 1961 and RCW 81.28.050; and amending section 81.80.150, chapter 14, Laws of 1961 as amended by section 11, chapter 115, Laws of 1973 and RCW 81.80.150.

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

Section 1. Section 81.28.050, chapter 14, Laws of 1961 and RCW 81.28.050 are each amended to read as follows:

Unless the commission otherwise orders, no change shall be made in any classification, rate, fare, charge, rule, or regulation filed and published by a common carrier other than a rail carrier, except after thirty days' notice to the commission and to the public published as provided in RCW 81.28.040 which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, classification, fare, 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. In the case of a change proposed by a rail carrier, a proposal resulting in a rate increase or a new rate shall not become effective for twenty days after the notice is published, and a proposal resulting in a rate decrease shall not become effective for ten days after the notice is published. The commission, for good cause shown, may by order allow changes in rates without requiring the (~~thirty days'~~) notice and the publication time periods specified in this section. When any change is made in any rate, fare, charge, classification, rule, or regulation, attention shall be directed to such change by some character on the schedule, such character and its placement to be designated by the commission. The commission may, by order, for good cause shown, allow changes in any rate, fare, charge, classification, rule, or regulation without requiring any character to indicate each and every change to be made.

Sec. 2. Section 81.80.150, chapter 14, Laws of 1961 as amended by section 11, chapter 115, Laws of 1973 and RCW 81.80.150 are each amended to read as follows:

The commission shall make, fix, construct, compile, promulgate, publish, and distribute tariffs containing compilations of rates, charges, classifications, rules, and regulations to be used by all common carriers. In compiling such tariffs it shall include within any given tariff compilation such carriers, groups of carriers, commodities, or geographical areas as it determines shall be in the public interest. Such compilations and publications may be made by the commission by compiling the rates, charges, classifications, rules, and regulations now in effect, and as they may be amended and altered from time to time after notice and hearing, by issuing and distributing revised pages or supplements to such tariffs or reissues thereof in accordance with the orders of the commission: PROVIDED, That the commission, upon good cause shown, may establish temporary rates, charges, or classification changes which may be made permanent only after publication in an applicable tariff for not less than sixty days, and determination by the commission thereafter that the rates, charges or classifications are just, fair, and reasonable: PROVIDED FURTHER, That temporary rates shall not be made permanent except upon notice and hearing if within sixty days from date of publication, a shipper or common carrier, or representative of either, shall file with the commission a protest alleging such temporary rates to be unjust, unfair, or unreasonable. For purposes of this proviso, the publication of temporary rates in the tariff shall be deemed adequate public notice. Nothing herein shall be construed to prevent the commission from proceeding on its own motion, upon notice and hearing, to fix and determine just, fair, and reasonable rates, charges, and classifications. The proper tariff, or tariffs, applicable to a carrier's operations shall be available to the public at each agency and office of all common carriers operating within this state. Such compilations and publications shall be sold by the commission for a fee to be determined annually and not to exceed ((ten dollars for each tariff)) the cost of this service. Corrections to such publications shall be furnished to all subscribers to tariffs in the form of corrected pages to the tariffs, supplements, or reissues thereof. In addition to the initial charge for each tariff, the commission shall charge an annual maintenance fee ((of)) not to exceed ((ten dollars per tariff to cover)) the cost of issuing corrections or supplements and mailing them to subscribers: PROVIDED, That copies may be furnished free to other regulatory bodies and departments of government and to colleges, schools, and libraries. All copies of the compilations, whether sold or given free, shall be issued and distributed under rules and regulations to be fixed by the commission: PROVIDED FURTHER, That the commission may by order authorize common carriers to publish and file tariffs with the commission and be governed thereby in respect to certain designated commodities and services when, in the opinion of the commission, it is impractical for the commission to make, fix, construct,

compile, publish, and distribute tariffs covering such commodities and services.

Passed the Senate March 30, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 117

[Engrossed Senate Bill No. 3595]

PUBLIC SERVICE COMPANIES—SALE APPROVAL—GOVERNMENTAL PURCHASERS

AN ACT Relating to public utilities; and amending section 80.12.020, chapter 14, Laws of 1961 and RCW 80.12.020.

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

Section 1. Section 80.12.020, chapter 14, Laws of 1961 and RCW 80.12.020 are each amended to read as follows:

No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever, which are necessary or useful in the performance of its duties to the public, and no public service company shall, by any means whatsoever, directly or indirectly, merge or consolidate any of its franchises, properties or facilities with any other public service company, without having secured from the commission an order authorizing it so to do: PROVIDED, That this section shall not apply to any sale, lease, assignment or other disposal of such franchises, properties or facilities to a ~~((public utility district))~~ special purpose district as defined in RCW 36.96.010, city, county, or town.

Passed the Senate March 30, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 118

[Senate Bill No. 3626]

FOREST PRACTICES APPEALS BOARD—TERMINATION DATE

AN ACT Relating to the forest practices appeals board; adding a new section to chapter 76.09 RCW; repealing section 3, chapter 99, Laws of 1979 and RCW 43.131.153; repealing section 45, chapter 99, Laws of 1979 and RCW 43.131.154; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 76.09 RCW a new section to read as follows:

The forest practices appeals board shall cease to exist on June 30, 1987, unless extended by law for an additional fixed period of time.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

- (1) Section 3, chapter 99, Laws of 1979 and RCW 43.131.153; and
- (2) Section 45, chapter 99, Laws of 1979 and RCW 43.131.154.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 30, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 119

[Senate Bill No. 3641]

FEDERAL SOCIAL SECURITY FOR PUBLIC EMPLOYEES—DELINQUENT REPORTS AND PAYMENTS—INTEREST AND PENALTIES

AN ACT Relating to benefits under Title II of the social security act; amending section 5, chapter 184, Laws of 1951 as last amended by section 20, chapter 257, Laws of 1971 ex. sess. and RCW 41.48.050; and providing penalties.

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

Section 1. Section 5, chapter 184, Laws of 1951 as last amended by section 20, chapter 257, Laws of 1971 ex. sess. and RCW 41.48.050 are each amended to read as follows:

(1) Each political subdivision of the state is hereby authorized to submit for approval by the governor a plan for extending the benefits of title II of the social security act, in conformity with the applicable provisions of such act, to those employees of such political subdivisions who are not covered by an existing pension or retirement system. Each pension or retirement system established by the state or a political subdivision thereof is hereby authorized to submit for approval by the governor a plan for extending the benefits of title II of the social security act, in conformity with applicable provisions of such act, to members of such pension or retirement system. Each such plan and any amendment thereof shall be approved by the governor if he finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the governor, except that no such plan shall be approved unless—

(a) It is in conformity with the requirements of the social security act and with the agreement entered into under RCW 41.48.030;

(b) It provides that all services which constitute employment as defined in RCW 41.48.020 and are performed in the employ of the political subdivision by employees thereof, shall be covered by the plan;

(c) It specifies the source or sources from which the funds necessary to make the payments required by paragraph (a) of subsection (3) and by subsection (4) of this section are expected to be derived and contains reasonable assurance that such sources will be adequate for such purposes;

(d) It provides that in the plan of coverage for members of the state teachers' retirement system or for state employee members of the state employees' retirement system, there shall be no additional cost to or involvement of the state until such plan has received prior approval by the legislature;

(e) It provides for such methods of administration of the plan by the political subdivision as are found by the governor to be necessary for the proper and efficient administration of the plan;

(f) It provides that the political subdivision will make such reports, in such form and containing such information, as the governor may from time to time require and comply with such provisions as the governor or the secretary of health, education, and welfare may from time to time find necessary to assure the correctness and verification of such reports; and

(g) It authorizes the governor to terminate the plan in its entirety, in his discretion, if he finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the governor and may be consistent with the provisions of the social security act.

(h) It provides that law enforcement officers and fire fighters of each political subdivision of this state who are covered by the Washington Law Enforcement Officers' and Fire Fighters' Retirement System Act (chapter 209, Laws of 1969 ex. sess.) as now in existence or hereafter amended shall constitute a separate "coverage group" for purposes of the plan or agreement entered into under this section and for purposes of section 216 of the social security act. To the extent that the plan or agreement entered into between the state and any political subdivision of this state is inconsistent with this subsection, the governor shall seek to modify the inconsistency.

(i) It provides that the plan or agreement may be terminated by any political subdivision as to any such coverage group upon giving at least two years advance notice in writing to the governor, effective at the end of the calendar quarter specified in the notice. It shall specify that before notice of such termination is given, a referendum shall be held among the members of the coverage group under the following conditions:

(i) The referendum shall be conducted under the supervision of the legislative body of the political subdivision.

(ii) Not less than sixty days' notice of such referendum shall be given to members of the coverage group.

(iii) An opportunity to vote by secret ballot in such referendum shall be given and shall be limited to all members of the coverage group.

(iv) The proposal for termination shall be approved only if a majority of the coverage group vote in favor of termination.

(v) If a majority of the coverage group vote in favor of termination, the legislative body of the political subdivision shall certify the results of the referendum to the governor and give notice of termination of such coverage group.

(2) The governor shall not finally refuse to approve a plan submitted by a political subdivision under subsection (1), and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

(3) (a) Each political subdivision as to which a plan has been approved under this section shall pay into the contribution fund, with respect to wages (as defined in RCW 41.48.020), at such time or times as the governor may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the governor under RCW 41.48.030.

(b) Each political subdivision required to make payments under paragraph (a) of this subsection is authorized, in consideration of the employee's retention in, or entry upon, employment after enactment of this chapter, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages (as defined in RCW 41.48.020), not exceeding the amount of employee tax which is imposed by the federal insurance contributions act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the OASI contribution fund in partial discharge of the liability of such political subdivision or instrumentality under paragraph (a) of this subsection. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

~~(4) ((Delinquent payments due under paragraph (a) of subsection (3) may, with interest at the rate of six percent per annum, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the governor, be deducted from any other moneys payable to such subdivision by any department or agency of the state.))~~

Delinquent reports and payments due under paragraph (f) of subsection (1) and paragraph (a) of subsection (3) of this section will be subject to an added interest charge of six percent per year or, if higher, the rate chargeable to the state by the secretary by virtue of federal law, if the late report or payment contributes to any federal penalty for late filing of reports or for

late deposit of contributions. Delinquent contributions, interest and penalties may be recovered by civil action or may, at the request of the governor, be deducted from any other moneys payable to the political subdivision by any department or agency of the state.

Passed the Senate March 30, 1981.

Passed the House April 17, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 120

[Substitute Senate Bill No. 3857]

FAMILY PLANNING CLINICS—DISPENSING OF ORAL CONTRACEPTIVES

AN ACT Relating to legend drugs; and amending section 3, chapter 186, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 139, Laws of 1979 ex. sess. and RCW 69.41.030.

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

Section 1. Section 3, chapter 186, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 139, Laws of 1979 ex. sess. and RCW 69.41.030 are each amended to read as follows:

It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatrist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces, marine hospital service, or public health service in the discharge of his official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his official duties, a registered nurse under chapter 18.88 RCW when authorized by the board of nursing, an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners, a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners, or a physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery in any state or province of Canada which shares a common border with the state of Washington: **PROVIDED, HOWEVER,** That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: **PROVIDED FURTHER,** That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is

under contract with the department of social and health services from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

Passed the Senate April 1, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 121

[Senate Bill No. 3886]

HEALTH CARE FACILITIES AUTHORITY—BONDS, INTEREST RATE, SALE PRICE, EXECUTION—EXECUTIVE DIRECTOR

AN ACT Relating to the Washington health care facilities authority; amending section 5, chapter 147, Laws of 1974 ex. sess. and RCW 70.37.050; amending section 10, chapter 147, Laws of 1974 ex. sess. and RCW 70.37.100; and declaring an emergency.

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

Section 1. Section 5, chapter 147, Laws of 1974 ex. sess. and RCW 70.37.050 are each amended to read as follows:

The authority shall establish rules concerning its exercise of the powers authorized by this chapter. The authority shall receive from applicants requests for the providing of bonds for financing of health care facilities and shall investigate and determine the need and the feasibility of providing such bonds. ~~((In cooperation with the participant the authority shall work out and specify a project plan or system and the agreements and contracts to be entered into in order to carry out the purposes and policies of this chapter including contracts with respect to construction, financing, maintenance, operation, or management.))~~ Whenever the authority deems it necessary or advisable for the benefit of the public health to provide financing for a health care facility, it shall adopt a system and plan therefor and shall declare the estimated cost thereof, as near as may be, including as part of such cost funds necessary for the expenses incurred in the financing as well as in the construction or purchase or other acquisition or in connection with the rental or other payment for the use thereof, interest during construction, reserve funds and any funds necessary for initial start-up costs, and shall issue and sell its bonds for the purposes of the proposed plan or system: PROVIDED, That if a certificate of need is required for the proposed project no such plan and system shall be adopted until such certificate has been issued pursuant to chapter 70.38 RCW by the secretary of the department of social and health services. The authority shall have power as a part of such system or plan to create a special fund or funds for the purpose of defraying the cost of such project and for other projects of the same participant subsequently or at the same time approved by it and for their maintenance, improvement, reconstruction, remodeling and rehabilitation, into

which special fund or funds it shall obligate and bind the participant to set aside and pay from the gross revenues of the project or from other sources an amount sufficient to pay the principal and interest of the bonds being issued, reserves and other requirements of the special fund and to issue and sell bonds payable as to both principal and interest out of such fund or funds relating to the project or projects of such participant.

Such bonds shall ~~((be executed in such manner,))~~ bear such date or dates, mature at such time or times, be in such denominations, be in such form, either coupon or registered, or both, carry such registration privileges, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at such place or places, ~~((and))~~ be subject to such terms of redemption, bear such rate or rates of interest, and be sold in such manner, at such price, as the authority shall determine. Such bonds shall be executed by the chairman, by either its duly elected secretary or its executive director, and by the trustee if the authority determines to utilize a trustee for the bonds. Execution of the bonds may be by manual or facsimile signature: PROVIDED, That at least one signature placed thereon shall be manually subscribed.

Sec. 2. Section 10, chapter 147, Laws of 1974 ex. sess. and RCW 70-.37.100 are each amended to read as follows:

The authority may make contracts, employ or engage engineers, architects, attorneys, an executive director, and other technical or professional assistants, and such other personnel as are necessary. It may delegate to the executive director or other appropriate persons the power to execute legal instruments on its behalf. It may enter into contracts with the United States, accept gifts for its purposes, and exercise any other power reasonably required to implement the principal powers granted in this chapter. It shall have no power to levy any taxes of any kind or nature and no power to incur obligations on behalf of the state of Washington.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 26, 1981.

Passed the House April 25, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 122

[Engrossed Senate Bill No. 3903]

UNIFORM COMMERCIAL CODE, BANK DEPOSITS AND COLLECTIONS—
BANKING DAY, DEFINITION

AN ACT Relating to the Uniform Commercial Code; and amending section 4-104, chapter 157, Laws of 1965 ex. sess. and RCW 62A.4-104.

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

Section 1. Section 4-104, chapter 157, Laws of 1965 ex. sess. and RCW 62A.4-104 are each amended to read as follows:

(1) In this Article unless the context otherwise requires

(a) "Account" means any account with a bank and includes a checking, time, interest or savings account;

(b) "Afternoon" means the period of a day between noon and midnight;

(c) "Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions, except that it shall not include a Saturday, Sunday, or legal holiday;

(d) "Clearing house" means any association of banks or other payors regularly clearing items;

(e) "Customer" means any person having an account with a bank or for whom a bank has agreed to collect items and includes a bank carrying an account with another bank;

(f) "Documentary draft" means any negotiable or non-negotiable draft with accompanying documents, securities or other papers to be delivered against honor of the draft;

(g) "Item" means any instrument for the payment of money even though it is not negotiable but does not include money;

(h) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

(i) "Properly payable" includes the availability of funds for payment at the time of decision to pay or dishonor;

(j) "Settle" means to pay in cash, by clearing house settlement, in a charge or credit or by remittance, or otherwise as instructed. A settlement may be either provisional or final;

(k) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(2) Other definitions applying to this Article and the sections in which they appear are:

"Collecting bank" RCW 62A.4-105.

"Depository bank" RCW 62A.4-105.

"Intermediary bank" RCW 62A.4-105.

"Payor bank" RCW 62A.4-105.

"Presenting bank" RCW 62A.4-105.

"Remitting bank" RCW 62A.4-105.

(3) The following definitions in other Articles apply to this Article:

"Acceptance" RCW 62A.3-410.

"Certificate of deposit" RCW 62A.3-104.

"Certification" RCW 62A.3-411.

"Check" RCW 62A.3-104.

"Draft" RCW 62A.3-104.

"Holder in due course" RCW 62A.3-302.

"Notice of dishonor" RCW 62A.3-508.

"Presentment" RCW 62A.3-504.

"Protest" RCW 62A.3-509.

"Secondary party" RCW 62A.3-102.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

NEW SECTION. Sec. 2. Nothing in this 1981 amendatory act shall be construed to preclude any bank from being open to the public for carrying on its banking functions on Saturdays or Sundays.

Passed the Senate March 23, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 123

[Engrossed Senate Bill No. 3953]

RAPE—SPOUSE

AN ACT Relating to rape; and amending section 1, chapter 14, Laws of 1975 1st ex. sess. and RCW 9A.44.010.

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

Section 1. Section 1, chapter 14, Laws of 1975 1st ex. sess. and RCW 9A.44.010 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) "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.

(3) "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;

(4) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

(5) "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 kidnaped;

(6) "Consent" means that at the time of the act of sexual intercourse there are actual words or conduct indicating freely given agreement to have sexual intercourse.

Passed the Senate April 26, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 124

[Engrossed Substitute Senate Bill No. 4182]

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

AN ACT Relating to low-level nuclear waste management; creating a new chapter in Title 43 RCW; and declaring an emergency.

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

NEW SECTION. Section 1. The Northwest Interstate Compact on Low-Level Radioactive Waste Management is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and other states joining the compact in accordance with the terms of the compact.

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT ARTICLE I—Policy and Purpose

The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states.

It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

ARTICLE II—Definitions

As used in this compact:

(1) "Facility" means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

(2) "Low-level waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

(3) "Generator" means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

(4) "Host state" means a state in which a facility is located.

ARTICLE III—Regulatory Practices

Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this Article. Nothing in this Article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this Article.

ARTICLE IV—Regional Facilities

Section 1. Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

Section 2. No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in Article V.

Section 3. Until such time as Section 2 takes effect as provided in Article VI, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

(1) The generator's name and address;

(2) A description of the contents of the low-level waste container;

(3) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable federal regulations and such additional requirements as may be imposed by the host state;

(4) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

Section 4. Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one party state as the host of such facilities on a permanent basis. Each party state further agrees

that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

Section 5. The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the state of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact may be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region composed of the party states.

Section 6. Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

ARTICLE V—Northwest Low-level Waste Compact Committee

The governor of each party state shall designate one official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the Northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of Article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

ARTICLE VI—Eligible Parties and Effective Date

Section 1. Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective

upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

Section 2. After the compact has initially taken effect pursuant to Section 1, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

Section 3. Section 2 of Article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in Public Law 96-573, Congress may withdraw its consent to the compact after every five-year period.

ARTICLE VII—Severability

If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable.

NEW SECTION. Sec. 2. The person designated as the Washington representative to the committee as specified in Article V shall adhere to all provisions of the low-level radioactive waste compact. In considering special conditions or arrangements for access to the state's facilities from wastes generated outside of the region, the committee member shall ensure at a minimum, that the provisions of Article IV, Section 3 are complied with. The Washington representative shall approve access of such wastes to the state's facility only if there is no other feasible alternative available.

****NEW SECTION. Sec. 3. The official designated as the person responsible for administration of this compact shall be subject to confirmation by the senate.***

*Sec. 3. was vetoed, see message at end of chapter.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 2, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 8, 1981 with the exception of Section 3 which is vetoed.

Filed in Office of Secretary of State May 8, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to Section 3 Substitute Senate Bill No. 4182 entitled:

"AN ACT relating to low-level nuclear waste management."

This bill adopts the Northwest Interstate Compact on Low-Level Radioactive Waste Management. Insofar as the Governor's designee to administer the Compact is already a government official, there is no need for the designee to be confirmed by the Senate. I have therefore vetoed Section 3.

With the exception of Section 3, which I have vetoed, the remainder of Substitute Senate Bill No. 4182 is approved."

CHAPTER 125

[House Bill No. 105]

PORT DISTRICT PROPERTY LEASES—RENT SECURITY WAIVER

AN ACT Relating to the lease of port district property; and amending section 2, chapter 87, Laws of 1973 as amended by section 1, chapter 41, Laws of 1977 and RCW 53.08.085.

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

Section 1. Section 2, chapter 87, Laws of 1973 as amended by section 1, chapter 41, Laws of 1977 and RCW 53.08.085 are each amended to read as follows:

Every lease of all lands, wharves, docks, and real and personal property of a port district for a term of more than one year shall have the rent secured by rental insurance, bond, or other security satisfactory to the port commission, in an amount equal to one-sixth the total rent, but in no case shall such security be less than an amount equal to one year's rent or more than an amount equal to three years' rent. Evidence of the existence of such insurance, bonds, or security shall be on file with the commission at all times during the term of the lease: PROVIDED, That nothing in this section shall prevent the port commission from requiring additional security on leases or provisions thereof, or on other agreements to use port facilities: PROVIDED FURTHER, That any security agreement may provide for termination on the anniversary date of such agreement on not less than one year's written notice to the port if said lease is not in default at the time of said notice: PROVIDED FURTHER, That if the security as required herein is not maintained throughout the full term of the lease, said lease shall be considered in default: PROVIDED, HOWEVER, That the port commission may in its discretion waive the rent security requirement or lower the amount of such requirement on the lease of real and/or personal port property ~~((to organizations which are organized and/or function under the provisions of chapter 24.03 RCW, the Washington Nonprofit Corporation Act, as now existing or hereafter amended and which organization has received a declaration of tax-exempt status from the department of internal~~

revenue of the United States government pursuant to section 501 of the internal revenue code of 1954, as amended)).

Passed the House February 11, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 126

[House Bill No. 244]

RESTAURANT MEALS—NONPAYMENT LIABILITY

AN ACT Relating to liability for conversion; and amending section 1, chapter 59, Laws of 1975 1st ex. sess. as amended by section 1, chapter 134, Laws of 1977 ex. sess. and RCW 4.24.230.

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

Section 1. Section 1, chapter 59, Laws of 1975 1st ex. sess. as amended by section 1, chapter 134, Laws of 1977 ex. sess. and RCW 4.24.230 are each amended to read as follows:

(1) An adult or emancipated minor who takes possession of any goods, wares, or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner or seller, and with the intention of converting such goods, wares, or merchandise to his own use without having paid the purchase price thereof shall be liable in addition to actual damages, for a penalty to the owner or seller in the amount of the retail value thereof not to exceed one thousand dollars, plus an additional penalty of not less than one hundred dollars nor more than two hundred dollars. A customer who orders a meal in a restaurant or other eating establishment, receives at least a portion thereof, and then leaves without paying, is subject to liability under this section.

(2) The parent or legal guardian having the custody of an unemancipated minor who takes possession of any goods, wares, or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner or seller and with the intention of converting such goods, wares, or merchandise to his own use without having paid the purchase price thereof, shall be liable as a penalty to the owner or seller for the retail value of such goods, wares, or merchandise not to exceed five hundred dollars plus an additional penalty of not less than one hundred dollars nor more than two hundred dollars(~~: PROVIDED, That~~). The parent or legal guardian having the custody of an unemancipated minor, who orders a meal in a restaurant or other eating establishment, receives at least a portion thereof, and then leaves without paying, is subject to liability under this section. For the purposes of this subsection, liability shall not be imposed upon any governmental entity or private agency which has been assigned responsibility for the minor child

pursuant to court order or action of the department of social and health services.

(3) Judgments, but not claims, arising under this section may be assigned.

(4) A conviction for violation of chapter 9A.56 RCW shall not be a condition precedent to maintenance of a civil action authorized by this section.

Passed the House March 30, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 127

[Second Substitute House Bill No. 246]

BAIL FORFEITURES, FINES—CRIMINAL JUSTICE TRAINING ASSESSMENT

AN ACT Relating to criminal justice training; and amending section 3, chapter 212, Laws of 1977 ex. sess. as last amended by section 8, chapter 4, Laws of 1981 and RCW 43.101.210.

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

Section 1. Section 3, chapter 212, Laws of 1977 ex. sess. as last amended by section 8, chapter 4, Laws of 1981 and RCW 43.101.210 are each amended to read as follows:

(1) Costs of criminal justice training shall be borne in part by those who necessitate the establishment and maintenance of the criminal justice system.

(2) In each instance of bail forfeiture or monetary penalty paid in lieu of a court appearance attendant to any violation of a law of this state or an ordinance of a city or county except an ordinance relating to vehicles unlawfully left or parked, an assessment which shall be in addition to such bail forfeited or penalty paid shall be collected and forwarded within thirty days of receipt of such assessment by the clerk of the court, or the county treasurer, to the state treasurer to be deposited in an account within the state general fund to be known as the criminal justice training account, hereby created, funds from which shall be appropriated by law to the Washington state criminal justice training commission as established by chapter 43.101 RCW: PROVIDED, That funds in the criminal justice training account may be transferred to the state general fund by statute prior to June 30, 1981. The amount of the assessment shall be as follows:

(a) When forfeiture or penalty is ten dollars to nineteen dollars and ninety-nine cents, (~~three~~) four dollars;

(b) When forfeiture or penalty is twenty dollars to thirty-nine dollars and ninety-nine cents, (~~five~~) seven dollars;

(c) When forfeiture or penalty is forty dollars to fifty-nine dollars and ninety-nine cents, (~~seven~~) ten dollars;

(d) When forfeiture or penalty is sixty dollars to ninety-nine dollars and ninety-nine cents, (~~twelve~~) fifteen dollars; and

(e) When forfeiture or penalty is one hundred dollars or more, (~~fifteen~~) twenty dollars.

(3) When any deposit of bail is made for a violation to which this section applies, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed in subsection (2) of this section.

(4) When bail is forfeited or a penalty paid, the assessment prescribed in this section shall be forwarded to the state treasurer pursuant to this section. If bail is returned, the assessment made thereon shall also be returned.

Passed the House April 2, 1981.

Passed the Senate April 24, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 128

[Substitute House Bill No. 250]

WORKERS' COMPENSATION—REGISTERED AND ELECTRICAL CONTRACTORS, SUBCONTRACTOR COVERAGE—SOLE PROPRIETORS, PARTNERS, COVERAGE EXEMPTION

AN ACT Relating to workers' compensation; amending section 51.08.070, chapter 23, Laws of 1961 as last amended by section 12, chapter 350, Laws of 1977 ex. sess. and RCW 51.08.070; amending section 51.08.180, chapter 23, Laws of 1961 as amended by section 15, chapter 350, Laws of 1977 ex. sess. and RCW 51.08.180; amending section 51.12.020, chapter 23, Laws of 1961 as last amended by section 1, chapter 128, Laws of 1979 and RCW 51.12.020; amending section 51.12.070, chapter 23, Laws of 1961 as last amended by section 81, chapter 289, Laws of 1971 ex. sess. and RCW 51.12.070; and adding a new section to chapter 51.12 RCW.

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

Section 1. Section 51.08.070, chapter 23, Laws of 1961 as last amended by section 12, chapter 350, Laws of 1977 ex. sess. and RCW 51.08.070 are each amended to read as follows:

"Employer" means any person, body of persons, corporate or otherwise, and the legal representatives of a deceased employer, all while engaged in this state in any work covered by the provisions of this title, by way of trade or business, or who contracts with one or more workers, the essence of which is the personal labor of such worker or workers.

For the purposes of this title, a contractor registered under chapter 18-.27 RCW or licensed under chapter 19.28 RCW is not an employer when:

(1) Contracting with any other person, firm, or corporation currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

(2) The person, firm, or corporation has a principal place of business which would be eligible for a business deduction for internal revenue service tax purposes other than that furnished by the contractor for which the business has contracted to furnish services;

(3) The person, firm, or corporation maintains a separate set of books or records that reflect all items of income and expenses of the business; and

(4) The work which the person, firm, or corporation has contracted to perform is:

(a) The work of a contractor as defined in RCW 18.27.010; or

(b) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in chapter 19.28 RCW.

Sec. 2. Section 51.08.180, chapter 23, Laws of 1961 as amended by section 15, chapter 350, Laws of 1977 ex. sess. and RCW 51.08.180 are each amended to read as follows:

"Worker" means every person in this state who is engaged in the employment of an employer under this title, whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer under this title, whether by way of manual labor or otherwise, in the course of his or her employment.

For the purposes of this title, any person, firm, or corporation currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW is not a worker when:

(1) Contracting to perform work for any contractor registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

(2) The person, firm, or corporation has a principal place of business which would be eligible for a business deduction for internal revenue service tax purposes other than that furnished by the contractor for which the business has contracted to furnish services;

(3) The person, firm, or corporation maintains a separate set of books or records that reflect all items of income and expenses of the business; and

(4) The work which the person, firm, or corporation has contracted to perform is:

(a) The work of a contractor as defined in RCW 18.27.010; or

(b) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in chapter 19.28 RCW.

Sec. 3. Section 51.12.020, chapter 23, Laws of 1961 as last amended by section 1, chapter 128, Laws of 1979 and RCW 51.12.020 are each amended to read as follows:

The following are the only employments which shall not be included within the mandatory coverage of this title:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed forty or more hours a week in such employment.

(2) Any person employed to do gardening, maintenance, repair, remodeling, or similar work in or about the private home of the employer which does not exceed ten consecutive work days.

(3) A person whose work is casual and the employment is not in the course of the trade, business, or profession of his employer.

(4) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(5) Sole proprietors ((and)) or partners: PROVIDED, That after the effective date of this 1981 act, sole proprietors or partners who for the first time register under chapter 18.27 RCW or become licensed for the first time under chapter 19.28 RCW shall be included under the mandatory coverage provisions of this title subject to the provisions of RCW 51.32.030. These persons may elect to withdraw from coverage under section 5 of this 1981 act.

(6) Any employee, not regularly and continuously employed by the employer in agricultural labor, whose cash remuneration paid by or due from any one employer in that calendar year for agricultural labor is less than one hundred fifty dollars. Employees not regularly and continuously employed in agricultural labor by any one employer but who are employed in agricultural labor on a seasonal basis shall come under the coverage of this title only when their cash remuneration paid or due in that calendar year exceeds one hundred fifty dollars but only as of the occurrence of that event and only as to their work for that employer.

(7) Any child under eighteen years of age employed by his parent or parents in agricultural activities on the family farm.

(8) Jockeys while participating in or preparing horses for race meets licensed by the Washington horse racing commission pursuant to chapter 67-.16 RCW.

(9) Any executive officer elected and empowered in accordance with the articles of incorporation or bylaws of a corporation who at all times during the period involved is also a director and shareholder of the corporation. Any officer who was considered by the department to be covered on and after June 30, 1977, shall continue to be covered until such time as the officer voluntarily elects to withdraw from coverage in the manner provided by RCW 51.12.110. However, any corporation may elect to cover such officers

who are in fact employees of the corporation in the manner provided by RCW 51.12.110.

Sec. 4. Section 51.12.070, chapter 23, Laws of 1961 as last amended by section 81, chapter 289, Laws of 1971 ex. sess. and RCW 51.12.070 are each amended to read as follows:

The provisions of this title shall apply to all work done by contract; the person, firm, or corporation who lets a contract for such work shall be responsible primarily and directly for all premiums upon the work. The contractor and any subcontractor shall be subject to the provisions of this title and the person, firm, or corporation letting the contract shall be entitled to collect from the contractor the full amount payable in premiums and the contractor in turn shall be entitled to collect from the subcontractor his proportionate amount of the payment.

For the purposes of this section, a contractor registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW shall not be responsible for any premiums upon the work of any subcontractor if:

(1) The subcontractor is currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

(2) The subcontractor has a principal place of business which would be eligible for a business deduction for internal revenue service tax purposes other than that furnished by the contractor for which the business has contracted to furnish services;

(3) The subcontractor maintains a separate set of books or records that reflect all items of income and expenses of the business; and

(4) The subcontractor has contracted to perform:

(a) The work of a contractor as defined in RCW 18.27.010; or

(b) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in chapter 19.28 RCW.

It shall be unlawful for any county, city or town to issue a construction building permit to any person who has not submitted to the department an estimate of payroll and paid premium thereon as provided by chapter 51.16 RCW of this title or proof that such person has qualified as a self-insurer.

NEW SECTION. Sec. 5. There is added to chapter 51.12 RCW a new section to read as follows:

After the effective date of this act, any sole proprietor or partner who registers for the first time under chapter 18.27 RCW or becomes licensed for the first time under chapter 19.28 RCW may file notice with the director at the sole proprietor's or partner's election to be exempted from the mandatory coverage of this title. Such exemption shall become effective immediately after the director has received the notice of withdrawal. However, any sole proprietor or partner who has elected exemption from mandatory coverage may at any time voluntarily reelect to be covered under this title

and shall be subject to all the provisions and entitled to all of the benefits under this title.

Passed the House March 17, 1981.
 Passed the Senate April 21, 1981.
 Approved by the Governor May 8, 1981.
 Filed in Office of Secretary of State May 8, 1981.

CHAPTER 129

[Substitute House Bill No. 277]

NATURAL GAS, PROPANE MOTOR VEHICLE FUEL PURCHASERS—
 IDENTIFICATION DECAL

AN ACT Relating to nonpolluting special motor vehicle fuel; amending section 1, chapter 335, Laws of 1977 ex. sess. as amended by section 1, chapter 48, Laws of 1979 and RCW 82.38.075; and providing penalties.

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

Section 1. Section 1, chapter 335, Laws of 1977 ex. sess. as amended by section 1, chapter 48, Laws of 1979 and RCW 82.38.075 are each amended to read as follows:

In order to encourage the use of nonpolluting fuels, until July 1, 1983, an annual license fee in lieu of the tax imposed by RCW 82.38.030 shall be imposed upon the use of natural gas as defined in this chapter or on liquified petroleum gas, commonly called propane, which is used in any motor vehicle, as defined in RCW 46.04.320, in accordance with the following schedule:

VEHICLE TONNAGE (GVW)	FEE
0 – 6,000	\$ 45
6,001 – 10,000	\$ 45
10,001 – 18,000	\$ 80
18,001 – 28,000	\$110
28,001 – 36,000	\$150
36,001 and above	\$250

The department of licensing, in addition to the foregoing fee, shall charge a further fee of five dollars as a handling charge for each license issued.

The director of licensing shall be authorized to prorate the vehicle tonnage fee so that the annual license required by this section will correspond with the staggered vehicle licensing system.

A decal or other identifying device issued upon payment of these annual fees shall be displayed as prescribed by the department as authority to purchase this fuel.

Persons selling or dispensing natural gas or propane may not sell or dispense this fuel for their own use or the use of others into tanks of vehicles

powered by this fuel which do not display a valid decal or other identifying device as provided in this section.

Vehicles registered in jurisdictions outside the state of Washington are exempt from this section.

Any person selling or dispensing natural gas or propane into the tank of a motor vehicle powered by this fuel, except as prescribed in this chapter, is subject to the penalty provisions of this chapter.

Passed the House April 15, 1981.

Passed the Senate April 24, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 130

[Substitute House Bill No. 285]

SCHOOL DISTRICTS—DAILY FLAG EXERCISES

AN ACT Relating to school districts; and amending section 28A.02.030, chapter 223, Laws of 1969 ex. sess. and RCW 28A.02.030.

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

Section 1. Section 28A.02.030, chapter 223, Laws of 1969 ex. sess. and RCW 28A.02.030 are each amended to read as follows:

The board of directors of every school district shall cause a United States flag being in good condition to be displayed during school hours upon or near every public school plant, except during inclement weather. They shall cause appropriate flag exercises to be held in each classroom at the beginning of the school day, and in every school ~~((at least once in each week, including but not limited to))~~ at the opening of all school assemblies, at which exercises those pupils so desiring shall recite the following salute to the flag: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all". Students not reciting the pledge shall ~~((stand at))~~ maintain a respectful ~~((attention))~~ silence. The salute to the flag or the national anthem shall be rendered immediately preceding inter-school events when feasible.

~~((Any person wilfully refusing or neglecting to comply with this section shall be guilty of a misdemeanor, the penalty for which shall be a fine not to exceed ten dollars; and if any person acts in disregard of any school board order which attempts compliance with this section and such person is an~~

~~employee of a school district, such action shall be grounds for discharge from such employment.))~~

Passed the House March 30, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 131

[Substitute House Bill No. 388]

JAIL IMPROVEMENT AND CONSTRUCTION—BOND ISSUE— APPROPRIATIONS

AN ACT Relating to the support of state government; providing for the planning, acquisition, construction, remodeling, furnishing, and equipping of certain jail buildings and facilities; providing for the financing thereof by the issuance of bonds; creating new sections; making an appropriation; and declaring an emergency.

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

NEW SECTION. Section 1. In order for the state to provide safe and humane detention and correctional facilities, its long range development goals must include the renovation of jail buildings and facilities.

NEW SECTION. Sec. 2. For the purpose of providing funds for the planning, acquisition, construction, and improvement of jail buildings and necessary supporting facilities within the state, and the state jail commission's operational costs related to the review of physical plant funding applications, award of grants, and construction monitoring, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred thirty million five hundred thousand dollars, or so much thereof as may be required, to finance the improvements defined in sections 1 through 8 of this act and all costs incidental thereto, including administration, but not including acquisition or preparation of sites. Appropriations for administration shall be determined by the legislature. No bonds authorized by this section may be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold: **PROVIDED**, That the reappropriation of previously authorized bond moneys and this new appropriation shall constitute full funding of each approved project within the meaning of RCW 70.48.070 and 70.48.110.

NEW SECTION. Sec. 3. The proceeds from the sale of bonds authorized by sections 1 through 8 of this act shall be deposited in the local jail improvement and construction account in the general fund and shall be used exclusively for the purpose specified in sections 1 through 8 of this act and for payment of the expenses incurred in the issuance and sale of the bonds.

NEW SECTION. Sec. 4. The proceeds from the sale of the bonds deposited in the local jail improvement and construction account in the general fund under the terms of sections 1 through 8 of this act shall be administered by the Washington state jail commission subject to legislative appropriation.

NEW SECTION. Sec. 5. None of the bonds authorized in sections 1 through 8 of this act may be sold for less than their par value.

NEW SECTION. Sec. 6. The bonds shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due.

NEW SECTION. Sec. 7. The state general obligation bond retirement fund shall be used for the payment of interest on and retirement of the bonds authorized by sections 1 through 8 of this act.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

The owner and holder of each of the bonds or the trustee for 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. 8. The bonds authorized in sections 1 through 8 of this act shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body.

NEW SECTION. Sec. 9. It is the intent of the legislature that the construction and remodeling of jails proceed without further delay, and the jail commission's review and funding procedures are to reflect this intent. Neither the jail commission nor local governments should order or authorize capital expenditures to improve jails now in use which are scheduled for replacement. Capital expenditures which relate directly to life safety of inmates or jail personnel may be ordered.

NEW SECTION. Sec. 10. (1) There is hereby reappropriated from the general fund—local jail improvement and construction account the sum of ninety-four million three hundred and two thousand two hundred and seventy dollars to the Washington state jail commission for the purposes of this act.

(2) There is hereby appropriated from the general fund—local jail improvement and construction account the sum of one hundred thirty million five hundred thousand dollars, or so much as may be necessary, to the Washington state jail commission for the purposes of this act.

NEW SECTION. Sec. 11. 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. 12. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 23, 1981.

Passed the Senate April 20, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 132

[Substitute House Bill No. 431]

JUDICIAL PERSONNEL—TRAINING AND EDUCATION PROGRAM—MOTOR VEHICLE OFFENSES, SPECIAL ASSESSMENT

AN ACT Relating to the judiciary; amending section 3, chapter 259, Laws of 1957 and RCW 2.56.030; amending section 1, chapter 94, Laws of 1974 ex. sess. as amended by section 1, chapter 212, Laws of 1977 ex. sess. and RCW 43.101.010; amending section 3, chapter 94, Laws of 1974 ex. sess. as amended by section 1, chapter 55, Laws of 1979 ex. sess. and RCW 43.101.030; amending section 9, chapter 94, Laws of 1974 ex. sess. and RCW 43.101.090; amending section 10, chapter 94, Laws of 1974 ex. sess. and RCW 43.101.100; amending section 11, chapter 94, Laws of 1974 ex. sess. and RCW 43.101.110; adding a new section to chapter 2.56 RCW; and providing penalties.

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

Section 1. Section 3, chapter 259, Laws of 1957 and RCW 2.56.030 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of 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; and

(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;

(11) Administer programs and standards for the training and education of judicial personnel;

(12) Attend to such other matters as may be assigned by the supreme court of this state.

Sec. 2. Section 1, chapter 94, Laws of 1974 ex. sess. as amended by section 1, chapter 212, Laws of 1977 ex. sess. and RCW 43.101.010 are each amended to read as follows:

When used in this chapter:

(1) The term "commission" means the Washington state criminal justice training commission.

(2) The term "boards" means the education and training standards boards, the establishment of which are authorized by this chapter.

(3) The term "criminal justice personnel" means any person who serves in a county, city, state, or port commission agency engaged in crime prevention, crime reduction, or enforcement of the criminal law.

(4) The term "law enforcement personnel" means any public employee or volunteer having as a primary function the enforcement of criminal laws in general or any employee or volunteer of, or any individual commissioned by, any municipal, county, state, or combination thereof, agency having as its primary function the enforcement of criminal laws in general as distinguished from an agency possessing peace officer powers, the primary function of which is the implementation of specialized subject matter areas. For the purposes of this subsection "primary function" means that function to which the greater allocation of resources is made.

(5) The term "correctional personnel" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those individuals whose civil rights have been limited in some way by legal sanction.

~~((6) The term "judicial personnel" means any judge, employee, or volunteer of any municipal, district, or superior court and any justice, employee, or volunteer of the state appellate court or the state supreme court.))~~

Sec. 3. Section 3, chapter 94, Laws of 1974 ex. sess. as amended by section 1, chapter 55, Laws of 1979 ex. sess. and RCW 43.101.030 are each amended to read as follows:

The commission shall consist of ~~((thirteen))~~ twelve members, who shall be selected as follows:

(1) The governor shall appoint two incumbent sheriffs and two incumbent chiefs of police.

(2) The governor shall appoint one person employed in a county correctional system and one person employed in the state correctional system.

(3) The governor shall appoint one incumbent county prosecuting attorney or municipal attorney.

~~(4) ((The governor shall appoint one incumbent superior or district court judge.~~

~~(5)))~~ (5) The governor shall appoint one elected official of a local government.

~~((6))~~ (5) The governor shall appoint one private citizen.

~~((7))~~ (6) The three remaining members shall be:

(a) The attorney general;

(b) The special agent in charge of the Seattle office of the federal bureau of investigation; and

(c) The chief of the state patrol.

Sec. 4. Section 9, chapter 94, Laws of 1974 ex. sess. and RCW 43.101-.090 are each amended to read as follows:

(1) There are hereby created and established training standards and education boards to be known and designated as (a) the board on law enforcement training standards and education, (b) the board on prosecutor training standards and education, and (c) the board on correctional training standards and education ~~((, and (d) the board on judicial training standards and education)).~~

(2) The purpose of the board on law enforcement training standards and education shall be to provide programs and standards for the training and education of law enforcement personnel.

(3) The purpose of the board on prosecutor training standards and education shall be to provide programs and standards for the training and education of county prosecuting attorneys, municipal attorneys, and attorneys who are engaged primarily in the defense of persons charged with offenses.

(4) The purpose of the board on correctional training standards and education shall be to provide programs and standards for the training and education of correctional personnel.

~~((5) The purpose of the board on judicial training standards and education shall be to provide programs and standards for the training and education of judicial personnel.))~~

Sec. 5. Section 10, chapter 94, Laws of 1974 ex. sess. and RCW 43-.101.100 are each amended to read as follows:

(1) The board on law enforcement training standards and education shall consist of eleven members, who shall be appointed by the governor from incumbent law enforcement personnel. Two members shall be from police departments of cities having a population in excess of one hundred thousand and of whom one shall be a police chief, two members shall be from police departments of cities having a population of less than one hundred thousand and of whom one shall be a police chief, two members shall be from sheriffs' departments of class AA or A counties and of whom one shall be a sheriff, two members shall be from sheriffs' departments of counties less than class A and of whom one shall be a sheriff, one member shall represent the community colleges of the state, one member shall represent the four-year colleges and universities, and the final member shall be the chief of the state patrol.

(2) The board on prosecutor training standards and education shall consist of eleven members, who shall be appointed by the governor from incumbent county prosecuting attorneys, municipal attorneys, and attorneys who are engaged primarily in the defense of persons charged with offenses. Three members shall be from county prosecuting attorneys' offices, three members shall be from municipal attorneys' offices, three members shall be attorneys who are primarily engaged in the defense of persons charged with offenses, and two members shall be professors of law, and not from the same college or university.

(3) The board on correctional training standards and education shall consist of eleven members, who shall be appointed by the governor from incumbent correctional personnel. Three members shall be employed in the state correctional system, three members shall be employed in county correctional systems, three members shall be employed in the juvenile correctional system, one member shall represent the community colleges of the state, and one member shall represent the four-year colleges and universities.

~~((4) The board on judicial training standards and education shall consist of nine members, who shall be appointed by the chief justice of the state supreme court from incumbent judicial personnel. One member shall be an incumbent justice of the supreme court, one member shall be an incumbent judge of the appellate court, three members shall be incumbent judges of superior courts, two members shall be incumbent judges of district courts,~~

~~one member shall be an incumbent judge of a municipal court, and one member shall be an incumbent court administrator.))~~

Sec. 6. Section 11, chapter 94, Laws of 1974 ex. sess. and RCW 43-101.110 are each amended to read as follows:

All members of each of the training standards and education boards as set forth in RCW 43.101.100 shall be appointed for terms of six years, such terms to commence on July first, and expire on June thirtieth: **PROVIDED**, That of the members first appointed, three shall serve for terms of two years, four shall serve for terms of four years, and four shall serve for terms of six years(~~(: PROVIDED FURTHER, That of the members of the board on judicial training standards and education first appointed, three shall serve for terms of two years, three shall serve for terms of four years, and three shall serve for terms of six years))~~). Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is to succeed. Any member may be reappointed for additional terms.

NEW SECTION. Sec. 7. There is added to chapter 2.56 RCW a new section to read as follows:

(1) There shall be levied and paid into the judiciary education account hereby created in the general fund of the state treasury a penalty assessment in addition to the penalty or fine imposed as a result of a hearing conducted under RCW 46.63.090 or 46.63.100 on all offenses involving a violation of a state statute or city or county ordinance relating to the operation or use of motor vehicles or the licensing of vehicle operators, except offenses relating to parking of vehicles. The amount of the assessment shall be as follows:

(a) When the fine or penalty is ten dollars to nineteen dollars and ninety-nine cents, four dollars;

(b) When the fine or penalty is twenty dollars to thirty-nine dollars and ninety-nine cents, seven dollars;

(c) When the fine or penalty is forty dollars to fifty-nine dollars and ninety-nine cents, ten dollars;

(d) When the fine or penalty is sixty dollars to ninety-nine dollars and ninety-nine cents, fifteen dollars; and

(e) When the fine or penalty is one hundred dollars or more, twenty dollars.

(2) When a fine or penalty is paid, the assessment prescribed in this section shall be forwarded to the state treasurer and deposited in the judiciary education account. No money in the judiciary education account may

be spent except pursuant to an appropriation by the legislature to the administrator for the courts authorizing such spending for the purpose of providing programs and standards for the training and education of judicial personnel.

Passed the House April 1, 1981.
Passed the Senate April 21, 1981.
Approved by the Governor May 8, 1981.
Filed in Office of Secretary of State May 8, 1981.

CHAPTER 133

[House Bill No. 433]

CRIMINAL JUSTICE TRAINING COMMISSION—TERMINATION DATE

AN ACT Relating to the criminal justice training commission; adding a new section to chapter 43.101 RCW; repealing section 6, chapter 99, Laws of 1979 and RCW 43.131.159; and repealing section 48, chapter 99, Laws of 1979 and RCW 43.131.160.

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

NEW SECTION. Section 1. There is added to chapter 43.101 RCW a new section to read as follows:

The criminal justice training commission shall cease to exist on June 30, 1987, unless extended by law for an additional fixed period of time.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

- (1) Section 6, chapter 99, Laws of 1979 and RCW 43.131.159; and
- (2) Section 48, chapter 99, Laws of 1979 and RCW 43.131.160.

Passed the House April 2, 1981.
Passed the Senate April 21, 1981.
Approved by the Governor May 8, 1981.
Filed in Office of Secretary of State May 8, 1981.

CHAPTER 134

[Substitute House Bill No. 491]

INDIAN LAW ENFORCEMENT OFFICERS—CRIMINAL JUSTICE TRAINING

AN ACT Relating to the criminal justice training commission; and adding a new section to chapter 43.101 RCW.

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

NEW SECTION. Section 1. There is added to chapter 43.101 RCW a new section to read as follows:

Indian tribe officers and employees who are engaged in law enforcement activities and who do not qualify as "criminal justice personnel" or "law enforcement personnel" under RCW 43.101.010, as now law or hereafter amended, may be provided training under this chapter if: (a) The tribe is

recognized by the federal government, and (b) the tribe pays to the commission the full cost of providing such training. The commission shall place all money received under this section into the criminal justice training account.

Passed the House March 30, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 135

[Engrossed Senate Bill No. 3458]

HORSE RACING—EXOTIC RACE WAGER RECEIPTS—ADDITIONAL RETENTION PERCENTAGES, DISPOSITION

AN ACT Relating to exotic races; adding a new section to chapter 67.16 RCW; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 67.16 RCW a new section to read as follows:

(1)(a) Of the daily gross receipts of all parimutuel machines from wagers on exotic races after the effective date of this act, an additional one percent shall be retained and be forwarded to the state treasurer daily and deposited in the general fund of the state.

(b) In addition to the amounts authorized to be retained in RCW 67.16.170, race meets may retain an additional two percent of the daily gross receipts of all parimutuel machines from wagers on exotic races to be used as provided in subsections (2) and (3) of this section.

(2) Of the amounts retained under subsection (1)(b) of this section for race meets, those race meets which have gross receipts of all parimutuel machines averaging more than five hundred thousand dollars for each authorized day of racing:

(a) Fifty-six percent shall be used for Washington bred breeder awards, not to exceed twenty percent of the winner's share of the purse.

(b) Forty-four percent, not to exceed two thousand five hundred dollars per racing day, shall be used for capital improvements, including but not limited to the running surface, parking area, and training and barn and backstretch facilities.

(c) Any portion of the remaining two percent may be used to support the general purse structure of the race meet, except that all such increased revenue to the licensee to be used for purses will be in addition to and will not supplant the customary purse structure between race tracks and participating horsemen.

(3) Of the amounts retained in subsection (1)(b) of this section for race meets, those race meets which have gross receipts of all parimutuel machines averaging five hundred thousand dollars or less for each authorized day of racing:

(a) Forty-five percent shall be used for Washington bred breeder awards, not to exceed twenty percent of the winner's share of the purse.

(b) Any portion of the remaining two percent may be used to support the general purse structure of the race meet, except that all such increased revenue to the licensee to be used for purses will be in addition to and will not supplant the customary purse structure between racetracks and participating horsemen.

(4) As used in this section, "exotic races" means daily doubles, quinellas, trifectas, and exactas. Exotic races are subject to the approval of the commission.

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.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 11, 1981.

Passed the House April 24, 1981.

Approved by the Governor May 12, 1981.

Filed in Office of Secretary of State May 12, 1981.

CHAPTER 136

[Second Substitute House Bill No. 235]

CORRECTIONS REFORM ACT OF 1981

AN ACT Relating to corrections; amending section 2, chapter 316, Laws of 1977 ex. sess. as amended by section 11, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.020; amending section 18, chapter 94, Laws of 1974 ex. sess. and RCW 43.101.180; amending section 33, chapter 249, Laws of 1909 as last amended by section 1, chapter 295, Laws of 1971 ex. sess. and RCW 9.92.080; amending section 7, chapter 133, Laws of 1955 as last amended by section 1, chapter 141, Laws of 1979 and RCW 9.95.060; amending section 13, chapter 133, Laws of 1955 as last amended by section 2, chapter 141, Laws of 1979 and RCW 9.95.120; amending section 3, chapter 98, Laws of 1969 as amended by section 3, chapter 141, Laws of 1979 and RCW 9.95.121; amending section 6, chapter 98, Laws of 1969 as amended by section 4, chapter 141, Laws of 1979 and RCW 9.95.124; amending section 3, chapter 114, Laws of 1935 as last amended by section 5, chapter 141, Laws of 1979 and RCW 9.95.170; amending section 3, chapter 227, Laws of 1957 as last amended by section 6, chapter 141, Laws of 1979 and RCW 9.95.200; amending section 1, chapter 19, Laws of 1980 and RCW 9.95.210; amending section 8, chapter 227, Laws of 1957 as last amended by section 8, chapter 141, Laws of 1979 and RCW 9.95.250; amending section 7, chapter 114, Laws of 1935 as last amended by section 9, chapter 141, Laws of 1979 and RCW 9.95.260; amending section 3, chapter 217, Laws of 1961 as

amended by section 2, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.320; amending section 4, chapter 217, Laws of 1961 as amended by section 3, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.330; amending section 5, chapter 217, Laws of 1961 as amended by section 4, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.340; amending section 6, chapter 217, Laws of 1961 as amended by section 5, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.350; amending section 7, chapter 217, Laws of 1961 as amended by section 6, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.360; amending section 8, chapter 217, Laws of 1961 as amended by section 7, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.370; amending section 2, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.020; amending section 3, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.030; amending section 4, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.040; amending section 8, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.080; amending section 9A.32.040, chapter 260, Laws of 1975 1st ex. sess. as amended by section 3, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.040; amending section 3, chapter 9, Laws of 1975-'76 2nd ex. sess. as amended by section 6, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.047; amending section 4, chapter 14, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 244, Laws of 1979 ex. sess. and RCW 9A.44.040; amending section 11.08.101, chapter 145, Laws of 1965 as amended by section 10, chapter 141, Laws of 1979 and RCW 11.08.101; amending section 11.08.120, chapter 145, Laws of 1965 as amended by section 11, chapter 141, Laws of 1979 and RCW 11.08.120; amending section 2, chapter 103, Laws of 1969 as amended by section 2, chapter 4, Laws of 1969 ex. sess. and RCW 36.63.255; amending section 1, chapter 10, Laws of 1979 and RCW 43.17.010; amending section 2, chapter 10, Laws of 1979 and RCW 43.17.020; amending section 43.19.450, chapter 8, Laws of 1965 as amended by section 45, chapter 141, Laws of 1979 and RCW 43.19.450; amending section 3, chapter 104, Laws of 1967 as amended by section 130, chapter 141, Laws of 1979 and RCW 71.06.091; amending section 71.06.140, chapter 25, Laws of 1959 as last amended by section 131, chapter 141, Laws of 1979 and RCW 71.06.140; amending section 72.01.010, chapter 28, Laws of 1959 as last amended by section 142, chapter 141, Laws of 1979 and RCW 72.01.010; amending section 1, chapter 169, Laws of 1953 as last amended by section 143, chapter 141, Laws of 1979 and RCW 72.01.042; amending section 72.01.050, chapter 28, Laws of 1959 as last amended by section 145, chapter 141, Laws of 1979 and RCW 72.01.050; amending section 72.01.210, chapter 28, Laws of 1959 as last amended by section 154, chapter 141, Laws of 1979 and RCW 72.01.210; amending section 72.01.240, chapter 28, Laws of 1959 as amended by section 155, chapter 141, Laws of 1979 and RCW 72.01.240; amending section 1, chapter 210, Laws of 1959 as amended by section 159, chapter 141, Laws of 1979 and RCW 72.01.282; amending section 1, chapter 40, Laws of 1959 as amended by section 164, chapter 141, Laws of 1979 and RCW 72.01.370; amending section 2, chapter 40, Laws of 1959 as amended by section 165, chapter 141, Laws of 1979 and RCW 72.01.380; amending section 1, chapter 140, Laws of 1959 as amended by section 166, chapter 141, Laws of 1979 and RCW 72.01.410; amending section 1, chapter 193, Laws of 1961 as last amended by section 167, chapter 141, Laws of 1979 and RCW 72.01.430; amending section 1, chapter 46, Laws of 1967 as last amended by section 168, chapter 141, Laws of 1979 and RCW 72.01.450; amending section 2, chapter 46, Laws of 1969 ex. sess. as amended by section 171, chapter 141, Laws of 1979 and RCW 72.01.460; amending section 1, chapter 50, Laws of 1970 ex. sess. as amended by section 172, chapter 141, Laws of 1979 and RCW 72.01.480; amending section 72.02.040, chapter 28, Laws of 1959 as amended by section 57, chapter 18, Laws of 1970 ex. sess. and RCW 72.02.040; amending section 2, chapter 171, Laws of 1971 ex. sess. and RCW 72.02.110; amending section 7, chapter 134, Laws of 1967 as amended by section 173, chapter 141, Laws of 1979 and RCW 72.04A.050; amending section 9, chapter 134, Laws of 1967 as amended by section 174, chapter 141, Laws of 1979 and RCW 72.04A.070; amending section 10, chapter 134, Laws of 1967 as amended by section 175, chapter 141, Laws of 1979 and RCW 72.04A.080; amending section 11, chapter 134, Laws of 1967 as last amended by section 176, chapter 141, Laws of 1979 and RCW 72.04A.090; amending section 3, chapter 9, Laws of 1965 ex. sess. as amended by section 188, chapter 141, Laws of 1979 and RCW 72.08.101; amending section 4, chapter 9, Laws of 1965 ex. sess. as amended by section 189, chapter 141, Laws of 1979 and RCW 72.08.102; amending section 72.08.380, chapter 28, Laws of 1959 as amended by section 192, chapter 141, Laws of 1979 and RCW 72.08.380; amending section 72.12.020, chapter 28,

Laws of 1959 as amended by section 193, chapter 141, Laws of 1979 and RCW 72.12.020; amending section 72.12.140, chapter 28, Laws of 1959 as amended by section 198, chapter 141, Laws of 1979 and RCW 72.12.140; amending section 1, chapter 214, Laws of 1959 as amended by section 199, chapter 141, Laws of 1979 and RCW 72.13.010; amending section 4, chapter 214, Laws of 1959 as amended by section 200, chapter 141, Laws of 1979 and RCW 72.13.040; amending section 6, chapter 214, Laws of 1959 as amended by section 202, chapter 141, Laws of 1979 and RCW 72.13.060; amending section 7, chapter 214, Laws of 1959 as amended by section 203, chapter 141, Laws of 1979 and RCW 72.13.070; amending section 12, chapter 214, Laws of 1959 as amended by section 206, chapter 141, Laws of 1979 and RCW 72.13.120; amending section 1, chapter 122, Laws of 1967 ex. sess. as amended by section 211, chapter 141, Laws of 1979 and RCW 72.15.010; amending section 8, chapter 122, Laws of 1967 ex. sess. as amended by section 134, chapter 81, Laws of 1971 and RCW 72.15.060; amending section 72.23.010, chapter 28, Laws of 1959 as last amended by section 2, chapter 145, Laws of 1974 ex. sess. and RCW 72.23.010; amending section 72.60.100, chapter 28, Laws of 1959 as amended by section 1, chapter 40, Laws of 1972 ex. sess. and RCW 72.60.100; amending section 2, chapter 40, Laws of 1972 ex. sess. as amended by section 3, chapter 160, Laws of 1979 ex. sess. and RCW 72.60.102; amending section 72.60.160, chapter 28, Laws of 1959 as amended by section 260, chapter 141, Laws of 1979 and RCW 72.60.160; amending section 72.60.190, chapter 28, Laws of 1959 as amended by section 4, chapter 160, Laws of 1979 ex. sess. and RCW 72.60.190; amending section 72.60.220, chapter 28, Laws of 1959 and RCW 72.60.220; amending section 5, chapter 273, Laws of 1959 as last amended by section 5, chapter 160, Laws of 1979 ex. sess. and RCW 72.60.280; amending section 4, chapter 7, Laws of 1972 ex. sess. and RCW 72.62.040; amending section 1, chapter 17, Laws of 1967 as amended by section 274, chapter 141, Laws of 1979 and RCW 72.65.010; amending section 8, chapter 17, Laws of 1967 as last amended by section 279, chapter 141, Laws of 1979 and RCW 72.65.080; amending section 10, chapter 17, Laws of 1967 as amended by section 280, chapter 141, Laws of 1979 and RCW 72.65.100; amending section 2, chapter 58, Laws of 1971 ex. sess. as amended by section 2, chapter 20, Laws of 1973 and RCW 72.66.010; amending section 1, chapter 59, Laws of 1972 ex. sess. and RCW 72.68.031; amending section 2, chapter 59, Laws of 1972 ex. sess. and RCW 72.68.032; amending section 72.68.040, chapter 28, Laws of 1959 as last amended by section 284, chapter 141, Laws of 1979 and RCW 72.68.040; amending section 2, chapter 287, Laws of 1959 as amended by section 290, chapter 141, Laws of 1979 and RCW 72.70.020; amending section 5, chapter 287, Laws of 1959 as amended by section 292, chapter 141, Laws of 1979 and RCW 72.70.050; amending section 2, chapter 108, Laws of 1979 ex. sess. and RCW 72.72.020; adding a new section to chapter 41.06 RCW; adding new sections to chapter 43.19 RCW; adding a new section to chapter 43.101 RCW; adding a new section to chapter 70.48 RCW; adding a new section to chapter 72.13 RCW; adding a new section to chapter 72.20 RCW; adding a new section to chapter 72.40 RCW; adding a new section to chapter 72.64 RCW; adding a new section to chapter 72.68 RCW; adding a new chapter to Title 72 RCW; creating new sections; repealing section 3, chapter 178, Laws of 1933 and RCW 19.20.010; repealing section 1, chapter 294, Laws of 1927, section 1, chapter 178, Laws of 1933, section 1, chapter 73, Laws of 1970 ex. sess., section 1, chapter 44, Laws of 1975 and RCW 19.20.020; repealing section 2, chapter 294, Laws of 1927, section 2, chapter 178, Laws of 1933 and RCW 19.20.060; repealing section 5, chapter 178, Laws of 1933 and RCW 19.20.900; repealing section 3, chapter 294, Laws of 1927 and RCW 19.20.910; repealing section 31, chapter 99, Laws of 1979 and RCW 43.131.209; repealing section 73, chapter 99, Laws of 1979 and RCW 43.131.210; repealing section 72.08.170, chapter 28, Laws of 1959, section 32, chapter 106, Laws of 1973 and RCW 72.08.170; repealing section 72.60.010, chapter 28, Laws of 1959, section 254, chapter 141, Laws of 1979 and RCW 72.60.010; repealing section 72.60.020, chapter 28, Laws of 1959, section 255, chapter 141, Laws of 1979 and RCW 72.60.020; repealing section 72.60.030, chapter 28, Laws of 1959, section 256, chapter 141, Laws of 1979 and RCW 72.60.030; repealing section 72.60.040, chapter 28, Laws of 1959, section 257, chapter 141, Laws of 1979 and RCW 72.60.040; repealing section 72.60.050, chapter 28, Laws of 1959 and RCW 72.60.050; repealing section 72.60.060, chapter 28, Laws of 1959, section 169, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 72.60.060; repealing section 72.60.070, chapter 28, Laws of 1959 and RCW 72.60.070; repealing section 72.60.080, chapter 28, Laws of 1959 and RCW 72.60.080; repealing section 72.60.090, chapter 28, Laws of 1959, section 258, chapter 141, Laws of

1979 and RCW 72.60.090; repealing section 72.60.120, chapter 28, Laws of 1959 and RCW 72.60.120; repealing section 72.60.130, chapter 28, Laws of 1959, section 259, chapter 141, Laws of 1979, section 2, chapter 160, Laws of 1979 ex. sess. and RCW 72.60.130; repealing section 72.60.140, chapter 28, Laws of 1959 and RCW 72.60.140; repealing section 72.60.150, chapter 28, Laws of 1959 and RCW 72.60.150; repealing section 72.60.170, chapter 28, Laws of 1959 and RCW 72.60.170; repealing section 72.60.180, chapter 28, Laws of 1959 and RCW 72.60.180; repealing section 72.60.200, chapter 28, Laws of 1959, section 261, chapter 141, Laws of 1979 and RCW 72.60.200; repealing section 72.60.210, chapter 28, Laws of 1959 and RCW 72.60.210; repealing section 72.60.230, chapter 28, Laws of 1959 and RCW 72.60.230; repealing section 1, chapter 273, Laws of 1959, section 263, chapter 141, Laws of 1979 and RCW 72.60.240; repealing section 2, chapter 273, Laws of 1959, section 262, chapter 141, Laws of 1979 and RCW 72.60.250; repealing section 3, chapter 273, Laws of 1959, section 264, chapter 141, Laws of 1979 and RCW 72.60.260; repealing section 4, chapter 273, Laws of 1959, section 11, chapter 189, Laws of 1971 ex. sess., section 173, chapter 151, Laws of 1979 and RCW 72.60.270; prescribing penalties; making an appropriation; providing an effective date; and declaring an emergency.

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

NEW SECTION. Section 1. This chapter may be known and cited as the corrections reform act of 1981.

NEW SECTION. Sec. 2. It is the intent of the legislature to establish a comprehensive system of corrections for convicted law violators within the state of Washington to accomplish the following objectives.

(1) The system should ensure the public safety. The system should be designed and managed to provide the maximum feasible safety for the persons and property of the general public, the staff, and the inmates.

(2) The system should punish the offender for violating the laws of the state of Washington. This punishment should generally be limited to the denial of liberty of the offender.

(3) The system should treat all offenders fairly and equitably without regard to race, religion, sex, national origin, residence, or social condition.

(4) The system, as much as possible, should reflect the values of the community including:

(a) Avoiding idleness. Idleness is not only wasteful but destructive to the individual and to the community.

(b) Adoption of the work ethic. It is the community expectation that all citizens should work and through their efforts benefit both themselves and the community.

(c) Providing opportunities for self improvement. All individuals should have opportunities to grow and expand their skills and abilities so as to fulfill their role in the community.

(d) Providing tangible rewards for accomplishment. The individual who works to improve himself or herself and the community should be rewarded for these efforts. As a corollary, there should be no rewards for no effort.

(e) Sharing in the obligations of the community. All citizens, the public and inmates alike, have a personal and fiscal obligation in the corrections system. All communities must share in the responsibility of the corrections system.

(5) The system should provide for prudent management of resources. The human and fiscal resources of the community are limited. The management and use of these resources can be enhanced by wise investment, productive programs, the reduction of duplication and waste, and the joining together of all involved parties in a common endeavor. Since virtually all offenders return to the community, it is wise for the state and the communities to make an investment in effective rehabilitation programs for offenders and the wise use of resources.

(6) The system should provide for restitution. Those who have damaged others, persons or property, have a responsibility to make restitution for these damages.

(7) The system should be accountable to the citizens of the state. In return, the individual citizens and local units of government must meet their responsibilities to make the corrections system effective.

(8) The system should meet those national standards which the state determines to be appropriate.

NEW SECTION. Sec. 3. There is created a department of state government to be known as the department of corrections. The executive head of the department shall be the secretary of corrections who shall be appointed by the governor with the consent of the senate. The secretary shall serve at the pleasure of the governor and shall receive a salary to be fixed under RCW 43.03.040.

NEW SECTION. Sec. 4. All powers, duties, and functions assigned to the secretary of social and health services and to the department of social and health services relating to adult correctional programs and institutions are hereby transferred to the secretary of corrections and to the department of corrections. Except as may be specifically provided, all functions of the department of social and health services relating to juvenile rehabilitation and the juvenile justice system shall remain in the department of social and health services. Where functions of the department of social and health services and the department of corrections overlap in the juvenile rehabilitation and/or juvenile justice area, the governor may allocate such functions between these departments.

The secretaries of the department of social and health services and the department of corrections shall submit to the 1983 session of the Washington state legislature a joint report which addresses the question of in which agency juvenile rehabilitation and state level juvenile justice programs should be located.

NEW SECTION. Sec. 5. The secretary shall manage the department of corrections and shall be responsible for the administration of adult correctional programs, including but not limited to the operation of all state correctional institutions or facilities used for the confinement of convicted felons. In addition, the secretary shall have broad powers to enter into

agreements with any federal agency, or any other state, or any Washington state agency or local government providing for the operation of any correctional facility or program for persons convicted of felonies or misdemeanors or for juvenile offenders. The agreements may provide for joint operation or operation by the department of corrections, alone, or by any of the other governmental entities, alone. The secretary may employ persons to aid in performing the functions and duties of the department. The secretary may delegate any of his functions or duties to department employees. The secretary is authorized to promulgate standards for the department of corrections within appropriation levels authorized by the legislature.

NEW SECTION. Sec. 6. The department of corrections may be organized into such divisions or offices as the secretary may determine, but shall include divisions for (1) institutional industries, (2) prisons and other custodial institutions and (3) probation, parole, community service, restitution, and other nonincarcerative sanctions. The secretary shall have at least one person on his staff who shall have the responsibility for developing a program which encourages the use of volunteers, for citizen advisory groups, and for similar public involvement programs in the corrections area. Minimum qualification for staff assigned to public involvement responsibilities shall include previous experience in working with volunteers or volunteer agencies.

NEW SECTION. Sec. 7. For purposes of this chapter, "inmate" means any person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released on furlough or work release.

NEW SECTION. Sec. 8. (1) There is created an institutional industries board of directors which shall have the composition provided in section 9 of this act.

(2) The board shall advise the department of corrections in adopting and implementing programs designed to:

(a) Offer inmates employment, work experience, and training in vocations which may provide opportunities for legitimate means of livelihood upon their release from custody.

(b) Provide industries which will reduce the tax burden of corrections through production of goods and services for sale and use.

(c) Operate correctional work programs in an effective and efficient manner which are as similar as possible to those provided by the private sector.

(3) In addition, the board of directors shall:

(a) Recommend to the director candidates for appointment as director of the institutional industries division.

(b) At least annually evaluate the work performance of the director of the institutional industries division and submit this evaluation to the secretary.

(c) Advise the director of the institutional industries division in the selection of, contracting for, and supervision of work programs with participating private-enterprise firms.

(d) Advise the director of the institutional industries division in the development and design of institutional industries work programs.

(e) Advise the secretary and the director of the institutional industries division in the investment of funds in institutional industry enterprises and work programs.

(f) Review and evaluate the productivity and appropriateness of all correctional work programs and report on their effectiveness to the director of the division and to the secretary.

(g) Review and evaluate on an on-going basis all financial reports for work programs.

(h) Prepare and transmit to the governor and legislature through the secretary the report required under RCW 72.60.280.

NEW SECTION. Sec. 9. (1) The institutional industries board of directors shall consist of nine voting members. Seven members shall be appointed by the secretary and shall serve three-year staggered terms. Initially, the secretary shall appoint two members to one-year terms, two members to two-year terms, and three members to three-year terms. In addition, the secretary and the director of the institutional industries division shall be ex officio members. The speaker of the house of representatives and the president of the senate shall each appoint one member from each of the two largest caucuses in their respective houses. The legislators so appointed shall be nonvoting members and shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first. The seven members appointed by the secretary shall include representatives from both labor and industry.

(2) The board of directors shall elect a chairman and such other officers as it deems appropriate. However, the chairman may not be the secretary or the director of the institutional industries division.

(3) The voting members of the board of directors shall serve without compensation but shall be reimbursed by the department for travel expenses under RCW 43.03.050 and 43.03.060, as now or hereafter amended. Legislative members shall be reimbursed under RCW 44.04.120, as now or hereafter amended.

(4) The secretary shall provide such staff services, facilities, and equipment as the board shall require to carry out its duties.

NEW SECTION. Sec. 10. Institutional industries shall have the use of the tools, materials, and equipment which were used by the department of social and health services for correctional work programs.

The division's net profits from institutional industries' sales and contracts shall be placed in a special account and shall be reinvested, without appropriation, in the expansion and improvement of institutional industries. However, beginning five years after the effective date of this act, the board of directors shall annually recommend that some portion of the profits from institutional industries be returned to the state general fund.

The board and secretary shall request appropriations or increased appropriations whenever it appears that additional money is needed to provide for the establishment and operation of a comprehensive institutional industries program.

NEW SECTION. Sec. 11. It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and other restrictions which have limited work programs in the past. For purposes of establishing such a comprehensive program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) **CLASS I: FREE VENTURE INDUSTRIES.** The industries in this class shall be operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

The department of corrections shall supply appropriate security and custody services without charge to the participating firms.

Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage not less than sixty percent of the approximate prevailing wage within the state for the occupation, as determined by the director of the institutional industries division. If the director finds that he cannot reasonably determine the wage, then the pay shall not be less than the federal minimum wage.

(2) **CLASS II: TAX REDUCTION INDUSTRIES.** Industries in this class shall be state-owned and operated enterprises designed to reduce the costs for goods and services for tax-supported agencies and for nonprofit organizations which assist persons who are poor or infirm. The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit. The products and services of this industry may be sold to public agencies and to nonprofit organizations which assist persons who are poor or infirm.

Security and custody services shall be provided without charge by the department of corrections.

Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the federal minimum wage and which is approved by the director of institutional industries.

(3) **CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.** Industries in this class shall be operated by the department of corrections. They shall be designed and managed to accomplish the following objectives:

(a) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within institutional industries and the free community. It is not intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(b) Whenever possible, to provide forty hours of work or work training per week.

(c) Whenever possible, to offset tax and other public support costs.

Supervising, management, and custody staff shall be employees of the department.

All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) **CLASS IV: COMMUNITY WORK INDUSTRIES.** Industries in this class shall be operated by the department of corrections. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations which assist persons who are poor or infirm.

Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department of corrections. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

The department of corrections shall reimburse participating units of local government for liability and workers compensation insurance costs.

Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the minimum wage for their work.

(5) **CLASS V: COMMUNITY SERVICE PROGRAMS.** Programs in this class shall be subject to supervision by the department of corrections. The purpose of this class of industries is to enable an offender, placed on probation, to work off all or part of a community service order as ordered by the sentencing court.

Employment shall be in a community service program operated by the state, local units of government, or a nonprofit agency which assists persons who are poor or infirm.

NEW SECTION. Sec. 12. All inmates working in prison industries shall participate in the cost of corrections. The secretary shall develop a formula which can be used to determine the extent to which the wages of these inmates will be deducted for this purpose. The amount so deducted shall be placed in the general fund and shall be a reasonable amount which will not unduly discourage the incentive to work. When the secretary finds it appropriate and not unduly destructive of the work incentive, the secretary shall also provide deductions for restitution, savings, and family support.

NEW SECTION. Sec. 13. Before the convening of the 1982 regular session, the department shall submit recommendations to the legislature on the appropriate role of inmate compensation programs. These recommendations shall address at least the following issues: The extent to which inmate compensation programs should be based on a minimum gratuity theory, on a minimum wage theory, or on a prevailing wage theory; and the extent to which such compensation should be provided for by legislative appropriation, the extent to which it should be used to pay restitution, the extent to which it should be used to reimburse the state for corrections costs, the extent to which it should be used for family support, and the extent to which it should be retained by the inmate. The department shall transmit along with its recommendations any proposed legislation which it believes appropriate for the implementation of the recommendations.

NEW SECTION. Sec. 14. There is added to chapter 43.19 RCW a new section to read as follows:

The department of corrections shall be exempt from the following provisions of this chapter in respect to goods or services purchased or sold pursuant to the operation of institutional industries: RCW 43.19.180, 43.19.190, 43.19.1901, 43.19.1905, 43.19.1906, 43.19.1908, 43.19.1911, 43.19.1913, 43.19.1915, 43.19.1917, 43.19.1919, 43.19.1921, 43.19.1925, and 43.19.200.

NEW SECTION. Sec. 15. There is added to chapter 43.19 RCW a new section to read as follows:

Any person, firm, or organization which makes any bid to provide any goods or any services to any state agency shall be granted a preference over other bidders if (1) the goods or services have been or will be produced or provided in whole or in part by an inmate work program of the department of corrections and (2) an amount equal to at least fifteen percent of the total bid amount has been paid or will be paid by the person, firm, or organization to inmates as wages. The preference provided under this section shall be equal to ten percent of the total bid amount.

NEW SECTION. Sec. 16. In order to assist inmates in finding work within prison industries, the department shall periodically prepare and distribute a list of prison industries' job opportunities, which shall include job descriptions and the educational and skill requirements for each job.

NEW SECTION. Sec. 17. The department shall adopt a system providing incentives for good conduct and disincentives for poor conduct. The system may include increases or decreases in the degree of liberty granted the inmate within the programs operated by the department and recommended increases or decreases in the number of earned early release days that an inmate can earn for good conduct and good performance. Earned early release days shall be recommended by the department as a form of tangible reward for accomplishment. The system shall be fair, measurable, and understandable to offenders, staff, and the public. At least once in each twelve-month period, the department shall inform the offender in writing as to his or her conduct and performance. This written evaluation shall include reasons for awarding or not awarding recommended earned early release days for good conduct and good performance. The term "good performance" as used in this section means successfully performing a work, work training, or educational task to levels of expectation as specified in writing by the department. The term "good conduct" as used in this section refers to compliance with department rules.

Within one year after the effective date of this act, the department shall adopt, and provide a written description of, the system. The department shall provide a copy of this description to each offender in its custody.

NEW SECTION. Sec. 18. There is created a board to be known as the corrections standards board, hereinafter referred to as the "board," which shall advise the department, the governor, and the legislature. Initially, the board shall be a board within the state jail commission, but after June 30, 1983, it shall replace the commission, as provided in section 24 of this act.

NEW SECTION. Sec. 19. The board shall have the following responsibilities with respect to the department of corrections:

(1) Within two years of the effective date of this act, it shall recommend such advisory standards to the legislature, the governor, and the department as it determines are necessary to: (a) Meet federal and state constitutional requirements relating to health, safety, security, and welfare of inmates and staff or specific state or federal statutory requirements; and (b) provide for the public's health, safety, and welfare. In carrying out this responsibility, the board shall consider the standards of the United States department of justice and the accreditation commission on corrections of the American corrections association and any other standards or proposals it finds appropriate. Whenever possible, these standards should discourage duplication of services by the state and local governments.

(2) The standards recommended by the board shall be advisory only and may not be enforced by the board. The board shall review and make recommendations regarding any standards which are proposed by the secretary.

(3) Each year commencing in 1983, the board shall issue a report to the governor, the legislature and the department which shall contain: (a) All recommended standards which are proposed either by the board or the secretary, and the reasons for any variance therefrom with respect to adopted standards; and (b) a report on the variance (i) between its recommended standards and the standards adopted by the secretary; (ii) between its recommended standards and the performance of the department; and (iii) between the standards adopted by the secretary and the performance of the department.

(4) The board shall review the development and functioning of the department's grievance procedures. The board and the secretary shall jointly visit and inspect at least once a year each state corrections institution. For institutions of less than one hundred fifty, the board may appoint one or more of its members to carry out this duty.

(5) The board may recommend advisory standards for the location, construction, and operation of all state correctional facilities and programs.

(6) The board may recommend to the governor, the legislature, and the secretary the expenditure of public funds in a manner which recognizes and advances the board's or the secretary's proposed standards.

(7) The board shall appoint an executive secretary to assist it in carrying out its functions under this chapter. As authorized by the board, the executive secretary shall hire and supervise necessary staff to assist the board in carrying out its duties. The secretary may provide any technical assistance or support which the board may request from time to time.

NEW SECTION. Sec. 20. In respect to local government facilities and programs, the corrections standards board, commencing July 1, 1983, shall exercise the powers and duties of the state jail commission: **PROVIDED**, That the authority for adoption of mandatory custodial care standards as provided in RCW 70.48.050(1)(a) and enforcement of such standards pursuant to RCW 70.48.070 and 70.48.080 is vested in a five member committee of the board, three of whom shall be the county, city, or town representatives on the board, and two of whom shall be appointed by the board chairman. The board shall provide this committee with such staff and support as is appropriate for the committee's performance of its powers and duties.

NEW SECTION. Sec. 21. (1) The corrections standards board shall consist of nine voting members appointed by the governor with the consent of the senate. The secretary of corrections shall serve as an ex officio member without a vote. In addition, the speaker of the house of representatives

and the president of the senate shall each appoint two nonvoting members, one from each of the two largest caucuses in their respective houses.

(2) The voting members shall serve four-year staggered terms. No member may serve more than two consecutive terms. Of the voting members, initially one-third shall be appointed for two-year terms, one-third for three-year terms, and one-third for four-year terms. The legislative members shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(3) The voting membership of the board shall be divided so that two-thirds of the members reside west of the Cascade mountains and one-third reside east of the Cascade mountains. One-third of the members shall be elected county, city, or town officials, one-third shall be elected or appointed state officials or their designees, and one-third shall be private citizens. In 1983, the members appointed to take the positions of the persons previously appointed to the two-year terms provided under subsection (2) of this section shall have been members of the state jail commission as local government representatives on June 30, 1983. The board shall include women and members of "minority groups" as that term is commonly understood.

(4) The members of the board shall not receive any compensation for their services but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060 for nonlegislative members and under RCW 44.04.120 for legislative members, as now or hereafter amended.

(5) The members shall elect a chairman and such other officers as they deem necessary.

NEW SECTION. Sec. 22. The corrections standards board shall cease to exist six years after the effective date of this act unless extended by law. The legislative budget committee shall review the board and recommend to the legislature by January of 1987 whether or not the board should be extended.

NEW SECTION. Sec. 23. (1) It is the intent of the legislature that reasonable legal services be provided to persons committed to the custody of the department of corrections. The department shall contract with persons or organizations to provide legal services. The secretary shall adopt procedures designed to minimize any conflict of interest, or appearance thereof, in respect to the provision of legal services and the department's administration of such contracts.

(2) Persons who contract to provide legal services are expressly forbidden to solicit plaintiffs or promote litigation which has not been pursued initially by a person entitled to such services under this section.

(3) Persons who contract to provide legal services shall exhaust all informal means of resolving a legal complaint or dispute prior to the filing of any court proceeding.

(4) Nothing in this section forbids the secretary to supplement contracted legal services with any of the following: (a) Law libraries, (b) law student interns, and (c) volunteer attorneys.

(5) The total due a contractor as compensation, fees, or reimbursement under the terms of the contract shall be reduced by the total of any other compensation, fees, or reimbursement received by or due the contractor for the performance of any legal service to inmates during the contract period. Any amount received by a contractor under contract which is not due under this section shall be immediately returned by the contractor.

NEW SECTION. Sec. 24. There is added to chapter 70.48 RCW a new section to read as follows:

Commencing July 1, 1983, the state corrections standards board shall replace the state jails commission as the agency responsible for the administration of this chapter.

Sec. 25. Section 2, chapter 316, Laws of 1977 ex. sess. as amended by section 11, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.020 are each amended to read as follows:

As used in this chapter the words and phrases in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Holding facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.

(2) "Detention facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(3) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed, and used for the housing of adult persons serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(4) "Jail" means any holding, detention, or correctional facility as defined in this section.

(5) "Health care" means preventive, diagnostic and rehabilitative services provided by licensed health care professionals and/or facilities; such care to include providing prescription drugs where indicated.

(6) "Commission" means the state jail commission created pursuant to RCW 70.48.030 but, after June 30, 1983, "commission" and "state jail commission" means the state corrections standards board.

(7) "Substantially remodeled" means significant alterations made to the physical plant of a jail to conform with the physical plant standards.

(8) "Department" means the department of social and health services.

(9) "Secretary" means the secretary of social and health services.

(10) "Governing unit" means the city and/or county or any combinations of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

(11) "Mandatory custodial care standards" means those minimum standards, rules, or regulations that are adopted pursuant to RCW 70.48.050(1)(a) and 70.48.070(1) for jails to meet federal and state constitutional requirements relating to the health, safety, security, and welfare of inmates.

(12) "Advisory custodial care standards" means custodial care standards recommended by the commission which are not mandatory.

(13) "Physical plant standards" and "physical plant requirements" mean those minimum standards, rules, or regulations that are prescribed by the commission for jails that relate to structural specifications of the physical plant, including but not limited to size of cells and rooms within a jail, design of facilities, and specifications for fixtures and other equipment.

(14) "Jail inspector" means a person with at least five years in a supervisory position as a law enforcement or custodial corrections officer.

(15) "Major urban" means a county or combination of counties which has a city having a population greater than twenty-six thousand based on the 1978 projections of the office of financial management.

(16) "Medium urban" means a county or combination of counties which has a city having a population equal to or greater than ten thousand but less than twenty-six thousand based on the 1978 projections of the office of financial management.

(17) "Rural" means a county or combination of counties which has a city having a population less than ten thousand based on the 1978 projections of the office of financial management.

NEW SECTION. Sec. 26. There is added to chapter 43.101 RCW a new section to read as follows:

(1) The corrections personnel of the state and all counties and municipal corporations initially employed on or after January 1, 1982, shall engage in basic corrections training which complies with standards adopted by the commission pursuant to RCW 43.101.160. The training shall be successfully completed during the first six months of employment of the personnel, unless otherwise extended or waived by the commission, and shall be requisite to the continuation of employment.

(2) The corrections personnel of the state and all counties and municipal corporations transferred or promoted to a supervisory or management position on or after January 1, 1982, shall engage in supervisory and/or management training which complies with standards adopted by the commission pursuant to RCW 43.101.160. The training shall be successfully completed

prior to or within the first six months of employment, unless otherwise extended or waived by the commission, and shall be requisite to the continuation of employment.

(3) The commission shall provide the training required in this section, together with facilities, supplies, materials, and the room and board for noncommuting attendees.

(4) Nothing in this section shall affect or impair the employment status of any employee whose employer does not provide him with the opportunity to engage in the required training.

Sec. 27. Section 18, chapter 94, Laws of 1974 ex. sess. and RCW 43-.101.180 are each amended to read as follows:

The first priority of the commission shall be to provide for basic law enforcement training, corrections training, and education programs. In addition, the commission shall provide training programs for other criminal justice personnel.

NEW SECTION. Sec. 28. There is added to chapter 41.06 RCW a new section to read as follows:

In addition to the exemptions provided under RCW 41.06.070, the provisions of this chapter shall not apply in the department of corrections to the secretary, the secretary's personal secretary, the deputy secretary, all division directors and assistant directors, all facility superintendents and associate superintendents for facilities with a resident capacity of fifty or more, and all management and sales staff of institutional industries and institutional industries staff who are directly involved in the supervising of industries work by inmates.

NEW SECTION. Sec. 29. All references to the department or secretary of social and health services in other chapters of the Revised Code of Washington shall be construed as meaning the department or secretary of corrections when referring to the functions established by this chapter.

NEW SECTION. Sec. 30. All rules and all pending business before the secretary of social and health services and the department of social and health services pertaining to matters transferred by section 4 of this act shall be continued and acted upon by the department of corrections.

All existing contracts and obligations pertaining to the powers, duties, and functions transferred shall remain in full force and effect and shall be performed by the department of corrections.

The transfer of powers, duties, and functions under section 4 of this act shall not affect the validity of any act performed prior to the effective date of this act by the department of social and health services or its secretary and, except as otherwise specifically provided, shall not affect the validity of any rights existing on the effective date of this act.

If questions arise regarding whether any sort of obligation is properly that of the department of social and health services or the department of

corrections, such questions shall be resolved by the director of financial management.

NEW SECTION. Sec. 31. All reports, documents, surveys, books, records, files, papers, and other writings in the possession of the department of social and health services pertaining to the functions transferred by section 4 of this act shall be delivered to the custody of the department of corrections. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed exclusively in carrying out the powers and duties transferred by section 4 of this act shall be made available to the department of corrections. All funds, credits, or other assets held in connection with the functions transferred by section 4 of this act shall be assigned to the department of corrections.

Any appropriations made to the department of social and health services for the purpose of carrying out the powers, duties, and functions transferred by section 4 of this act shall on the effective date of this act be transferred and credited to the department of corrections for the purpose of carrying out the transferred powers, duties, and functions.

Whenever any question arises as to the transfer of any funds including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred under section 4 of this act, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

If apportionments of budgeted funds are required because of the transfers authorized in this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

NEW SECTION. Sec. 32. All employees of the department of social and health services who are directly employed in connection with the exercise of the powers and performance of the duties and functions transferred to the department of corrections by section 4 of this act shall be transferred on the effective date of this act to the jurisdiction of the department of corrections.

All such employees classified under chapter 41.06 RCW, the state civil service law, shall be assigned to the department of corrections. Except as otherwise provided, such employees shall be assigned without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law.

NEW SECTION. Sec. 33. Nothing contained in sections 1 through 13 and 16 through 23 of this act may be construed to downgrade any rights of

any employee under any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law.

NEW SECTION. Sec. 34. All state officials required to maintain contact with or provide services to the department or secretary of social and health services relating to adult corrections shall continue to perform the services for the department of corrections.

In order to ease the transition of adult corrections to the department of corrections, the governor may require an interagency agreement between the department and the department of social and health services under which the department of social and health services would, on a temporary basis, continue to perform all or part of any specified function of the department of corrections.

Sec. 35. Section 33, chapter 249, Laws of 1909 as last amended by section 1, chapter 295, Laws of 1971 ex. sess. and RCW 9.92.080 are each amended to read as follows:

((From and after August 9, 1971:))

(1) Whenever a person while under sentence of felony shall commit another felony and be sentenced to another term of imprisonment, such latter term shall not begin until the expiration of all prior terms: PROVIDED, That any person granted probation pursuant to the provisions of RCW 9.95.210 and/or 9.92.060 shall not be considered to be under sentence of a felony for the purposes of this subsection.

(2) Whenever a person is convicted of two or more offenses which arise from a single act or omission, the sentences imposed therefor shall run concurrently, unless the court, in pronouncing sentence, expressly orders the service of said sentences to be consecutive.

(3) In all other cases, whenever a person is convicted of two or more offenses arising from separate and distinct acts or omissions, and not otherwise governed by the provisions of subsections (1) and (2) of this section, the sentences imposed therefor shall run consecutively, unless the court, in pronouncing the second or other subsequent sentences, expressly orders concurrent service thereof.

(4) The sentencing court may require the secretary of ~~((the department of social and health services))~~ corrections, or his designee, to provide information to the court concerning the existence of all prior judgments against the defendant, the terms of imprisonment imposed, and the status thereof.

Sec. 36. Section 7, chapter 133, Laws of 1955 as last amended by section 1, chapter 141, Laws of 1979 and RCW 9.95.060 are each amended to read as follows:

When a convicted person appeals from his conviction and is at liberty on bond pending the determination of the appeal by the supreme court or the

court of appeals, credit on his sentence will begin from the date such convicted person is returned to custody. The date of return to custody shall be certified to the department of ~~((social and health services))~~ corrections, the Washington state board of prison terms and paroles, and the prosecuting attorney of the county in which such convicted person was convicted and sentenced, by the sheriff of such county. If such convicted person does not appeal from his conviction, but is at liberty for a period of time subsequent to the signing of the judgment and sentence, or becomes a fugitive, credit on his sentence will begin from the date such convicted person is returned to custody. The date of return to custody shall be certified as provided in this section. In all other cases, credit on a sentence will begin from the date the judgment and sentence is signed by the court.

Sec. 37. Section 13, chapter 133, Laws of 1955 as last amended by section 2, chapter 141, Laws of 1979 and RCW 9.95.120 are each amended to read as follows:

Whenever the board of prison terms and paroles or a probation and parole officer of this state has reason to believe a convicted person has breached a condition of his parole or violated the law of any state where he may then be or the rules and regulations of the board of prison terms and paroles, any probation and parole officer of this state may arrest or cause the arrest and detention and suspension of parole of such convicted person pending a determination by the board whether the parole of such convicted person shall be revoked. All facts and circumstances surrounding the violation by such convicted person shall be reported to the board of prison terms and paroles by the probation and parole officer, with recommendations. The board of prison terms and paroles, after consultation with the secretary of ~~((the department of social and health services))~~ corrections, shall make all rules and regulations concerning procedural matters, which shall include the time when state probation and parole officers shall file with the board reports required by this section, procedures pertaining thereto and the filing of such information as may be necessary to enable the board to perform its functions under this section. On the basis of the report by the probation and parole officer, or at any time upon its own discretion, the board may revise or modify the conditions of parole or order the suspension of parole by the issuance of a written order bearing its seal which order shall be sufficient warrant for all peace officers to take into custody any convicted person who may be on parole and retain such person in their custody until arrangements can be made by the board of prison terms and paroles for his return to a state correctional institution for convicted felons. Any such revision or modification of the conditions of parole or the order suspending parole shall be personally served upon the parolee.

Any parolee arrested and detained in physical custody by the authority of a state probation and parole officer, or upon the written order of the board of prison terms and paroles, shall not be released from custody on

bail or personal recognizance, except upon approval of the board of prison terms and paroles and the issuance by the board of an order of reinstatement on parole on the same or modified conditions of parole.

All chiefs of police, marshals of cities and towns, sheriffs of counties, and all police, prison, and peace officers and constables shall execute any such order in the same manner as any ordinary criminal process.

Whenever a paroled prisoner is accused of a violation of his parole, other than the commission of, and conviction for, a felony or misdemeanor under the laws of this state or the laws of any state where he may then be, he shall be entitled to a fair and impartial hearing of such charges within thirty days from the time that he is served with charges of the violation of conditions of his parole after his arrest and detention. The hearing shall be held before one or more members of the parole board at a place or places, within this state, reasonably near the site of the alleged violation or violations of parole.

In the event that the board of prison terms and paroles suspends a parole by reason of an alleged parole violation or in the event that a parole is suspended pending the disposition of a new criminal charge, the board of prison terms and paroles shall have the power to nullify the order of suspension and reinstate the individual to parole under previous conditions or any new conditions that the board of prison terms and paroles may determine advisable. Before the board of prison terms and paroles shall nullify an order of suspension and reinstate a parole they shall have determined that the best interests of society and the individual shall best be served by such reinstatement rather than a return to a penal institution.

Sec. 38. Section 3, chapter 98, Laws of 1969 as amended by section 3, chapter 141, Laws of 1979 and RCW 9.95.121 are each amended to read as follows:

Within fifteen days from the date of notice to the department of (~~social and health services~~) corrections of the arrest and detention of the alleged parole violator, he shall be personally served by a state probation and parole officer with a copy of the factual allegations of the violation of the conditions of parole, and, at the same time shall be advised of his right to an on-site parole revocation hearing and of his rights and privileges as provided in RCW 9.95.120 through 9.95.126. The alleged parole violator, after service of the allegations of violations of the conditions of parole and the advice of rights may waive the on-site parole revocation hearing as provided in RCW 9.95.120, and admit one or more of the alleged violations of the conditions of parole. If the board accepts the waiver it shall either, (1) reinstate the parolee on parole under the same or modified conditions, or (2) revoke the parole of the parolee and enter an order of parole revocation and return to state custody. A determination of a new minimum sentence shall be made within thirty days of return to state custody which shall not exceed the

maximum sentence as provided by law for the crime of which the parolee was originally convicted or the maximum fixed by the court.

If the waiver made by the parolee is rejected by the board it shall hold an on-site parole revocation hearing under the provisions of RCW 9.95.120 through 9.95.126.

Sec. 39. Section 6, chapter 98, Laws of 1969 as amended by section 4, chapter 141, Laws of 1979 and RCW 9.95.124 are each amended to read as follows:

At all on-site parole revocation hearings the probation and parole officers of the department of (~~social and health services~~) corrections, having made the allegations of the violations of the conditions of parole, may be represented by the attorney general. Only such persons as are reasonably necessary to the conducting of such hearings shall be permitted to be present: PROVIDED, That other persons may be admitted to such hearings at the discretion of the board and with the consent of the alleged parole violator. The hearings shall be recorded either manually or by a mechanical recording device. An alleged parole violator may be requested to testify and any such testimony shall not be used against him in any criminal prosecution. The board of prison terms and paroles shall adopt rules governing the formal and informal procedures authorized by this chapter and make rules of practice before the board in on-site parole revocation hearings, together with forms and instructions.

Sec. 40. Section 3, chapter 114, Laws of 1935 as last amended by section 5, chapter 141, Laws of 1979 and RCW 9.95.170 are each amended to read as follows:

To assist it in fixing the duration of a convicted person's term of confinement, and in fixing the condition for release from custody on parole, it shall not only be the duty of the board of prison terms and paroles to thoroughly inform itself as to the facts of such convicted person's crime but also to inform itself as thoroughly as possible as to such convict as a personality. The department of (~~social and health services~~) corrections and the institutions under its control shall make available to the board of prison terms and paroles on request its case investigations, any file or other record, in order to assist the board in developing information for carrying out the purpose of this section.

Sec. 41. Section 3, chapter 227, Laws of 1957 as last amended by section 6, chapter 141, Laws of 1979 and RCW 9.95.200 are each amended to read as follows:

After conviction by plea or verdict of guilty of any crime, the court upon application or its own motion, may summarily grant or deny probation, or at a subsequent time fixed may hear and determine, in the presence of the defendant, the matter of probation of the defendant, and the conditions of such probation, if granted. The court may, in its discretion, prior to the

hearing on the granting of probation, refer the matter to the secretary of (~~social and health services~~) corrections or such officers as the secretary may designate for investigation and report to the court at a specified time, upon the circumstances surrounding the crime and concerning the defendant, his prior record, and his family surroundings and environment.

Sec. 42. Section 1, chapter 19, Laws of 1980 and RCW 9.95.210 are each amended to read as follows:

The court in granting probation, may suspend the imposing or the execution of the sentence and may direct that such suspension may continue for such period of time, not exceeding the maximum term of sentence, except as hereinafter set forth and upon such terms and conditions as it shall determine.

The court in the order granting probation and as a condition thereof, may in its discretion imprison the defendant in the county jail for a period not exceeding one year or may fine the defendant any sum not exceeding one thousand dollars plus the costs of the action, and may in connection with such probation impose both imprisonment in the county jail and fine and court costs. The court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (1) to comply with any order of the court for the payment of family support, (2) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question, (3) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, and (4) to contribute to a county or interlocal drug fund, and may require bonds for the faithful observance of any and all conditions imposed in the probation. The court shall order the probationer to report to the secretary of (~~social and health services~~) corrections or such officer as the secretary may designate and as a condition of said probation to follow implicitly the instructions of the secretary. If the probationer has been ordered to make restitution, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of (~~social and health services~~) corrections will promulgate rules and regulations for the conduct of such person during the term of his probation: PROVIDED, That for defendants found guilty in justice court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the board of county commissioners of the county wherein the court is located.

Sec. 43. Section 8, chapter 227, Laws of 1957 as last amended by section 8, chapter 141, Laws of 1979 and RCW 9.95.250 are each amended to read as follows:

In order to carry out the provisions of this chapter 9.95 RCW the parole officers working under the supervision of the secretary of (~~social and health services~~) corrections shall be known as probation and parole officers.

Sec. 44. Section 7, chapter 114, Laws of 1935 as last amended by section 9, chapter 141, Laws of 1979 and RCW 9.95.260 are each amended to read as follows:

It shall be the duty of the board of prison terms and paroles, when requested by the governor, to pass on the representations made in support of applications for pardons for convicted persons and to make recommendations thereon to the governor.

It will be the duty of the secretary of (~~social and health services~~) corrections to exercise supervision over such convicted persons as have been conditionally pardoned by the governor, to the end that such persons shall faithfully comply with the conditions of such pardons. The board of prison terms and paroles shall also pass on any representations made in support of applications for restoration of civil rights of convicted persons, and make recommendations to the governor. The department of (~~social and health services~~) corrections shall prepare materials and make investigations requested by the board of prison terms and paroles in order to assist the board in passing on the representations made in support of applications for pardon or for the restoration of civil rights.

Sec. 45. Section 3, chapter 217, Laws of 1961 as amended by section 2, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.320 are each amended to read as follows:

The secretary of (~~the department of social and health services~~) corrections or his designee may provide to any parolee, discharged prisoner and persons convicted of a felony and granted probation in need and without necessary means, from any funds legally available therefor, such reasonable sums as he deems necessary for the subsistence of such person and his family until such person has become gainfully employed. Such aid may be made under such terms and conditions, and through local parole or probation officers if necessary, as the secretary of (~~the department of social and health services~~) corrections or his designee may require and shall be supplementary to any moneys which may be provided under public assistance or from any other source.

Sec. 46. Section 4, chapter 217, Laws of 1961 as amended by section 3, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.330 are each amended to read as follows:

The department of (~~social and health services~~) corrections may accept any devise, bequest, gift, grant, or contribution made for the purposes of RCW 9.95.310 through 9.95.370 and the secretary of (~~the department of~~

~~social and health services~~) corrections or his designee may make expenditures, or approve expenditures by local parole or probation officers, therefrom for the purposes of RCW 9.95.310 through 9.95.370 in accordance with the rules of the department of ~~((social and health services))~~ corrections.

Sec. 47. Section 5, chapter 217, Laws of 1961 as amended by section 4, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.340 are each amended to read as follows:

Any funds in the hands of the department of ~~((social and health services))~~ corrections, or which may come into its hands, which belong to discharged prisoners, parolees or persons convicted of a felony and granted probation who absconded, or whose whereabouts are unknown, shall be deposited in the parolee and probationer revolving fund. Said funds shall be used to defray the expenses of clothing and other necessities and for transporting discharged prisoners, parolees and persons convicted of a felony and granted probation who are without means to secure the same. All payments disbursed from these funds shall be repaid, whenever possible, by discharged prisoners, parolees and persons convicted of a felony and granted probation for whose benefit they are made. Whenever any money belonging to discharged prisoners, parolees and persons convicted of a felony and granted probation is so paid into the revolving fund, it shall be repaid to them in accordance with law if a claim therefor is filed with the department of ~~((social and health services))~~ corrections within five years of deposit into said fund and upon a clear showing of a legal right of such claimant to such money.

Sec. 48. Section 6, chapter 217, Laws of 1961 as amended by section 5, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.350 are each amended to read as follows:

All money or other property paid or delivered to a probation or parole officer or employee of the department of ~~((social and health services))~~ corrections by or for the benefit of any discharged prisoner, parolee or persons convicted of a felony and granted probation shall be immediately transmitted to the department of ~~((social and health services))~~ corrections and it shall enter the same upon its books to his credit. Such money or other property shall be used only under the direction of the department of ~~((social and health services))~~ corrections.

If such person absconds, the money shall be deposited in the revolving fund created by RCW 9.95.360, and any other property, if not called for within one year, shall be sold by the department of ~~((social and health services))~~ corrections and the proceeds credited to the revolving fund.

If any person, files a claim within five years after the deposit or crediting of such funds, and satisfies the department of ~~((social and health services))~~ corrections that he is entitled thereto, the department ~~((of social and~~

~~health services~~)) may make a finding to that effect and may make payment to the claimant in the amount to which he is entitled.

Sec. 49. Section 7, chapter 217, Laws of 1961 as amended by section 6, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.360 are each amended to read as follows:

The department of (~~social and health services~~) corrections shall create, maintain, and administer outside the state treasury a permanent revolving fund to be known as the "parolee and probationer revolving fund" into which shall be deposited all moneys received by it under RCW 9.95.310 through 9.95.370 and any appropriation made for the purposes of RCW 9.95.310 through 9.95.370. All expenditures from this revolving fund shall be made by check or voucher signed by the secretary of (~~the department of social and health services~~) corrections or his designee. The parolee and probationer revolving fund shall be deposited by the department of (~~social and health services~~) corrections in such banks or financial institutions as it may select which shall give to the department (~~of social and health services~~) a surety bond executed by a surety company authorized to do business in this state, or collateral eligible as security for deposit of state funds in at least the full amount of deposit.

Sec. 50. Section 8, chapter 217, Laws of 1961 as amended by section 7, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.370 are each amended to read as follows:

The secretary of (~~the department of social and health services~~) corrections or his designee shall enter into a written agreement with every person receiving funds under RCW 9.95.310 through 9.95.370 that such person will repay such funds under the terms and conditions in said agreement. No person shall receive funds until such an agreement is validly made.

Sec. 51. Section 2, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.020 are each amended to read as follows:

From any state moneys made available for such purpose, the state of Washington, through the department of (~~social and health services~~) corrections, shall, in accordance with this chapter, share in the cost of supervising and providing services for persons processed in the courts as nondangerous adults who could otherwise be committed by the superior courts to the custody of the department of (~~social and health services~~) corrections, but who are instead granted probation and placed in "special adult supervision programs".

Sec. 52. Section 3, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.030 are each amended to read as follows:

As used in this chapter:

(1) "Secretary" means the secretary of (~~the department of social and health services~~) corrections.

(2) "Department" means the department of ~~((social and health services))~~ corrections.

(3) "Special adult supervision program" means a program (a) directly operated by the county or (b) provided for by the county by purchase, contract or agreement, or (c) a combination of subsections (a) and (b), which embodies a degree of supervision substantially above or better than the usual, individualized so as to deal with the individual and his family in the context of his total life, or which embodies the use of new techniques in addition to, or instead of, routine supervision techniques or those otherwise or ordinarily available in the applying county, and which meets the standards prescribed pursuant to this chapter. A person may only be placed in a special adult supervision program pursuant to court order. The court is hereby authorized to make such order.

(4) "Deferred prosecution" means a special supervision program, for an individual, ordered for a specified period of time by the court prior to a guilty plea to, or a trial on, a felony charge, pursuant to either:

(a) A written agreement of the prosecuting attorney, defendant, and defense counsel, with concurrence by the court; or

(b) A motion by the prosecuting attorney or defendant, the court being satisfied based upon all appropriate evidence, that a deferred prosecution program for the indicated individual is in the best interests of society and of the individual.

A deferred prosecution program shall provide that at the end of the court ordered specified time, if the defendant has satisfied all the conditions of the program, the charge shall be dismissed; but if the defendant does not meet any of the conditions of the program at any time prior to completion of the specified period, the court may enter an order rescinding the deferred prosecution program and authorizing the prosecution to proceed.

The court is hereby authorized to make such orders as are described in this section.

(5) "County" means one county or two or more counties acting jointly or in combination by agreement.

(6) "Court" means a superior court of the state of Washington for a county or judicial district.

Sec. 53. Section 4, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.040 are each amended to read as follows:

The department ~~((of social and health services))~~ shall adopt rules prescribing minimum standards for the operation of "special adult supervision programs", including those authorized in RCW 9.95A.070, and such other rules as may be necessary for the administration and implementation of the provisions of this chapter. Such standards shall be sufficiently flexible to foster the development of new and improved supervision or rehabilitative practices. The secretary shall seek advice from appropriate county and local officials as well as concerned and involved private citizens in developing

standards and procedures for the content and operation of "special adult supervision programs", but the implementation of all such programs shall first be approved by the secretary.

Sec. 54. Section 8, chapter 123, Laws of 1973 1st ex. sess. and RCW 9.95A.080 are each amended to read as follows:

The secretary may make pro rata payments to eligible counties for periods of less than one year, but for periods of not less than six months, upon satisfactory demonstration of a reduction in commitments and placement of persons in special adult supervision programs in accordance with the provisions of this chapter and the regulations of the department (~~of social and health services~~).

Sec. 55. Section 9A.32.040, chapter 260, Laws of 1975 1st ex. sess. as amended by section 3, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.040 are each amended to read as follows:

Notwithstanding RCW 9A.32.030(2), any person convicted of the crime of murder in the first degree shall be sentenced as follows:

(1) If, pursuant to a special sentencing proceeding held under RCW 10.94.020, the jury finds that there are one or more aggravating circumstances and that there are not sufficient mitigating circumstances to merit leniency, and makes an affirmative finding on both of the special questions submitted to the jury pursuant to RCW 10.94.020(10), the sentence shall be death;

(2) If, pursuant to a special sentencing proceeding held under RCW 10.94.020, the jury finds that there are one or more aggravating circumstances but fails to find that there are not sufficient mitigating circumstances to merit leniency, or the jury answers in the negative either of the special questions submitted pursuant to RCW 10.94.020(10), the sentence shall be life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this subsection shall not have that sentence suspended, deferred, or commuted by any judicial officer, and the board of prison terms and paroles shall never parole a prisoner nor reduce the period of confinement. The convicted person shall not be released as a result of any type of good time calculation nor shall the department of (~~social and health services~~) corrections permit the convicted person to participate in any temporary release or furlough program; and

(3) In all other convictions for first degree murder, the sentence shall be life imprisonment.

Sec. 56. Section 3, chapter 9, Laws of 1975-'76 2nd ex. sess. as amended by section 6, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.047 are each amended to read as follows:

In the event that the governor commutes a death sentence or in the event that the death penalty is held to be unconstitutional by the United States supreme court or the supreme court of the state of Washington the

penalty under RCW 9A.32.046 shall be imprisonment in the state penitentiary for life without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer, and the board of prison terms and paroles shall never parole a prisoner nor reduce the period of confinement. The convicted person shall not be released as a result of any type of good time calculation nor shall the department of (~~social and health services~~) corrections permit the convicted person to participate in any temporary release or furlough program.

Sec. 57. Section 4, chapter 14, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 244, Laws of 1979 ex. sess. and RCW 9A.44.040 are each amended to read as follows:

(1) A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person not married to the perpetrator by forcible compulsion where the perpetrator or an accessory:

- (a) Uses or threatens to use a deadly weapon; or
- (b) Kidnaps the victim; or
- (c) Inflicts serious physical injury; or
- (d) Feloniously enters into the building or vehicle where the victim is situated.

(2) Rape in the first degree is a class A felony. No person convicted of rape in the first degree shall be granted a deferred or suspended sentence except for the purpose of commitment to an inpatient treatment facility: PROVIDED, That every person convicted of rape in the first degree shall be confined for a minimum of three years: PROVIDED FURTHER, That the board of prison terms and paroles shall have authority to set a period of confinement greater than three years but shall never reduce the minimum three-year period of confinement nor shall the board release the convicted person during the first three years of confinement as a result of any type of automatic good time calculation nor shall the department of (~~social and health services~~) corrections permit the convicted person to participate in any work release program or furlough program during the first three years of confinement.

Sec. 58. Section 11.08.101, chapter 145, Laws of 1965 as amended by section 10, chapter 141, Laws of 1979 and RCW 11.08.101 are each amended to read as follows:

Where, upon the expiration of two years after the death of any inmate of any state institution, there remains in the custody of the superintendent of such institution, money or property belonging to said deceased inmate, the superintendent shall forward such money to the state treasurer for deposit in the general fund of the state, and shall report such transfer and any

remaining property to the department of (~~social and health services~~) corrections, which department shall cause the sale of such property and proceeds thereof shall be forwarded to the state treasurer for deposit in the general fund.

Sec. 59. Section 11.08.120, chapter 145, Laws of 1965 as amended by section 11, chapter 141, Laws of 1979 and RCW 11.08.120 are each amended to read as follows:

The property, other than money, of such deceased inmate remaining in the custody of a superintendent of a state institution after the expiration of the above two-year period may be forwarded to the department of (~~social and health services~~) corrections at its request and may be appraised and sold at public auction to the highest bidder in the manner and form as provided for public sales of personal property, and all moneys realized upon such sale, after deducting the expenses thereof, shall be paid into the general fund of the state treasury.

Sec. 60. Section 2, chapter 103, Laws of 1969 as amended by section 2, chapter 4, Laws of 1969 ex. sess. and RCW 36.63.255 are each amended to read as follows:

Any person imprisoned in a county jail pending the appeal of his conviction of a felony and who has not obtained bail bond pending his appeal shall be transferred after thirty days but within forty days from the date judgment was entered against him to a state institution for felons designated by the (~~director of the department of institutions~~) secretary of corrections: PROVIDED, That when good cause is shown, a superior court judge may order the prisoner detained in the county jail beyond said forty days for an additional period not to exceed ten days.

Sec. 61. Section 1, chapter 10, Laws of 1979 and RCW 43.17.010 are each amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fisheries, (6) the department of game, (7) the department of transportation, (8) the department of licensing, (9) the department of general administration, (10) the department of commerce and economic development, (11) the department of veterans affairs, (12) the department of revenue, (~~and~~) (13) the department of retirement systems, and (14) the department of corrections, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

Sec. 62. Section 2, chapter 10, Laws of 1979 and RCW 43.17.020 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fisheries, (6) the director of game, (7) the secretary of transportation, (8) the director of licensing, (9) the director of general administration, (10) the director of commerce and economic development, (11) the director of veterans affairs, (12) the director of revenue, ~~((and))~~ (13) the director of retirement systems, and (14) the secretary of corrections.

Such officers, except the secretary of transportation and the director of game, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. If a vacancy occurs while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01-.041, and the director of game shall be appointed by the game commission.

Sec. 63. Section 43.19.450, chapter 8, Laws of 1965 as amended by section 45, chapter 141, Laws of 1979 and RCW 43.19.450 are each amended to read as follows:

The director of general administration shall appoint and deputize an assistant director to be known as the supervisor of engineering and architecture who shall have charge and supervision of the division of engineering and architecture. With the approval of the director he may appoint and employ such assistants and personnel as may be necessary to carry out the work of the division.

No person shall be eligible for appointment as supervisor of engineering and architecture unless he is, and for the last five years prior to his appointment has been, licensed to practice the profession of engineering or the profession of architecture in the state of Washington.

The director of general administration, through the division of engineering and architecture shall:

(1) Establish a systematic building program for the grouping of buildings at the state capital, at institutions under the control of the department of social and health services and the department of corrections, and for state agencies which have no architectural staff, and prepare preliminary layouts, site studies, programs and topographical plans to accompany the estimates for the biennial budgets.

(2) Contract for professional architectural, engineering and related services for the design of buildings and major alterations to existing buildings at the state capital, at institutions under the control of the department of social and health services and the department of corrections, and for all state-owned buildings for agencies which have no architectural staff.

(3) Prepare estimates for the biennial budget and prepare plans and specifications for all necessary maintenance, repairs, and minor alterations

to the state capitol buildings, all buildings required at the institutions under the control of the department of social and health services and the department of corrections, and for all other state-owned buildings for agencies which have no architectural staff.

(4) Supervise the erection, repairing and betterment of all capitol buildings, all buildings required for the institutions under the control of the department of social and health services and the department of corrections, and all other state-owned buildings for agencies which have no architectural staff.

(5) Negotiate and/or call for bids and execute all contracts on behalf of the state for the preceding.

Sec. 64. Section 3, chapter 104, Laws of 1967 as amended by section 130, chapter 141, Laws of 1979 and RCW 71.06.091 are each amended to read as follows:

A sexual psychopath committed pursuant to RCW 71.06.060 shall be retained by the superintendent of the institution involved until in the superintendent's opinion he is safe to be at large, or until he has received the maximum benefit of treatment, or is not amenable to treatment, but the superintendent is unable to render an opinion that he is safe to be at large. Thereupon, the superintendent of the institution involved shall so inform whatever court committed the sexual psychopath. The court then may order such further examination and investigation of such person as seems necessary, and may at its discretion, summon such person before it for further hearing, together with any witnesses whose testimony may be pertinent, and together with any relevant documents and other evidence. On the basis of such reports, investigation, and possible hearing, the court shall determine whether the person before it shall be released unconditionally from custody as a sexual psychopath, released conditionally, returned to the custody of the institution as a sexual psychopath, or ~~((returned))~~ transferred to the department of ~~((social and health services))~~ corrections to serve the original sentence imposed upon him. The power of the court to grant conditional release for any such person before it shall be the same as its power to grant, amend and revoke probation as provided by chapter 9.95 RCW. When the sexual psychopath has entered upon the conditional release, the state board of prison terms and paroles shall supervise such person pursuant to the terms and conditions of the conditional release, as set by the court: PROVIDED, That the superintendent of the institution involved shall never release the sexual psychopath from custody without a court release as herein set forth.

Sec. 65. Section 71.06.140, chapter 25, Laws of 1959 as last amended by section 131, chapter 141, Laws of 1979 and RCW 71.06.140 are each amended to read as follows:

The department may designate one or more state hospitals for the care and treatment of sexual psychopaths: PROVIDED, That a committed sexual psychopath who has been determined by the superintendent of such mental hospital to be a custodial risk, or a hazard to other patients may be transferred by the secretary of social and health services, with the consent of the secretary of corrections, to one of the correctional institutions within the department of ~~((social and health services))~~ corrections which has psychiatric care facilities. A committed sexual psychopath who has been transferred to a correctional institution shall be observed and treated at the psychiatric facilities provided by the correctional institution. A complete psychiatric examination shall be given to each sexual psychopath so transferred at least twice annually. The examinations may be conducted at the correctional institution or at one of the mental hospitals. The examiners shall report in writing the results of said examinations, including recommendations as to future treatment and custody, to the superintendent of the mental hospital from which the sexual psychopath was transferred, and to the committing court, with copies of such reports and recommendations to the superintendent of the correctional institution.

Sec. 66. Section 72.01.010, chapter 28, Laws of 1959 as last amended by section 142, chapter 141, Laws of 1979 and RCW 72.01.010 are each amended to read as follows:

As used in this ~~((title))~~ chapter:

"Department" means the departments of social and health services and corrections; and

"Secretary" means the ~~((secretary))~~ secretaries of social and health services and corrections.

The powers and duties granted and imposed in this chapter, when applicable, apply to both the departments of social and health services and corrections and the secretaries of social and health services and corrections for institutions under their control. A power or duty may be exercised or fulfilled jointly if joint action is more efficient, as determined by the secretaries.

Sec. 67. Section 1, chapter 169, Laws of 1953 as last amended by section 143, chapter 141, Laws of 1979 and RCW 72.01.042 are each amended to read as follows:

The hours of labor for each full time employee shall be a maximum of eight hours in any work day and forty hours in any work week.

Employees required to work in excess of the eight-hour maximum per day or the forty-hour maximum per week shall be compensated by not less than equal hours of compensatory time off or, in lieu thereof, a premium rate of pay per hour equal to not less than one-one hundred and seventy-sixth of the employee's gross monthly salary: PROVIDED, That in the event that an employee is granted compensatory time off, such time off

should be given within the calendar year and in the event that such an arrangement is not possible the employee shall be given a premium rate of pay: PROVIDED FURTHER, That compensatory time and/or payment thereof shall be allowed only for overtime as is duly authorized and accounted for under rules and regulations established by the secretary (~~of social and health services~~).

Sec. 68. Section 72.01.050, chapter 28, Laws of 1959 as last amended by section 145, chapter 141, Laws of 1979 and RCW 72.01.050 are each amended to read as follows:

(1) The secretary of social and health services shall have full power to manage and govern the following public institutions(-): The western state hospital, the eastern state hospital, the northern state hospital, (~~the state penitentiary, the state reformatory;~~) the state training school, the state school for girls, Lakeland Village, the Rainier school, the state school for the deaf, the state school for the blind, and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions.

(2) The secretary of corrections shall have full power to manage and govern the following public institutions: The state penitentiary, the state reformatory, the Washington corrections center, the McNeil Island penitentiary, the Purdy treatment center for women, the Cedar Creek corrections center, the Clearwater corrections center, the Firland correctional center, the Indian Ridge treatment center, the Larch corrections center, the Olympic correctional center, Pine Lodge correctional center, and the special offender center, subject only to the limitations contained in laws relating to the management of such institutions.

(3) If any of the facilities specified in subsection (2) of this section is fully or partially destroyed by natural causes or otherwise, the secretary of corrections may, with the approval of the governor, provide for the establishment and operation of additional residential correctional facilities to place those inmates displaced by such destruction. However, such additional facilities may not be established if there are existing residential correctional facilities to which all of the displaced inmates can be appropriately placed. The establishment and operation of any additional facility shall be on a temporary basis, and the facility may not be operated beyond July 1 of the year following the year in which it was partially or fully destroyed.

Sec. 69. Section 72.01.210, chapter 28, Laws of 1959 as last amended by section 154, chapter 141, Laws of 1979 and RCW 72.01.210 are each amended to read as follows:

The secretary (~~is hereby directed and empowered to~~) of corrections shall appoint chaplains for the state correctional institutions for convicted felons; and the secretary of social and health services shall appoint chaplains for the correctional institutions for juveniles found delinquent by the juvenile courts(-); and the secretary of corrections and the secretary of

social and health services shall appoint one ((chaplain;)) or more chaplains ((as may be approved by the secretary)) for other custodial, correctional and mental institutions under their control. The chaplains so appointed shall have the qualifications and shall be compensated in an amount, as shall hereafter be recommended by the department and approved by the state personnel board.

Sec. 70. Section 72.01.240, chapter 28, Laws of 1959 as amended by section 155, chapter 141, Laws of 1979 and RCW 72.01.240 are each amended to read as follows:

~~((The))~~ Each secretary is hereby empowered to appoint one of the chaplains, authorized by RCW 72.01.210, to act as supervisor of chaplains for ~~((the))~~ his department, in addition to his duties at one of the institutions designated in RCW 72.01.210.

Sec. 71. Section 1, chapter 210, Laws of 1959 as amended by section 159, chapter 141, Laws of 1979 and RCW 72.01.282 are each amended to read as follows:

All moneys received by the secretary ~~((of social and health services))~~ from charges made pursuant to RCW 72.01.280 shall be deposited by him in the state general fund.

Sec. 72. Section 1, chapter 40, Laws of 1959 as amended by section 164, chapter 141, Laws of 1979 and RCW 72.01.370 are each amended to read as follows:

The superintendents of the state penitentiary, the state reformatory, the state honor camps and such other penal institutions as may hereafter be established, may, subject to the approval of the secretary ~~((of social and health services))~~, grant leaves of absence to inmates confined in such institutions to:

- (1) Go to the bedside of the inmate's wife, husband, child, mother or father, or other member of the inmate's immediate family who is seriously ill;
- (2) Attend the funeral of a member of the inmate's immediate family listed in subsection (1) of this section;
- (3) Participate in athletic contests, and;
- (4) Perform ~~((labor))~~ work in connection with the industrial, educational, or agricultural programs of ~~((such institutions))~~ the department.

Sec. 73. Section 2, chapter 40, Laws of 1959 as amended by section 165, chapter 141, Laws of 1979 and RCW 72.01.380 are each amended to read as follows:

The secretary ~~((of social and health services))~~ is authorized to make rules and regulations providing for the conditions under which inmates will be granted leaves of absence, and providing for safeguards to prevent escapes while on leave of absence: PROVIDED, That leaves of absence

granted to inmates under RCW 72.01.370 shall not allow or permit any inmate to go beyond the boundaries of this state. The secretary (~~(of social and health services)~~) shall also make rules and regulations requiring the reimbursement of the state from the inmate granted leave of absence, or his family, for the actual costs incurred arising from any leave of absence granted under the authority of RCW 72.01.370, subsections (1) and (2): **PROVIDED FURTHER**, That no state funds shall be expended in connection with leaves of absence granted under RCW 72.01.370, subsections (1) and (2), unless such inmate and his immediate family are indigent and without resources sufficient to reimburse the state for the expenses of such leaves of absence.

Sec. 74. Section 1, chapter 140, Laws of 1959 as amended by section 166, chapter 141, Laws of 1979 and RCW 72.01.410 are each amended to read as follows:

Whenever any child under the age of sixteen is convicted in the courts of this state of a crime amounting to a felony, and is committed for a term of confinement in a correctional institution wherein adults are confined, the secretary of (~~(social and health services)~~) corrections, with the consent of the secretary of social and health services, may transfer such child to a juvenile correctional institution, or to such other institution as is now, or may hereafter be authorized by law to receive such child, until such time as the child arrives at the age of eighteen years, whereupon the child shall be returned to the institution of original commitment. Notice of such transfers shall be given to the clerk of the committing court and the parents, guardian, or next of kin of such child, if known.

Sec. 75. Section 1, chapter 193, Laws of 1961 as last amended by section 167, chapter 141, Laws of 1979 and RCW 72.01.430 are each amended to read as follows:

The secretary (~~(of social and health services)~~), notwithstanding any provision of law to the contrary, is hereby authorized to transfer equipment, livestock and supplies between the several institutions within the department without reimbursement to the transferring institution excepting, however, any such equipment donated by organizations for the sole use of such transferring institutions. Whenever transfers of capital items are made between institutions of the department, notice thereof shall be given to the director of the department of general administration accompanied by a full description of such items with inventory numbers, if any.

Sec. 76. Section 1, chapter 46, Laws of 1967 as last amended by section 168, chapter 141, Laws of 1979 and RCW 72.01.450 are each amended to read as follows:

The secretary (~~(of social and health services of the state of Washington)~~) is authorized to enter into agreements with any school district or any institution of higher learning for the use of the facilities, equipment

and personnel of any state institution of the department, for the purpose of conducting courses of education, instruction or training in the professions and skills utilized by one or more of the institutions, at such times and under such circumstances and with such terms and conditions as may be deemed appropriate.

Sec. 77. Section 2, chapter 46, Laws of 1969 ex. sess. as amended by section 171, chapter 141, Laws of 1979 and RCW 72.01.460 are each amended to read as follows:

(1) Any lease of public lands with outdoor recreation potential authorized by the department (~~((of social and health services))~~) shall be open and available to the public for compatible recreational use unless the department (~~((of social and health services))~~) determines that the leased land should be closed in order to prevent damage to crops or other land cover, to improvements on the land, to the lessee, or to the general public or is necessary to avoid undue interference with carrying forward a departmental program. Any lessee may file an application with the department (~~((of social and health services))~~) to close the leased land to any public use. The department shall cause written notice of the impending closure to be posted in a conspicuous place in the department's Olympia office, at the principal office of the institution administering the land, and in the office of the county auditor in which the land is located thirty days prior to the public hearing. This notice shall state the parcel or parcels involved and shall indicate the time and place of the public hearing. Upon a determination by the department that posting is not necessary, the lessee shall desist from posting. Upon a determination by the department that posting is necessary, the lessee shall post his leased premises so as to prohibit recreational uses thereon. In the event any such lands are so posted, it shall be unlawful for any person to hunt or fish, or for any person other than the lessee or his immediate family to use any such posted land for recreational purposes.

(2) The department (~~((of social and health services))~~) may insert the provisions of subsection (1) of this section in all leases hereafter issued.

Sec. 78. Section 1, chapter 50, Laws of 1970 ex. sess. as amended by section 172, chapter 141, Laws of 1979 and RCW 72.01.480 are each amended to read as follows:

The secretary (~~((of social and health services))~~) is authorized to enter into agreements with any nonprofit corporation or association for the purpose of providing and coordinating voluntary and community based services for the treatment or rehabilitation of persons admitted or committed to any institution under the supervision of the department (~~((of social and health services))~~).

Sec. 79. Section 72.02.040, chapter 28, Laws of 1959 as amended by section 57, chapter 18, Laws of 1970 ex. sess. and RCW 72.02.040 are each amended to read as follows:

The secretary of (~~social and health services~~) corrections acting for the department of corrections shall exercise all powers and perform all duties prescribed by law with respect to the administration of any adult correctional program by the department of corrections.

Sec. 80. Section 2, chapter 171, Laws of 1971 ex. sess. and RCW 72.02.110 are each amended to read as follows:

As state, federal or other funds are available, the secretary of (~~the department of social and health services~~) corrections or his designee is authorized, in his discretion, not to provide the forty dollars subsistence money or the optional sixty dollars to a person or persons released as described in RCW 72.02.100, and instead to utilize the authorization and procedure contained in this section relative to such person or persons.

Any person designated by the secretary serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, who is thereafter released upon an order of parole of the state board of prison terms and paroles, or is discharged from custody upon expiration of sentence, or is ordered discharged from custody by a court of appropriate jurisdiction, shall receive the sum of fifty-five dollars per week for a period of up to six weeks. The initial weekly payment shall be made to such person upon his release or parole by the superintendent of the institution. Subsequent weekly payments shall be made to such person by the probation and parole officer at the office of such probation or parole officer. In addition to the initial six weekly payments provided for in this section, a probation and parole officer and his district supervisor may, at their discretion, continue such payments up to a maximum of twenty additional weeks when they are satisfied that such person is actively seeking employment and that such payments are necessary to continue the efforts of such person to gain employment: PROVIDED, That if, at the time of release or parole, in the opinion of the superintendent funds are otherwise available to such person, with the exception of earnings from labor or employment while in confinement, such weekly sums of money or part thereof shall not be provided to such person.

When a person receiving such payments provided for in this section becomes employed, he may continue to receive payments for two weeks after the date he becomes employed but payments made after he becomes employed shall be discontinued as of the date he is first paid for such employment: PROVIDED, That no person shall receive payments for a period exceeding the twenty-six week maximum as established in this section.

The secretary of (~~the department of social and health services~~) corrections may annually adjust the amount of weekly payment provided for in this section to reflect changes in the cost of living and the purchasing power of the sum set for the previous year.

Sec. 81. Section 7, chapter 134, Laws of 1967 as amended by section 173, chapter 141, Laws of 1979 and RCW 72.04A.050 are each amended to read as follows:

The powers and duties of the state board of prison terms and paroles, relating to (1) the supervision of parolees of any of the state penal institutions, (2) the supervision of persons placed on probation by the courts, and (3) duties with respect to persons conditionally pardoned by the governor, are transferred to the secretary of (~~((social and health services))~~) corrections.

This section shall not be construed as affecting any of the remaining powers and duties of the board of prison terms and paroles including, but not limited to, the following:

(1) The fixing of minimum terms of confinement of convicted persons, or the reconsideration of its determination of minimum terms of confinement;

(2) Determining when and under what conditions a convicted person may be released from custody on parole, and the revocation or suspension of parole or the modification or revision of the conditions of the parole, of any convicted person.

Sec. 82. Section 9, chapter 134, Laws of 1967 as amended by section 174, chapter 141, Laws of 1979 and RCW 72.04A.070 are each amended to read as follows:

The secretary of (~~((social and health services))~~) corrections shall cause to be prepared plans and recommendations for the conditions of supervision under which each inmate of any state penal institutions who is eligible for parole may be released from custody. Such plans and recommendations shall be submitted to the board of prison terms and paroles which may, at its discretion, approve, reject, or revise or amend such plans and recommendations for the conditions of supervision of release of inmates on parole, and, in addition, the board may stipulate any special conditions of supervision to be carried out by a probation and parole officer.

Sec. 83. Section 10, chapter 134, Laws of 1967 as amended by section 175, chapter 141, Laws of 1979 and RCW 72.04A.080 are each amended to read as follows:

Each inmate hereafter released on parole shall be subject to the supervision of the department of (~~((social and health services))~~) corrections, and the probation and parole officers of the department shall be charged with the preparation of progress reports of parolees and to give guidance and supervision to such parolees within the conditions of a parolee's release from custody. Copies of all progress reports prepared by the probation and parole officers shall be supplied to the board of prison terms and paroles for their files and records.

Sec. 84. Section 11, chapter 134, Laws of 1967 as last amended by section 176, chapter 141, Laws of 1979 and RCW 72.04A.090 are each amended to read as follows:

Whenever a parolee breaches a condition or conditions under which he was granted parole, or violates any law of the state or rules and regulations of the board of prison terms and paroles, any probation and parole officer may arrest, or cause the arrest and suspension of parole of, such parolee without a warrant, pending a determination by the board. The facts and circumstances of such conduct of the parolee shall be reported by the probation and parole officer, with recommendations, to the board of prison terms and paroles, who may order the revocation or suspension of parole, revise or modify the conditions of parole or take such other action as may be deemed appropriate in accordance with RCW 9.95.120. The board of prison terms and paroles, after consultation with the secretary of ~~((social and health services))~~ corrections, shall make all rules and regulations concerning procedural matters, which shall include the time when state probation and parole officers shall file with the board reports required by this section, procedures pertaining thereto and the filing of such information as may be necessary to enable the board of prison terms and paroles to perform its functions under this section.

The probation and parole officers shall have like authority and power regarding the arrest and detention of a probationer who has breached a condition or conditions under which he was granted probation by the superior court, or violates any law of the state, pending a determination by the superior court.

In the event a probation and parole officer shall arrest or cause the arrest and suspension of parole of a parolee or probationer in accordance with the provisions of this section, such parolee or probationer shall be confined and detained in the county jail of the county in which the parolee or probationer was taken into custody, and the sheriff of such county shall receive and keep in the county jail, where room is available, all prisoners delivered thereto by the probation and parole officer, and such parolees shall not be released from custody on bail or personal recognizance, except upon approval of the board of prison terms and paroles and the issuance by the board of an order of reinstatement on parole on the same or modified conditions of parole.

Sec. 85. Section 3, chapter 9, Laws of 1965 ex. sess. as amended by section 188, chapter 141, Laws of 1979 and RCW 72.08.101 are each amended to read as follows:

The secretary of ~~((social and health services))~~ corrections shall provide for the establishment of programs and procedures for convicted persons at the state penitentiary, which are designed to ~~((be corrective, rehabilitative and reformatory of the undesirable behavior problems of such persons, as~~

~~distinguished from programs and procedures essentially penal in nature))~~
implement the intent of the legislature under section 2 of this 1981 act.

Sec. 86. Section 4, chapter 9, Laws of 1965 ex. sess. as amended by section 189, chapter 141, Laws of 1979 and RCW 72.08.102 are each amended to read as follows:

The secretary of (~~social and health services~~) corrections is authorized to make rules and regulations for the administration, supervision, security and disciplinary measures inflicted upon convicted persons at the state penitentiary.

Sec. 87. Section 72.08.380, chapter 28, Laws of 1959 as amended by section 192, chapter 141, Laws of 1979 and RCW 72.08.380 are each amended to read as follows:

Whenever the superintendent of the state penitentiary withholds from mailing letters written by inmates of such institution, the superintendent shall forward such letters to the secretary of (~~social and health services~~) corrections for study and the inmate shall be forthwith notified that such letter has been withheld from mailing and the reason for so doing. Letters forwarded to the secretary for study shall either be mailed within seven days to the addressee or, if deemed objectionable by the secretary, retained in a separate file for two years and then destroyed.

Sec. 88. Section 72.12.020, chapter 28, Laws of 1959 as amended by section 193, chapter 141, Laws of 1979 and RCW 72.12.020 are each amended to read as follows:

The government and control of the Washington state reformatory and of the prisoners sentenced thereto shall be vested in the secretary of (~~social and health services~~) corrections.

Sec. 89. Section 72.12.140, chapter 28, Laws of 1959 as amended by section 198, chapter 141, Laws of 1979 and RCW 72.12.140 are each amended to read as follows:

Whenever the superintendent of the state reformatory withholds from mailing letters written by inmates of such institution, the superintendent shall forward such letters to the secretary of (~~social and health services~~) corrections for study and the inmate shall be forthwith notified that such letter has been withheld from mailing and the reason for so doing. Letters forwarded to the secretary for study shall either be mailed within seven days to the addressee or, if deemed objectionable by the secretary, retained in a separate file for two years and then destroyed.

NEW SECTION. Sec. 90. There is added to chapter 72.13 RCW a new section to read as follows:

As used in this chapter:

"Department" means the department of corrections; and

"Secretary" means the secretary of corrections.

Sec. 91. Section 1, chapter 214, Laws of 1959 as amended by section 199, chapter 141, Laws of 1979 and RCW 72.13.010 are each amended to read as follows:

There is hereby established under the supervision and control of the secretary (~~(of social and health services)~~) a correctional institution for the confinement and rehabilitation of male persons convicted of a felony and such other persons transferred to such institution as hereinafter provided.

Sec. 92. Section 4, chapter 214, Laws of 1959 as amended by section 200, chapter 141, Laws of 1979 and RCW 72.13.040 are each amended to read as follows:

The superintendent of the correctional institution established by this chapter shall be appointed by the secretary. The superintendent shall have such administrative experience and possess such qualifications as shall be (~~((fixed by the personnel board, or such merit system board as shall be established by law having jurisdiction of personnel within the department of social and health services, with the advice and approval of))~~) determined by the secretary.

Sec. 93. Section 6, chapter 214, Laws of 1959 as amended by section 202, chapter 141, Laws of 1979 and RCW 72.13.060 are each amended to read as follows:

(~~The superintendent and~~) Except as otherwise provided, all subordinate officers and employees of such institution shall be under the jurisdiction of the state personnel board or such merit system board as shall be hereafter established by law having jurisdiction within the department (~~(of social and health services)~~).

Sec. 94. Section 7, chapter 214, Laws of 1959 as amended by section 203, chapter 141, Laws of 1979 and RCW 72.13.070 are each amended to read as follows:

The secretary of social and health services, with the consent of the secretary of corrections, shall have authority to transfer to the correctional institution male juvenile delinquents or male juveniles convicted of a crime, who may hereafter be committed to the department of social and health services, or who are now confined at facilities under the department of social and health services for the custody of juvenile delinquents: PROVIDED, That such juveniles shall not be retained in such institution after eighteen years of age: PROVIDED FURTHER, That the secretary of social and health services shall retain custody of such juveniles for the purpose of returning, in his discretion, such juveniles to the transferring institution or such other facilities of the department of social and health services as he shall deem appropriate.

Sec. 95. Section 12, chapter 214, Laws of 1959 as amended by section 206, chapter 141, Laws of 1979 and RCW 72.13.120 are each amended to read as follows:

Any male offender convicted of an offense punishable by imprisonment in the state penitentiary or the state reformatory, except an offender sentenced to death, shall, notwithstanding any inconsistent provision of law, be sentenced to imprisonment in a penal institution under the jurisdiction of the department (~~(of social and health services)~~) without designating the name of such institution, and be committed to the reception center for classification, confinement and placement in such correctional facility under the supervision of the department (~~(of social and health services)~~) as the secretary (~~(of social and health services)~~) shall deem appropriate.

Sec. 96. Section 1, chapter 122, Laws of 1967 ex. sess. as amended by section 211, chapter 141, Laws of 1979 and RCW 72.15.010 are each amended to read as follows:

There is hereby established under the supervision and control of the secretary of (~~(social and health services)~~) corrections a correctional institution for the confinement, rehabilitation and reformation of female persons convicted of a felony and sentenced and committed to such institution for a term of confinement by the superior courts. Such institution shall be known as the Washington correctional institution for women.

Sec. 97. Section 8, chapter 122, Laws of 1967 ex. sess. as amended by section 134, chapter 81, Laws of 1971 and RCW 72.15.060 are each amended to read as follows:

All female persons convicted in the superior courts of a felony and sentenced to a term of confinement, shall be committed to the Washington correctional institution for women. Female persons sentenced to death shall be committed to the Washington correctional institution for women, notwithstanding the provisions of RCW 10.70.060, except that the death warrant shall provide for the execution of such death sentence at the Washington state penitentiary as provided by RCW 10.70.050, and the secretary of (~~(social and health services)~~) corrections shall transfer to the Washington state penitentiary any female offender sentenced to death not later than seventy-two hours prior to the date fixed in the death warrant for the execution of the death sentence. The provisions of this section shall not become effective until the secretary of (~~(social and health services)~~) corrections certifies to the chief justice of the supreme court, the chief judge of each division of the court of appeals, the superior courts and the prosecuting attorney of each county that the facilities and personnel for the implementation of commitments are ready to receive persons committed to the Washington correctional institution for women under the provisions of this section.

NEW SECTION. Sec. 98. There is added to chapter 72.20 RCW a new section to read as follows:

As used in this chapter:

"Department" means the department of social and health services; and

"Secretary" means the secretary of social and health services.

Sec. 99. Section 72.23.010, chapter 28, Laws of 1959 as last amended by section 2, chapter 145, Laws of 1974 ex. sess. and RCW 72.23.010 are each amended to read as follows:

As used in this chapter, the following terms shall have the following meanings:

"Department" means the department of social and health services.

"Mentally ill person" shall mean any person who, pursuant to the definitions contained in RCW 71.05.020, as a result of a mental disorder presents a likelihood of serious harm to others or himself or is gravely disabled.

"Patient" shall mean a person under observation, care or treatment in a state hospital, or a person found mentally ill by the court, and not discharged from a state hospital, or other facility, to which such person had been ordered hospitalized.

"Licensed physician" shall mean an individual permitted to practice as a physician under the laws of the state, or a medical officer, similarly qualified, of the government of the United States while in this state in performance of his official duties.

"Secretary" means the secretary of social and health services.

"State hospital" shall mean any hospital operated and maintained by the state of Washington for the care of the mentally ill.

"Superintendent" shall mean the superintendent of a state hospital.

"Court" shall mean the superior court of the state of Washington.

"Resident" shall mean a resident of the state of Washington.

Wherever used in this chapter, the masculine shall include the feminine and the singular shall include the plural.

NEW SECTION. Sec. 100. There is added to chapter 72.40 RCW a new section to read as follows:

As used in this chapter, "secretary" means the secretary of social and health services.

Sec. 101. Section 72.60.100, chapter 28, Laws of 1959 as amended by section 1, chapter 40, Laws of 1972 ex. sess. and RCW 72.60.100 are each amended to read as follows:

Nothing in this chapter is intended to restore, in whole or in part, the civil rights of any inmate. No inmate compensated (~~(under this chapter)~~) for work in institutional industries shall be considered as an employee or to be employed by the state or the department, nor shall any such inmate, except those provided for in RCW 72.60.102 and 72.64.065, come within any of the provisions of the workmen's compensation act, or be entitled to any benefits thereunder whether on behalf of himself or of any other person. (~~((All moneys paid to inmates shall be considered a gratuity:))~~)

Sec. 102. Section 2, chapter 40, Laws of 1972 ex. sess. as amended by section 3, chapter 160, Laws of 1979 ex. sess. and RCW 72.60.102 are each amended to read as follows:

From and after July 1, 1973, any inmate employed in ~~((an industrial enterprise pursuant to the provisions of chapter 72.60 RCW, or in a department of natural resources adult honor camp, a labor camp, or a regional jail camp established under RCW 72.64.050, 72.64.060, or 72.64.100, respectively;))~~ institutional industries shall be eligible for the benefits provided by Title 51 RCW, as now or hereafter amended, relating to industrial insurance, with the exceptions herein provided.

No inmate as herein described, until released upon an order of parole by the state board of prison terms and paroles, or discharged from custody upon expiration of sentence, or discharged from custody by order of a court of appropriate jurisdiction, or his dependents or beneficiaries, shall be entitled to any payment for temporary disability or permanent total disability as provided for in RCW 51.32.090 or 51.32.060 respectively, as now or hereafter enacted. Any inmate who is either not paid any wages or paid a gratuity shall not be considered employed under this section.

~~((Any and all premiums or assessments as may arise hereunder pursuant to the provisions of Title 51 RCW shall be the obligation of and be paid from the institutional industries revolving fund.))~~

Sec. 103. Section 72.60.160, chapter 28, Laws of 1959 as amended by section 260, chapter 141, Laws of 1979 and RCW 72.60.160 are each amended to read as follows:

All articles, materials, and supplies herein authorized to be produced or manufactured in correctional institutions may be purchased from the institution producing or manufacturing the same by any state agency or political subdivision of the state ~~((and at the prices fixed in the manner herein provided))~~, and the secretary shall require those institutions under his direction to give preference to the purchasing of their needs of such articles as are so produced ~~((under this chapter))~~.

Sec. 104. Section 72.60.190, chapter 28, Laws of 1959 as amended by section 4, chapter 160, Laws of 1979 ex. sess. and RCW 72.60.190 are each amended to read as follows:

The supervisor of purchasing for the state of Washington is authorized to enter into contracts for production of goods and supply of services and shall give preference in the purchase of materials and supplies for the institutions, departments and agencies of the state, to those produced by industries ~~((authorized and approved by the institutional industries commission))~~ in state correctional institutions.

Sec. 105. Section 72.60.220, chapter 28, Laws of 1959 and RCW 72.60.220 are each amended to read as follows:

The department may cause to be prepared annually, at such times as it may determine, lists containing the descriptions of all articles and supplies manufactured and produced (~~((pursuant to the provisions of this chapter))~~) in state correctional institutions; copies of such list shall be sent to the supervisor of purchasing and to all departments, institutions and agencies of the state of Washington.

Sec. 106. Section 5, chapter 273, Laws of 1959 as last amended by section 5, chapter 160, Laws of 1979 ex. sess. and RCW 72.60.280 are each amended to read as follows:

~~((+))~~ The ~~((commission))~~ board of directors of institutional industries shall prepare annually a report to the governor and the legislature, which report shall contain:

- ~~((a))~~ (1) A detailed financial statement for each industrial enterprise;
- ~~((b))~~ (2) Reasons for approving or terminating industrial enterprises;
- ~~((c))~~ (3) Summary of plans to develop additional enterprises;
- ~~((d))~~ (4) Assessment of productivity of goods;
- ~~((e))~~ (5) Amounts of goods sold and identification of purposes;
- ~~((f))~~ (6) Extent of cooperation with vocational educational programs;
- ~~((g))~~ (7) Number of inmates employed and hours worked;
- ~~((h))~~ (8) Average salary paid;
- ~~((i))~~ (9) Number of state employees utilized;
- ~~((j))~~ (10) Summary of inmate-operated businesses; ~~((and~~
- ~~((k))~~ (11) The extent to which employment opportunities in institutional industries match the available pool of inmate work skills and aptitudes with the work opportunities in the noncorrectional community; and
- (12) Any further information requested by the governor or the legislature.

~~((2))~~ The secretary shall submit to the legislature, no later than June 30, 1980, a comprehensive institutional industries plan which shall include:

- (a) A history of institutional industries in the state of Washington;
- (b) Status of existing institutional industries programs;
- (c) Status of proposed programs or programs pending operation, to include:
 - (i) Program design and staffing requirements, with particular emphasis on the Washington corrections center and new authorized facilities;
 - (ii) Inmate employment classification and related salaries;
 - (iii) Related training programs for inmates and staff;
 - (iv) Goals and objectives for improving inmate payment of restitution, family support, and cost of confinement;
 - (v) Capital expenditures;
 - (vi) Operational expenditures, including full-time equivalent staff classification; and
 - (vii) Sales promotion plans;

~~(d) An extensive survey of goods and services which can be produced for state and local governments; and~~

~~(e) Coordination with work release programs established pursuant to chapter 72.65 RCW.)~~

Sec. 107. Section 4, chapter 7, Laws of 1972 ex. sess. and RCW 72.62-.040 are each amended to read as follows:

The secretary of the department of social and health services or the secretary of corrections, as the case may be, shall credit the proceeds derived from the sale of such products, goods, wares, articles, or merchandise manufactured or produced by inmates of state correctional institutions within or in conjunction with vocational education programs to the institution where manufactured or produced to be deposited in a revolving fund to be expended for the purchase of supplies, materials and equipment for use in vocational education.

NEW SECTION. Sec. 108. There is added to chapter 72.64 RCW a new section to read as follows:

As used in this chapter:

"Department" means the department of corrections; and

"Secretary" means the secretary of corrections.

NEW SECTION. Sec. 109. It is the intent of the legislature that limitations be placed on the state correctional institutions at Monroe.

The following facilities at Monroe shall be subject to the inmate population limitations specified in this section.

(1) The special offender center shall house no more than one hundred forty-four inmates.

(2) The proposed medium security facility shall house no more than five hundred inmates.

(3) The Monroe reformatory population shall be as determined pursuant to federal court order:

PROVIDED, That the governor may declare an emergency and increase by ten percent for a twelve-month period of time the population limitation of any of the facilities specified in this section.

Sec. 110. Section 1, chapter 17, Laws of 1967 as amended by section 274, chapter 141, Laws of 1979 and RCW 72.65.010 are each amended to read as follows:

As used in this chapter, the following terms shall have the following meanings:

(1) "Department" shall mean the department of ~~((social and health services))~~ corrections.

(2) "Secretary" shall mean the secretary of ~~((social and health services))~~ corrections.

(3) "State correctional institutions" shall mean and include the Washington state penitentiary; the Washington corrections center; the

Washington state reformatory; (~~the Clallam Bay honor camp in Clallam county; the Larch Mountain honor camp in Clark county; the Washougal honor camp in Skamania county; the Okanogan honor camp in Okanogan county;~~) the McNeil Island penitentiary; the Purdy treatment center for women; the Cedar Creek corrections center; the Clearwater corrections center; the Firland correctional center; the Indian Ridge treatment center; the Larch corrections center; the Olympic correctional center; Pine Lodge correctional center; and the special offender center; and such other state correctional institutions, camps or facilities as may hereafter be established pursuant to law under the jurisdiction of the department for the treatment of convicted felons sentenced to a term of confinement.

(4) "Prisoner" shall mean a person either male or female, convicted of a felony and sentenced by the superior court to a term of confinement and treatment in a state correctional institution under the jurisdiction of the department.

(5) "Superintendent" shall mean the superintendent of a state correctional institution, camp or other facility now or hereafter established under the jurisdiction of the department pursuant to law.

Sec. 111. Section 8, chapter 17, Laws of 1967 as last amended by section 279, chapter 141, Laws of 1979 and RCW 72.65.080 are each amended to read as follows:

The secretary may enter into contracts with the appropriate authorities for the payment of the cost of feeding and lodging and other expenses of housing work release participants. Such contracts may include any other terms and conditions as may be appropriate for the implementation of the work release program. In addition the secretary is authorized to acquire, by lease or contract, appropriate facilities for the housing of work release participants and providing for their subsistence and supervision. Such work release participants placed in leased or contracted facilities shall be required to reimburse the department (~~(of social and health services)~~) the per capita cost of subsistence and lodging in accordance with the provisions and in the priority established by RCW 72.65.050(2). The location of such facilities shall not be subject to the zoning laws of the city or county in which they may be situated.

Sec. 112. Section 10, chapter 17, Laws of 1967 as amended by section 280, chapter 141, Laws of 1979 and RCW 72.65.100 are each amended to read as follows:

The secretary is authorized to make rules and regulations for the administration of the provisions of this chapter to administer the work release program. In addition, the department shall:

- (1) Supervise and consult with work release participants;
- (2) Locate available employment or vocational training opportunities for qualified work release participants;
- (3) Effect placement of work release participants under the program;

(4) Collect, account for and make disbursement from earnings of work release participants under the provisions of this chapter;

(5) Promote public understanding and acceptance of the work release program.

All state agencies shall cooperate with the department (~~(of social and health services)~~) in the administration of the work release program as provided by this chapter.

Sec. 113. Section 2, chapter 58, Laws of 1971 ex. sess. as amended by section 2, chapter 20, Laws of 1973 and RCW 72.66.010 are each amended to read as follows:

As used in this chapter the following words shall have the following meanings:

(1) "Department" means the department of (~~(social and health services)~~) corrections.

(2) "Furlough" means an authorized leave of absence for an eligible resident, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or corrections official while on such leave.

(3) "Emergency furlough" means a specially expedited furlough granted to a resident to enable him to meet an emergency situation, such as the death or critical illness of a member of his family.

(4) "Resident" means a person convicted of a felony and serving a sentence for a term of confinement in a state correctional institution or facility, or a state approved work or training release facility.

(5) "Secretary" means the secretary of (~~(the department of social and health services)~~) corrections, or his designee or designees.

NEW SECTION. Sec. 114. There is added to chapter 72.68 RCW a new section to read as follows:

As used in this chapter:

"Department" means the department of corrections; and

"Secretary" means the secretary of corrections.

Sec. 115. Section 1, chapter 59, Laws of 1972 ex. sess. and RCW 72.68.031 are each amended to read as follows:

When, in the judgment of the secretary (~~(of the department of social and health services)~~), the welfare of any person committed to or confined in any state correctional institution or facility necessitates that such person be transferred or moved for observation, diagnosis or treatment to any state institution or facility for the care of the mentally ill, the secretary, with the consent of the secretary of social and health services, is authorized to order and effect such move or transfer: **PROVIDED**, That the sentence of such person shall continue to run as if he remained confined in a correctional institution or facility, and that such person shall not continue so detained or

confined beyond the maximum term to which he was sentenced: PROVIDED, FURTHER, That the secretary and the board of prison terms and paroles shall adopt and implement procedures to assure that persons so transferred shall, while detained or confined at such institution or facility for the care of the mentally ill, be provided with substantially similar opportunities for parole or early release evaluation and determination as persons detained or confined in the state correctional institutions or facilities.

Sec. 116. Section 2, chapter 59, Laws of 1972 ex. sess. and RCW 72.68.032 are each amended to read as follows:

When, in the judgment of the secretary of the department of social and health services, the welfare of any person committed to or confined in any state institution or facility for the care of the mentally ill necessitates that such person be transferred or moved for observation, diagnosis, or treatment, or for different security status while being observed, diagnosed or treated to any other state institution or facility for the care of the mentally ill, the secretary of social and health services is authorized to order and effect such move or transfer.

Sec. 117. Section 72.68.040, chapter 28, Laws of 1959 as last amended by section 284, chapter 141, Laws of 1979 and RCW 72.68.040 are each amended to read as follows:

The secretary may contract with the authorities of the federal government, or the authorities of any state of the United States or of any county or city in this state providing for the detention in an institution or jail operated by such governmental unit, of prisoners convicted of a felony in the courts of this state and sentenced to a term of imprisonment therefor in a state correctional institution for convicted felons under the jurisdiction of the department (~~of social and health services~~). After the making of a contract under this section, prisoners sentenced to a term of imprisonment in a state correctional institution for convicted felons may be conveyed by the superintendent or his assistants to the institution or jail named in the contract. The prisoners shall be delivered to the authorities of the institution or jail, there to be confined until their sentences have expired or they are otherwise discharged by law, paroled or until they are returned to a state correctional institution for convicted felons for further confinement.

Sec. 118. Section 2, chapter 287, Laws of 1959 as amended by section 290, chapter 141, Laws of 1979 and RCW 72.70.020 are each amended to read as follows:

The secretary of (~~social and health services~~) corrections is authorized to receive or transfer an inmate as defined in Article II(d) of the Western Interstate Corrections Compact to any institution as defined in Article II(e) of the Western Interstate Corrections Compact within this state or without

this state, if this state has entered into a contract or contracts for the confinement of inmates in such institutions pursuant to Article III of the Western Interstate Corrections Compact.

Sec. 119. Section 5, chapter 287, Laws of 1959 as amended by section 292, chapter 141, Laws of 1979 and RCW 72.70.050 are each amended to read as follows:

The secretary of (~~((social and health services))~~) corrections is hereby empowered to enter into such contracts on behalf of this state as may be appropriate to implement the participation of this state in the Western Interstate Corrections Compact pursuant to Article III thereof. No such contract shall be of any force or effect until approved by the attorney general.

Sec. 120. Section 2, chapter 108, Laws of 1979 ex. sess. and RCW 72.72.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of (~~((social and health services))~~) corrections.

(2) "Political subdivisions" means counties, cities, and towns.

(3) "Institution" means any state institution (~~((operated by the department))~~) for the confinement of adult offenders committed pursuant to chapters 10.64, 10.77, and 71.06 RCW or juvenile offenders committed pursuant to chapter 13.40 RCW.

(4) "Secretary" means the secretary of (~~((social and health services))~~) corrections.

NEW SECTION. Sec. 121. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 178, Laws of 1933 and RCW 19.20.010;

(2) Section 1, chapter 294, Laws of 1927, section 1, chapter 178, Laws of 1933, section 1, chapter 73, Laws of 1970 ex. sess., section 1, chapter 44, Laws of 1975 and RCW 19.20.020;

(3) Section 2, chapter 294, Laws of 1927, section 2, chapter 178, Laws of 1933 and RCW 19.20.060;

(4) Section 5, chapter 178, Laws of 1933 and RCW 19.20.900;

(5) Section 3, chapter 294, Laws of 1927 and RCW 19.20.910;

(6) Section 31, chapter 99, Laws of 1979 and RCW 43.131.209;

(7) Section 73, chapter 99, Laws of 1979 and RCW 43.131.210;

(8) Section 72.08.170, chapter 28, Laws of 1959, section 32, chapter 106, Laws of 1973 and RCW 72.08.170;

(9) Section 72.60.010, chapter 28, Laws of 1959, section 254, chapter 141, Laws of 1979 and RCW 72.60.010;

(10) Section 72.60.020, chapter 28, Laws of 1959, section 255, chapter 141, Laws of 1979 and RCW 72.60.020;

- (11) Section 72.60.030, chapter 28, Laws of 1959, section 256, chapter 141, Laws of 1979 and RCW 72.60.030;
- (12) Section 72.60.040, chapter 28, Laws of 1959, section 257, chapter 141, Laws of 1979 and RCW 72.60.040;
- (13) Section 72.60.050, chapter 28, Laws of 1959 and RCW 72.60.050;
- (14) Section 72.60.060, chapter 28, Laws of 1959, section 169, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 72.60.060;
- (15) Section 72.60.070, chapter 28, Laws of 1959 and RCW 72.60.070;
- (16) Section 72.60.080, chapter 28, Laws of 1959 and RCW 72.60.080;
- (17) Section 72.60.090, chapter 28, Laws of 1959, section 258, chapter 141, Laws of 1979 and RCW 72.60.090;
- (18) Section 72.60.120, chapter 28, Laws of 1959 and RCW 72.60.120;
- (19) Section 72.60.130, chapter 28, Laws of 1959, section 259, chapter 141, Laws of 1979, section 2, chapter 160, Laws of 1979 ex. sess. and RCW 72.60.130;
- (20) Section 72.60.140, chapter 28, Laws of 1959 and RCW 72.60.140;
- (21) Section 72.60.150, chapter 28, Laws of 1959 and RCW 72.60.150;
- (22) Section 72.60.170, chapter 28, Laws of 1959 and RCW 72.60.170;
- (23) Section 72.60.180, chapter 28, Laws of 1959 and RCW 72.60.180;
- (24) Section 72.60.200, chapter 28, Laws of 1959, section 261, chapter 141, Laws of 1979 and RCW 72.60.200;
- (25) Section 72.60.210, chapter 28, Laws of 1959 and RCW 72.60.210;
- (26) Section 72.60.230, chapter 28, Laws of 1959 and RCW 72.60.230;
- (27) Section 1, chapter 273, Laws of 1959, section 263, chapter 141, Laws of 1979 and RCW 72.60.240;
- (28) Section 2, chapter 273, Laws of 1959, section 262, chapter 141, Laws of 1979 and RCW 72.60.250;
- (29) Section 3, chapter 273, Laws of 1959, section 264, chapter 141, Laws of 1979 and RCW 72.60.260; and
- (30) Section 4, chapter 273, Laws of 1959, section 11, chapter 189, Laws of 1971 ex. sess., section 173, chapter 151, Laws of 1979 and RCW 72.60.270.

NEW SECTION. Sec. 122. Sections 1 through 12 and 16 through 23 of this act shall constitute a new chapter in Title 72 RCW.

* **NEW SECTION.** Sec. 123. There is hereby appropriated from the general fund \$5,090,000 to the department of corrections as established in this 1981 act. This appropriation shall be subject to the following conditions and limitations:

(1) For the 1981-83 biennium the department of corrections shall be authorized an additional 93 FTE staff years.

(2) These additional FTE staff years shall be in addition to the staffing level authorized in ESSB 3636. There shall be transferred to the department of corrections an amount of general fund appropriation, state and

FTE staff years, the exact amount to be determined by the secretary of social and health services and the secretary of corrections subject to the approval of the director of the office of financial management.

The appropriation contained in this section is to provide for implementation of this act. The appropriation contained in this section should not be construed to approve the staffing patterns and levels specified in the fiscal note. It should be understood that the appropriation does not authorize any increases in top management salaries or positions as requested in the fiscal note.

*Sec. 123. was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 124. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981.

Passed the House April 23, 1981.

Passed the Senate April 26, 1981.

Approved by the Governor May 14, 1981, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 14, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to lines 22 through 28, Section 123, Second Substitute House Bill No. 235 entitled:

"AN ACT Relating to corrections."

The above-referenced paragraph of Section 123 frustrates the directive of the bill — to create a separate, well managed Department of Corrections. Inherent in the legislation is the assumption that several improvements in management may be required. I have, therefore, vetoed lines 22 through 28 in Section 123.

With the exception of lines 22 through 28 of Section 123, which I have vetoed, the remainder of Second Substitute House Bill No. 235 is approved."

CHAPTER 137

[Second Substitute House Bill No. 440]

SENTENCING REFORM ACT OF 1981

AN ACT Relating to sentencing; amending section 9A.20.020, chapter 260, Laws of 1975 1st ex. sess. as amended by section 2, chapter 38, Laws of 1975-'76 2nd ex. sess. and RCW 9A.20.020; amending section 4, chapter 14, Laws of 1975 as last amended by section 1, chapter 244, Laws of 1979 and RCW 9A.44.040; adding a new chapter to Title 9 RCW; adding a new section to chapter 9.92 RCW; adding new sections to chapter 9.95 RCW; adding a new section to chapter 9.95A RCW; adding a new section to chapter 72.04A RCW; adding a new section to chapter 72.65 RCW; creating a new section; repealing section 1, chapter 175, Laws of 1969 ex. sess. and RCW 9.41.025; repealing section 2, chapter 17, Laws of 1967, section 275, chapter 141, Laws of 1979, section 1, chapter 160, Laws of 1979 ex. sess. and RCW 72.65.020; repealing section 3, chapter 17, Laws of 1967, section 275, chapter 141, Laws of 1979 and RCW 72.65.030; repealing section 4, chapter 17, Laws of 1967, section 277, chapter 141, Laws of 1979 and RCW 72.65.040; repealing section 1, chapter 47, Laws of 1947, section 1, chapter 114, Laws of 1935 and RCW 9.95.001; repealing section 9, chapter 340, Laws of 1955, section 1, chapter 32,

Laws of 1952, section 9, chapter 98, Laws of 1969, section 8, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 9.95.003; repealing section 10, chapter 340, Laws of 1955, section 2, chapter 32, Laws of 1959 and RCW 9.95.005; repealing section 3, chapter 32, Laws of 1959, section 1, chapter 63, Laws of 1975-'76 2nd ex. sess. and RCW 9.95.007; prescribing penalties; making an appropriation; and providing effective dates.

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

NEW SECTION. Section 1. The purpose of this chapter is to make the criminal justice system accountable to the public by developing a system for the sentencing of felony offenders which structures, but does not eliminate, discretionary decisions affecting sentences, and to add a new chapter to Title 9 RCW designed to:

- (1) Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history;
- (2) Promote respect for the law by providing punishment which is just;
- (3) Be commensurate with the punishment imposed on others committing similar offenses;
- (4) Protect the public;
- (5) Offer the offender an opportunity to improve him or herself; and
- (6) Make frugal use of the state's resources.

NEW SECTION. Sec. 2. This chapter may be known and cited as the sentencing reform act of 1981.

NEW SECTION. Sec. 3. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Commission" means the sentencing guidelines commission.
- (2) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed pursuant to this chapter by a court. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to section 12(4) of this act.
- (3) "Confinement" means total or partial confinement as defined in this section.
- (4) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW.
- (5) "Crime-related prohibition" means an order of a court prohibiting conduct which 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.
- (6)(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" includes a defendant's convictions or pleas of guilty in juvenile court if: (i) The guilty plea or conviction was for an offense which is a felony and is criminal history as defined in RCW 13.40.020(6)(a); and (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) the defendant was twenty-three years of age or less at the time the offense for which he or she is being sentenced was committed.

(7) "Department" means the department of social and health services.

(8) "Determinate sentence" means a sentence which 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 fine or restitution. 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.

(9) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(10) "First-time offender" means any person convicted of a felony not classified as a violent offense under this chapter, 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.

(11) "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.

(12) "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, for a substantial portion of each day with the balance of the day spent in the community.

(13) "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.

(14) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(15) "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.

(16) "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, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, which is comparable to a felony classified as a violent offense in subsection (16)(a) of this section; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a violent offense under subsection (16)(a) or (b) of this section.

NEW SECTION. Sec. 4. (1) A sentencing guidelines commission is established as an agency of state government.

(2) The commission shall, following a public hearing or hearings:

(a) Devise a series of recommended standard sentence ranges for all felony offenses and a system for determining which range of punishment applies to each offender based on the extent and nature of the offender's criminal history, if any;

(b) Devise recommended prosecuting standards in respect to charging of offenses and plea agreements; and

(c) Devise recommended standards to govern whether sentences are to be served consecutively or concurrently.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community service, and a fine.

(4) In devising the standard sentence ranges of total and partial confinement under this section, the commission is subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.020.

(5) In carrying out its duties under subsection (2) of this section, the commission shall give consideration to the existing guidelines adopted by the association of superior court judges and the Washington association of prosecuting attorneys and the experience gained through use of those guidelines. The commission shall emphasize confinement for the violent offender and alternatives to total confinement for the nonviolent offender.

(6) This commission shall conduct a study to determine the capacity of correctional facilities and programs which are or will be available. While the commission need not consider such capacity in arriving at its recommendations, the commission shall project whether the implementation of its recommendations would result in exceeding such capacity. If the commission finds that this result would probably occur, then the commission shall prepare an additional list of standard sentences which shall be consistent with such capacity.

(7) By September 1, 1982, the commission shall recommend its standard sentence ranges and standards to the legislature by providing the recommendations to the chief clerk of the house of representatives and secretary of the senate. If the commission has prepared an additional list of standard sentence ranges, as provided under subsection (6) of this section, then the commission shall include such list along with its recommendations.

(8) Every two years, the commission may recommend to the legislature revisions or modifications to the standard sentence ranges and other standards. If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard sentence ranges which are consistent with correction capacity.

(9) The commission shall study the existing criminal code and from time to time make recommendations to the legislature for modification.

(10) The commission shall exercise its duties under this section in conformity with chapter 34.04 RCW, as now existing or hereafter amended.

NEW SECTION. Sec. 5. The commission shall appoint a research staff of sufficient size and with sufficient resources to accomplish its duties. The commission may request from the office of financial management, the board of prison terms and paroles, administrator for the courts, and the department of social and health services such data, information, and data processing assistance as it may need to accomplish its duties, and such services shall be provided without cost to the commission. The commission shall adopt its own bylaws.

The salary for a full-time executive officer, if any, shall be fixed by the governor pursuant to RCW 43.03.040.

NEW SECTION. Sec. 6. (1) The commission consists of fifteen voting members, one of whom the governor shall designate as chairperson. With the exception of ex officio voting members, the voting members of the commission shall be appointed by the governor, subject to confirmation by the senate.

(2) The voting membership consists of the following:

(a) The head of the state agency having general responsibility for adult correction programs, as an ex officio member;

(b) The director of financial management, as an ex officio member;

(c) Until July 1, 1988, the chairman of the board of prison terms and paroles, as an ex officio member, and thereafter the chairman of the clemency and pardons board, as an ex officio member;

(d) Two prosecuting attorneys;

(e) Two attorneys with particular expertise in defense work;

(f) Four persons who are superior court judges;

(g) One person who is the chief law enforcement officer of a county or city;

(h) Three members of the public who are not and have never been prosecutors, attorneys, judges, or law enforcement officers.

In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the attorney members, of the association of superior court judges in respect to the members who are judges, and of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer.

(3) All voting members of the commission, except ex officio voting members, shall serve terms of three years and until their successors are appointed and confirmed. However, the governor shall stagger the terms by appointing four of the initial members for terms of one year, four for terms of two years, and four for terms of three years.

(4) The speaker of the house of representatives and the president of the senate may each appoint two nonvoting members to the commission, one from each of the two largest caucuses in each house. The members so appointed shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(5) The members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Legislative members shall be reimbursed by their respective houses as provided under RCW 44.04.120, as now existing or hereafter amended.

NEW SECTION. Sec. 7. (1) At its regular session convening in 1983, the legislature shall enact laws approving or modifying either the standards recommended by the commission, or the additional list of standard sentence ranges consistent with prison capacity in the event an additional list has been submitted pursuant to section 4(6) of this act. The standards so adopted shall take effect on July 1, 1984.

(2) Revisions or modifications of standard sentence ranges or other standards, together with any additional list of standard sentence ranges, shall be submitted to the legislature every two years and shall become effective as provided under subsection (1) of this section on July first of the year in which they are submitted.

NEW SECTION. Sec. 8. The prosecutor and the attorney for the defendant, or the defendant when acting pro se, may engage in discussions

with a view toward reaching an agreement that, upon the entering of a plea to a charged offense or to a lesser or related offense, the prosecutor will do any of the following:

- (1) Move for dismissal of other charges or counts;
- (2) Recommend a particular sentence within the sentence range applicable to the offense or offenses to which the offender pled guilty;
- (3) Recommend a particular sentence outside of the sentence range;
- (4) Agree to file a particular charge or count;
- (5) Agree not to file other charges or counts; or
- (6) Make any other promise to the defendant, except that in no instance may the prosecutor agree not to allege prior convictions.

The court shall not participate in any discussions under this section.

NEW SECTION. Sec. 9. (1) If a plea agreement has been reached by the prosecutor and the defendant pursuant to section 8 of this act, they shall at the time of the defendant's plea state to the court, on the record, the nature of the agreement and the reasons for the agreement. The court, at the time of the plea, shall determine if the agreement is consistent with the interests of justice and with the prosecuting standards. If the court determines it is not consistent with the interests of justice and with the prosecuting standards, the court shall order that neither the defendant nor the prosecutor is bound by the agreement and that the defendant may withdraw the defendant's plea of guilty if one has been made and enter a plea of not guilty.

(2) The sentencing judge is not bound by any recommendations contained in an allowed plea agreement and the defendant shall be so informed at the time of plea.

NEW SECTION. Sec. 10. The prosecuting attorney and the defendant shall each provide the court with their understanding of what the defendant's criminal history is prior to a plea of guilty pursuant to a plea agreement. All disputed issues as to criminal history shall be decided at the sentencing hearing.

NEW SECTION. Sec. 11. Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing. The court shall consider the presentence reports and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim or a representative of the victim, and an investigative law enforcement officer as to the sentence to be imposed. If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. All presentence reports presented to the sentencing court and

all written findings of facts and conclusions of law entered by the court shall accompany the offender if the offender is committed to the custody of the department.

NEW SECTION. Sec. 12. 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) and (4) 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 that imposition of a sentence within the standard range would impose an excessive punishment on the defendant or would pose an unacceptable threat to community safety.

(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) 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 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 three years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum three year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

(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:

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment 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 probation officer of any change in the offender's address or employment;
- (e) Report as directed to the court and a probation officer; or
- (f) Pay a fine, make restitution, and/or accomplish some community service work.

(6) 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, restitution, a term of community supervision not to exceed one year, and/or a fine. The court may impose a sentence which provides more than one year of confinement if the court finds that the sentence otherwise authorized by this subsection would pose an unacceptable threat to community safety.

(7) If the court imposes a sentence requiring confinement of sixty 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 sixty days of confinement shall be served on consecutive days.

(8) If a sentence imposed includes a fine or restitution, the sentence shall specify a reasonable manner and time in which the fine or restitution shall be paid. No such period of time may exceed ten years subsequent to the entering of the judgment of conviction.

(9) A court may not impose a sentence which exceeds the statutory maximum for the crime as provided in RCW 9A.20.020.

NEW SECTION. Sec. 13. The power to defer or suspend the imposition or execution of sentence is hereby abolished in respect to sentences prescribed for felonies committed after June 30, 1984.

NEW SECTION. Sec. 14. (1) If restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing and may set the terms and conditions under which the defendant shall make restitution. Restitution ordered by a court pursuant to a criminal conviction shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, and lost wages resulting from physical injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. 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 subsequent to the imposition of sentence.

(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.

NEW SECTION. Sec. 15. No person serving a sentence imposed pursuant to this chapter shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) The terms of the sentence may be reduced by earned early release time in accordance with procedures developed and promulgated by the department. The earned early release time shall be for good behavior and good performance, as determined by the department. In no case shall the aggregate earned early release time exceed one-third of the sentence;

(2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(3) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(4) If the sentence of confinement is in excess of eighteen months but not in excess of three years, the final three months of the sentence shall be served in partial confinement designed to aid the offender in finding work and reestablishing him or herself in the community. If the sentence of confinement is in excess of three years, the final six months of the sentence shall be served in such partial confinement;

(5) The governor may pardon any offender; and

(6) The department of social and health services may release an offender from total confinement any time within ten days before a release date calculated under this section.

(7) An offender may leave a correctional facility prior to completion of his sentence if the sentence has been reduced as provided in section 16 of this act.

NEW SECTION. Sec. 16. If the governor finds that an emergency exists in that the population of a state residential correctional facility exceeds its reasonable, maximum capacity, then the governor may do any one or more of the following:

(1) Call the sentencing guidelines commission into an emergency meeting for the purpose of evaluating its standard ranges and other standards. The commission may adopt any revision or amendment to its standard ranges or other standards that it believes appropriate to deal with the emergency situation. The revision or amendment shall be adopted in conformity with chapter 34.04 RCW, as now existing or hereafter amended,

and shall take effect on the date prescribed by the commission. Unless the commission provides to the contrary, section 7 of this act does not apply to such revision or amendments;

(2) If the emergency occurs prior to July 1, 1988, call the board of prison terms and paroles into an emergency meeting for the purpose of evaluating its guidelines and procedures for release of prisoners. The board may take any action authorized by law to modify the terms of prisoners under its jurisdiction;

(3) Call the clemency and pardons board into an emergency meeting for the purpose of recommending whether the governor's commutation or pardon power should be exercised to meet the present emergency.

NEW SECTION. Sec. 17. A term of confinement ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented him or herself from supervision without the prior approval of the entity in whose custody the offender has been placed.

NEW SECTION. Sec. 18. An offender sentenced to a term of partial confinement shall be confined in the facility for at least eight hours per day. The offender shall be required as a condition of partial confinement to report to the facility at designated times. An offender may be required to comply with crime-related prohibitions during the period of partial confinement.

NEW SECTION. Sec. 19. A sentence which includes a term or terms of confinement totaling more than one year shall be served in a facility or institution operated, or utilized under contract, by the state. A sentence of not more than one year of confinement shall be served in a facility operated, or utilized under contract, by the county.

NEW SECTION. Sec. 20. (1) If an offender violates any condition or requirement of a sentence, the offender may receive further punishment in accordance with this section.

(2) If a defendant fails to comply with any of the requirements or conditions of a sentence the following provisions apply:

(a) The court, upon the motion of the state, or upon its own motion, shall require the defendant to show cause why the defendant should not be confined for the noncompliance. The court may issue a summons or a warrant of arrest for the defendant's appearance;

(b) The state has the burden of showing noncompliance by a preponderance of the evidence. The defendant has the burden of showing by a preponderance of the evidence that the noncompliance was not a wilful refusal. If the court finds that the violation was wilful, it shall order the defendant confined for a period not to exceed sixty days for each violation; and

(c) If the court finds that the violation was not wilful, the court may reduce or extend the payment period or eliminate the fine or reduce or relieve

the defendant of the obligation of community service work or of making restitution.

(3) Nothing in this section prohibits the filing of escape charges if appropriate.

NEW SECTION. Sec. 21. (1) A sentence within the standard range for the offense shall not be appealed. For purposes of this section, a sentence imposed on a first offender under section 12(4) of this act shall also be deemed to be within the standard range for the offense and shall not be appealed.

(2) If a sentence is outside of the sentence range for the offense, the defendant or prosecutor may seek review of the sentence before the court of appeals in accordance with rules adopted by the supreme court.

(3) Pending review of the sentence, the sentencing court or the court of appeals may order the defendant confined or placed on conditional release, including bond.

(4) To reverse a sentence which is outside the sentence range, the reviewing court must find: (a) Either that the reasons supplied by the sentencing judge are not supported by the record which was before the judge or that those reasons do not justify a sentence outside the standard range for that offense; or (b) that the sentence imposed was clearly excessive or clearly too lenient.

(5) A review under this section shall be made solely upon the record that was before the sentencing court. Written briefs shall not be required and the review shall be heard within thirty days following the date of sentencing and a decision shall be rendered within fifteen days following the oral argument.

(6) The court of appeals shall issue a written opinion in support of its decision whenever the judgment of the sentencing court is reversed and may issue written opinions in any other case where the court believes that a written opinion would provide guidance to sentencing judges and others in implementing this chapter and in developing a common law of sentencing within the state.

NEW SECTION. Sec. 22. When an offender has completed the requirements of the offender's sentence, the sentencing court shall discharge the offender and provide the offender with a certificate of discharge. The discharge shall have the effect of restoring all civil rights lost by operation of law upon conviction, and the certificate of discharge shall so state. Nothing in this section prohibits the use of an offender's prior record for purposes of determining sentences for later offenses as provided in this chapter. Nothing in this section affects or prevents use of the offender's prior conviction in a later criminal prosecution either as an element of an offense or for impeachment purposes. A certificate of discharge is not based on a finding of rehabilitation.

Upon release from custody, the offender may apply to the department for counseling and help in adjusting to the community. This voluntary help may be provided for up to one year following the release from custody.

NEW SECTION. Sec. 23. (1) Every offender who has been discharged under section 22 of this act may apply to the sentencing court for a vacation of the offender's record of conviction. If the court finds the offender meets the tests prescribed in subsection (2) of this section, the court may clear the record of conviction by: (a) Permitting the offender to withdraw the offender's plea of guilty and to enter a plea of not guilty; or (b) if the offender has been convicted after a plea of not guilty, by the court setting aside the verdict of guilty; and (c) by the court dismissing the information or indictment against the offender.

(2) An offender may not have the record of conviction cleared if: (a) There are any criminal charges against the offender pending in any court of this state or another state, or in any federal court; (b) the offense was a violent offense as defined in section 3 of this act; (c) the offender has been convicted of a new crime in this state, another state, or federal court since the date of the offender's discharge under section 22 of this act; (d) the offense is a class B felony and less than ten years have passed since the date the applicant was discharged under section 22 of this act; and (e) the offense was a class C felony and less than five years have passed since the date the applicant was discharged under section 22 of this act.

(3) Once the court vacates a record of conviction under subsection (1) of this section, the fact that the offender has been convicted of the offense shall not be included in the offender's criminal history for purposes of determining a sentence in any subsequent conviction, and the offender shall be released from all penalties and disabilities resulting from the offense. For all purposes, including responding to questions on employment applications, an offender whose conviction has been vacated may state that the offender has never been convicted of that crime. Nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

NEW SECTION. Sec. 24. There is added to chapter 9.95 RCW a new section to read as follows:

(1) On July 1, 1988, the board of prison terms and paroles shall cease to exist. Prior to that time, the board's membership shall be reduced as follows: (a) On July 1, 1985, the board shall be reduced to five members. This reduction shall take place by the expiration, on that date, of the two terms having the least time left to serve. (b) On July 1, 1986, the board shall be reduced to three members. This reduction shall take place by the expiration, on that date, of the two terms having the least time left to serve.

(2) Prior to its expiration and after July 1, 1984, the board shall continue its functions with respect to persons incarcerated for crimes committed prior to July 1, 1984. The board shall consider the standard ranges and

standards adopted pursuant to section 4 of this act, and shall attempt to make decisions reasonably consistent with those ranges and standards.

(3) On July 1, 1988, all documents, records, files, equipment, and other tangible property of the board of prison terms and paroles shall be delivered to the custody of the department of social and health services.

NEW SECTION. Sec. 25. (1) The clemency and pardons board is established as a board within the office of the governor. The board consists of five members appointed by the governor, subject to confirmation by the senate.

(2) Members of the board shall serve terms of four years and until their successors are appointed and confirmed. However, the governor shall stagger the terms by appointing one of the initial members for a term of one year, one for a term of two years, one for a term of three years, and two for terms of four years.

(3) The board shall elect a chairman from among its members and shall adopt bylaws governing the operation of the board.

(4) Members of the board shall receive no compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(5) The attorney general shall provide a staff as needed for the operation of the board.

NEW SECTION. Sec. 26. The clemency and pardons board shall receive petitions from individuals, organizations, and the department for review and commutation of sentences and pardoning of offenders in extraordinary cases, and shall make recommendations thereon to the governor.

NEW SECTION. Sec. 27. Nothing in this chapter shall be construed to alter, change, or otherwise modify the provisions of chapter 71.06 RCW.

NEW SECTION. Sec. 28. Sections 8 through 13, sections 15 through 23, and sections 25 and 26 of this act shall take effect on July 1, 1984. The sentences required under this chapter shall be prescribed in each sentence which occurs for a felony committed after June 30, 1984.

NEW SECTION. Sec. 29. The sentencing guidelines commission is classified as a class three citizen group under chapter 42.04 RCW for purposes of compensation of its members.

NEW SECTION. Sec. 30. Section 29 of this act shall not become effective unless Substitute House Bill No. 177 is enacted into law during the 1981 regular session of the legislature.

NEW SECTION. Sec. 31. There is added to chapter 9.92 RCW a new section to read as follows:

The following sections of law do not apply to any felony offense committed on or after July 1, 1984: RCW 9.92.050, 9.92.060, 9.92.062, 9.92.064, 9.92.066, 9.92.070, 9.92.080, 9.92.090, and 9.92.150.

NEW SECTION. Sec. 32. There is added to chapter 9.95 RCW a new section to read as follows:

The following sections of law do not apply to any felony offense committed on or after July 1, 1984: RCW 9.95.003, 9.95.005, 9.95.007, 9.95.010, 9.95.015, 9.95.020, 9.95.030, 9.95.031, 9.95.032, 9.95.040, 9.95.052, 9.95.070, 9.95.080, 9.95.090, 9.95.100, 9.95.110, 9.95.115, 9.95.120, 9.95.121, 9.95.122, 9.95.123, 9.95.124, 9.95.125, 9.95.126, 9.95.130, 9.95.140, 9.95.150, 9.95.160, 9.95.170, 9.95.190, 9.95.200, 9.95.210, 9.95.220, 9.95.230, 9.95.240, 9.95.250, 9.95.260, 9.95.265, 9.95.350, and 9.95.360.

NEW SECTION. Sec. 33. There is added to chapter 9.95A RCW a new section to read as follows:

The following sections of law do not apply to any felony offense committed on or after July 1, 1984: RCW 9.95A.010, 9.95A.020, 9.95A.030, 9.95A.040, 9.95A.050, 9.95A.060, 9.95A.070, 9.95A.080, 9.95A.090, 9.95A.900, and 9.96.050.

NEW SECTION. Sec. 34. There is added to chapter 72.04A RCW a new section to read as follows:

The following sections of law do not apply to any felony offense committed on or after July 1, 1984: RCW 72.04A.050, 72.04A.070, 72.04A.080, and 72.04A.090.

NEW SECTION. Sec. 35. There is added to chapter 72.65 RCW a new section to read as follows:

The secretary may permit a prisoner to participate in any work release plan or program but only if the participation is authorized pursuant to the prisoner's sentence or pursuant to section 15 of this 1981 act. This section shall become effective July 1, 1984.

Sec. 36. Section 4, chapter 14, Laws of 1975 as last amended by section 1, chapter 244, Laws of 1979 and RCW 9A.44.040 are each amended to read as follows:

(1) A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person not married to the perpetrator by forcible compulsion where the perpetrator or an accessory:

- (a) Uses or threatens to use a deadly weapon; or
- (b) Kidnaps the victim; or
- (c) Inflicts serious physical injury; or
- (d) Feloniously enters into the building or vehicle where the victim is situated.

(2) Rape in the first degree is a class A felony. (~~No person convicted of rape in the first degree shall be granted a deferred or suspended sentence except for the purpose of commitment to an inpatient treatment facility.~~)

~~PROVIDED, That every person convicted of rape in the first degree shall be confined for a minimum of three years. PROVIDED FURTHER, That the board of prison terms and paroles shall have authority to set a period of confinement greater than three years but shall never reduce the minimum three-year period of confinement nor shall the board release the convicted person during the first three years of confinement as a result of any type of automatic good time calculation nor shall the department of social and health services permit the convicted person to participate in any work release program or furlough program during the first three years of confinement.))~~

Sec. 37. Section 9A.20.020, chapter 260, Laws of 1975 1st ex. sess. as amended by section 2, chapter 38, Laws of 1975-'76 2nd ex. sess. and RCW 9A.20.020 are each amended to read as follows:

(1) Felony. ~~((Every))~~ No person convicted of a classified felony shall be punished ((as follows)) by confinement or fine exceeding the following:

(a) For a class A felony, by ~~((imprisonment))~~ confinement in a state correctional institution for a ~~((maximum))~~ term ~~((fixed by the court of not less than twenty years))~~ of life imprisonment, or by a fine in an amount fixed by the court of ~~((not more than ten))~~ fifty thousand dollars, or by both such ~~((imprisonment))~~ confinement and fine;

(b) For a class B felony, by ~~((imprisonment))~~ confinement in a state correctional institution for a ~~((maximum))~~ term of ~~((not more than))~~ ten years, or by a fine in an amount fixed by the court of ~~((not more than ten))~~ twenty thousand dollars, or by both such ~~((imprisonment))~~ confinement and fine;

(c) For a class C felony, by ~~((imprisonment))~~ confinement in a state correctional institution for ~~((a maximum term of not more than))~~ five years, or by a fine in an amount fixed by the court of ~~((not more than five))~~ ten thousand dollars, or by both such ~~((imprisonment))~~ confinement and fine.

(2) Gross Misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than ~~((one))~~ five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than ~~((five hundred))~~ one thousand dollars, or by both such imprisonment and fine.

NEW SECTION. Sec. 38. The following acts or parts of acts are hereby repealed, effective July 1, 1984:

- (1) Section 1, chapter 175, Laws of 1969 ex. sess. and RCW 9.41.025;
- (2) Section 2, chapter 17, Laws of 1967, section 275, chapter 141, Laws of 1979, section 1, chapter 160, Laws of 1979 ex. sess. and RCW 72.65.020;

(3) Section 3, chapter 17, Laws of 1967, section 275, chapter 141, Laws of 1979 and RCW 72.65.030; and

(4) Section 4, chapter 17, Laws of 1967, section 277, chapter 141, Laws of 1979 and RCW 72.65.040.

NEW SECTION. Sec. 39. The following acts or parts of acts are each repealed, effective July 1, 1988:

(1) Section 1, chapter 47, Laws of 1947, section 1, chapter 114, Laws of 1935 and RCW 9.95.001;

(2) Section 9, chapter 340, Laws of 1955, section 1, chapter 32, Laws of 1952, section 9, chapter 98, Laws of 1969, section 8, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 9.95.003;

(3) Section 10, chapter 340, Laws of 1955, section 2, chapter 32, Laws of 1959 and RCW 9.95.005; and

(4) Section 3, chapter 32, Laws of 1959, section 1, chapter 63, Laws of 1975-'76 2nd ex. sess. and RCW 9.95.007.

NEW SECTION. Sec. 40. Sections 1 through 23 and 25 through 29 of this act shall constitute a new chapter in Title 9 RCW.

NEW SECTION. Sec. 41. 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. 42. There is appropriated from the state general fund to the sentencing guidelines commission for the biennium ending June 30, 1983, the sum of six hundred eighty-five thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

Passed the House April 23, 1981.

Passed the Senate April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 138

[Substitute House Bill No. 76]

MURDER, SENTENCING

AN ACT Relating to capital punishment; amending section 9A.32.040, chapter 260, Laws of 1975 1st ex. sess. as amended by section 3, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.040; adding a new chapter to Title 10 RCW; repealing section 1, chapter 9, Laws of 1975-'76 2nd ex. sess., section 4, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.045; repealing section 2, chapter 9, Laws of 1975-'76 2nd ex. sess., section 5, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.046; repealing section 3, chapter 9, Laws of 1975-'76 2nd ex. sess., section 6, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.047; repealing section 87, page 115, Laws of 1854, section 223, page 231, Laws of 1873, section 1062, Code of 1881 and RCW 10.49.010; repealing section 8, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.040; repealing section 152, page 125, Laws of 1854, section 291, page 152, Laws of 1860, section 288, page 244, Laws of 1873, section 1130, Code of 1881, section 1, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.050; repealing section

2, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.060; repealing section 6, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.070; repealing section 3, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.080; repealing section 153, page 125, Laws of 1854, section 289, page 244, Laws of 1873, section 1131, Code of 1881 and RCW 10.70.090; repealing section 4, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.100; repealing section 5, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.110; repealing section 155, page 125, Laws of 1854, section 291, page 245, Laws of 1873, section 1133, Code of 1881 and RCW 10.70.120; repealing section 154, page 125, Laws of 1854, section 1132, Code of 1881, section 7, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.130; repealing section 1, chapter 206, Laws of 1977 ex. sess. and RCW 10.94.010; repealing section 2, chapter 206, Laws of 1977 ex. sess. and RCW 10.94.020; repealing section 7, chapter 206, Laws of 1977 ex. sess. and RCW 10.94.030; repealing section 10, chapter 206, Laws of 1977 ex. sess. and RCW 10.94.900; and declaring an emergency.

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

NEW SECTION. Section 1. No rule promulgated by the supreme court of Washington pursuant to RCW 2.04.190 and 2.04.200, now or in the future, shall be construed to supersede or alter any of the provisions of this chapter.

NEW SECTION. Sec. 2. A person is guilty of aggravated first degree murder if he or she commits first degree murder as defined by RCW 9A.32.030(1)(a), as now or hereafter amended, and one or more of the following aggravating circumstances exist:

(1) The victim was a law enforcement officer, corrections officer, or fire fighter who was performing his or her official duties at the time of the act resulting in death and the victim was known or reasonably should have been known by the person to be such at the time of the killing;

(2) At the time of the act resulting in the death, the person was serving a term of imprisonment, had escaped, or was on authorized or unauthorized leave in or from a state facility or program for the incarceration or treatment of persons adjudicated guilty of crimes;

(3) At the time of the act resulting in death, the person was in custody in a county or county-city jail as a consequence of having been adjudicated guilty of a felony;

(4) The person committed the murder pursuant to an agreement that he or she would receive money or any other thing of value for committing the murder;

(5) The person solicited another person to commit the murder and had paid or had agreed to pay money or any other thing of value for committing the murder;

(6) The victim was:

(a) A judge; juror or former juror; prospective, current, or former witness in an adjudicative proceeding; prosecuting attorney; deputy prosecuting attorney; defense attorney; a member of the board of prison terms and paroles; or a probation or parole officer; and

(b) The murder was related to the exercise of official duties performed or to be performed by the victim;

(7) The person committed the murder to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime;

(8) There was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the person;

(9) The murder was committed in the course of, in furtherance of, or in immediate flight from one of the following crimes:

(a) Robbery in the first or second degree;

(b) Rape in the first or second degree;

(c) Burglary in the first or second degree;

(d) Kidnaping in the first degree; or

(e) Arson in the first degree;

(10) The victim was regularly employed or self-employed as a newsreporter and the murder was committed to obstruct or hinder the investigative, research, or reporting activities of the victim.

NEW SECTION. Sec. 3. (1) Except as provided in subsection (2) of this section, any person convicted of the crime of aggravated first degree murder shall be sentenced to life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer and the board of prison terms and paroles or its successor may not parole such prisoner nor reduce the period of confinement in any manner whatsoever including but not limited to any sort of good-time calculation. The department of social and health services or its successor or any executive official may not permit such prisoner to participate in any sort of release or furlough program.

(2) If, pursuant to a special sentencing proceeding held under section 5 of this act, the trier of fact finds that there are not sufficient mitigating circumstances to merit leniency, the sentence shall be death.

NEW SECTION. Sec. 4. (1) If a person is charged with aggravated first degree murder as defined by section 2 of this act, the prosecuting attorney shall file written notice of a special sentencing proceeding to determine whether or not the death penalty should be imposed when there is reason to believe that there are not sufficient mitigating circumstances to merit leniency.

(2) The notice of special sentencing proceeding shall be filed and served on the defendant or the defendant's attorney within thirty days after the defendant's arraignment upon the charge of aggravated first degree murder unless the court, for good cause shown, extends or reopens the period for filing and service of the notice. Except with the consent of the prosecuting attorney, during the period in which the prosecuting attorney may file the notice of special sentencing proceeding, the defendant may not tender a plea of guilty to the charge of aggravated first degree murder nor may the court

accept a plea of guilty to the charge of aggravated first degree murder or any lesser included offense.

(3) If a notice of special sentencing proceeding is not filed and served as provided in this section, the prosecuting attorney may not request the death penalty.

NEW SECTION. Sec. 5. (1) If a defendant is adjudicated guilty of aggravated first degree murder, whether by acceptance of a plea of guilty, by verdict of a jury, or by decision of the trial court sitting without a jury, a special sentencing proceeding shall be held if a notice of special sentencing proceeding was filed and served as provided by section 4 of this act. No sort of plea, admission, or agreement may abrogate the requirement that a special sentencing proceeding be held.

(2) A jury shall decide the matters presented in the special sentencing proceeding unless a jury is waived in the discretion of the court and with the consent of the defendant and the prosecuting attorney.

(3) If the defendant's guilt was determined by a jury verdict, the trial court shall reconvene the same jury to hear the special sentencing proceeding. The proceeding shall commence as soon as practicable after completion of the trial at which the defendant's guilt was determined. If, however, unforeseen circumstances make it impracticable to reconvene the same jury to hear the special sentencing proceeding, the trial court may dismiss that jury and convene a jury pursuant to subsection (4) of this section.

(4) If the defendant's guilt was determined by plea of guilty or by decision of the trial court sitting without a jury, or if a retrial of the special sentencing proceeding is necessary for any reason including but not limited to a mistrial in a previous special sentencing proceeding or as a consequence of a remand from an appellate court, the trial court shall impanel a jury of twelve persons plus whatever alternate jurors the trial court deems necessary. The defense and prosecution shall each be allowed to peremptorily challenge twelve jurors. If there is more than one defendant, each defendant shall be allowed an additional peremptory challenge and the prosecution shall be allowed a like number of additional challenges. If alternate jurors are selected, the defense and prosecution shall each be allowed one peremptory challenge for each alternate juror to be selected and if there is more than one defendant each defendant shall be allowed an additional peremptory challenge for each alternate juror to be selected and the prosecution shall be allowed a like number of additional challenges.

NEW SECTION. Sec. 6. (1) At the commencement of the special sentencing proceeding, the trial court shall instruct the jury as to the nature and purpose of the proceeding and as to the consequences of its decision, as provided in section 3 of this act.

(2) At the special sentencing proceeding both the prosecution and defense shall be allowed to make an opening statement. The prosecution shall first present evidence and then the defense may present evidence. Rebuttal

evidence may be presented by each side. Upon conclusion of the evidence, the court shall instruct the jury and then the prosecution and defense shall be permitted to present argument. The prosecution shall open and conclude the argument.

(3) The court shall admit any relevant evidence which it deems to have probative value regardless of its admissibility under the rules of evidence, including hearsay evidence and evidence of the defendant's previous criminal activity regardless of whether the defendant has been charged or convicted as a result of such activity. The defendant shall be accorded a fair opportunity to rebut or offer any hearsay evidence.

In addition to evidence of whether or not there are sufficient mitigating circumstances to merit leniency, if the jury sitting in the special sentencing proceeding has not heard evidence of the aggravated first degree murder of which the defendant stands convicted, both the defense and prosecution may introduce evidence concerning the facts and circumstances of the murder.

(4) Upon conclusion of the evidence and argument at the special sentencing proceeding, the jury shall retire to deliberate upon the following question: "Having in mind the crime of which the defendant has been found guilty, are you convinced beyond a reasonable doubt that there are not sufficient mitigating circumstances to merit leniency?"

In order to return an affirmative answer to the question posed by this subsection, the jury must so find unanimously.

NEW SECTION. Sec. 7. In deciding the question posed by section 6(4) of this act, the jury, or the court if a jury is waived, may consider any relevant factors, including but not limited to the following:

(1) Whether the defendant has or does not have a significant history, either as a juvenile or an adult, of prior criminal activity;

(2) Whether the murder was committed while the defendant was under the influence of extreme mental disturbance;

(3) Whether the victim consented to the act of murder;

(4) Whether the defendant was an accomplice to a murder committed by another person where the defendant's participation in the murder was relatively minor;

(5) Whether the defendant acted under duress or domination of another person;

(6) Whether, at the time of the murder, the capacity of the defendant to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired as a result of mental disease or defect;

(7) Whether the age of the defendant at the time of the crime calls for leniency; and

(8) Whether there is a likelihood that the defendant will pose a danger to others in the future.

NEW SECTION. Sec. 8. (1) If a jury answers affirmatively the question posed by section 6(4) of this act, or when a jury is waived as allowed by section 5(2) of this act and the trial court answers affirmatively the question posed by section 6(4) of this act, the defendant shall be sentenced to death. The trial court may not suspend or defer the execution or imposition of the sentence.

(2) If the jury does not return an affirmative answer to the question posed in section 6(4) of this act, the defendant shall be sentenced to life imprisonment as provided in section 3(1) of this act.

NEW SECTION. Sec. 9. If any sentence of death imposed pursuant to this chapter is commuted by the governor, or held to be invalid by a final judgment of a court after all avenues of appeal have been exhausted by the parties to the action, or if the death penalty established by this chapter is held to be invalid by a final judgment of a court which is binding on all courts in the state, the sentence for aggravated first degree murder if there was an affirmative response to the question posed by section 6(4) of this act shall be life imprisonment as provided in section 3(1) of this act.

NEW SECTION. Sec. 10. Whenever a defendant is sentenced to death, upon entry of the judgment and sentence in the trial court the sentence shall be reviewed on the record by the supreme court of Washington.

Within ten days of the entry of a judgment and sentence imposing the death penalty, the clerk of the trial court shall transmit notice thereof to the clerk of the supreme court of Washington and to the parties. The notice shall include the caption of the case, its cause number, the defendant's name, the crime or crimes of which the defendant was convicted, the sentence imposed, the date of entry of judgment and sentence, and the names and addresses of the attorneys for the parties. The notice shall vest with the supreme court of Washington the jurisdiction to review the sentence of death as provided by this chapter. The failure of the clerk of the trial court to transmit the notice as required shall not prevent the supreme court of Washington from conducting the sentence review as provided by this act.

NEW SECTION. Sec. 11. (1) Within ten days after the entry of a judgment and sentence imposing the death penalty, the clerk of the trial court shall cause the preparation of a verbatim report of the trial proceedings to be commenced.

(2) Within five days of the filing and approval of the verbatim report of proceedings, the clerk of the trial court shall transmit such verbatim report of proceedings together with copies of all of the clerk's papers to the clerk of the supreme court of Washington. The clerk of the supreme court of Washington shall forthwith acknowledge receipt of these documents by providing notice of receipt to the clerk of the trial court, the defendant or his or her attorney, and the prosecuting attorney.

NEW SECTION. Sec. 12. In all cases in which a person is convicted of aggravated first degree murder, the trial court shall, within thirty days after the entry of the judgment and sentence, submit a report to the clerk of the supreme court of Washington, to the defendant or his or her attorney, and to the prosecuting attorney which provides the information specified under subsections (1) through (8) of this section. The report shall be in the form of a standard questionnaire prepared and supplied by the supreme court of Washington and shall include the following:

- (1) Information about the defendant, including the following:
 - (a) Name, date of birth, gender, marital status, and race and/or ethnic origin;
 - (b) Number and ages of children;
 - (c) Whether his or her parents are living, and date of death where applicable;
 - (d) Number of children born to his or her parents;
 - (e) The defendant's educational background, intelligence level, and intelligence quotient;
 - (f) Whether a psychiatric evaluation was performed, and if so, whether it indicated that the defendant was:
 - (i) Able to distinguish right from wrong;
 - (ii) Able to perceive the nature and quality of his or her act; and
 - (iii) Able to cooperate intelligently with his or her defense;
 - (g) Any character or behavior disorders found or other pertinent psychiatric or psychological information;
 - (h) The work record of the defendant;
 - (i) A list of the defendant's prior convictions including the offense, date, and sentence imposed; and
 - (j) The length of time the defendant has resided in Washington and the county in which he or she was convicted.
- (2) Information about the trial, including:
 - (a) The defendant's plea;
 - (b) Whether defendant was represented by counsel;
 - (c) Whether there was evidence introduced or instructions given as to defenses to aggravated first degree murder, including excusable homicide, justifiable homicide, insanity, duress, entrapment, alibi, intoxication, or other specific defense;
 - (d) Any other offenses charged against the defendant and tried at the same trial and whether they resulted in conviction;
 - (e) What aggravating circumstances were alleged against the defendant and which of these circumstances was found to have been applicable; and
 - (f) Names and charges filed against other defendant(s) if tried jointly and disposition of the charges.
- (3) Information concerning the special sentencing proceeding, including:

- (a) The date the defendant was convicted and date the special sentencing proceeding commenced;
 - (b) Whether the jury for the special sentencing proceeding was the same jury that returned the guilty verdict, providing an explanation if it was not;
 - (c) Whether there was evidence of mitigating circumstances;
 - (d) Whether there was, in the court's opinion, credible evidence of the mitigating circumstances as provided in section 7 of this act;
 - (e) The jury's answer to the question posed in section 6(4) of this act;
 - (f) The sentence imposed.
- (4) Information about the victim, including:
- (a) Whether he or she was related to the defendant by blood or marriage;
 - (b) The victim's occupation and whether he or she was an employer or employee of the defendant;
 - (c) Whether the victim was acquainted with the defendant, and if so, how well;
 - (d) The length of time the victim resided in Washington and the county;
 - (e) Whether the victim was the same race and/or ethnic origin as the defendant;
 - (f) Whether the victim was the same sex as the defendant;
 - (g) Whether the victim was held hostage during the crime and if so, how long;
 - (h) The nature and extent of any physical harm or torture inflicted upon the victim prior to death;
 - (i) The victim's age; and
 - (j) The type of weapon used in the crime, if any.
- (5) Information about the representation of the defendant, including:
- (a) Date counsel secured;
 - (b) Whether counsel was retained or appointed, including the reason for appointment;
 - (c) The length of time counsel has practiced law and nature of his or her practice; and
 - (d) Whether the same counsel served at both the trial and special sentencing proceeding, and if not, why not.
- (6) General considerations, including:
- (a) Whether the race and/or ethnic origin of the defendant, victim, or any witness was an apparent factor at trial;
 - (b) What percentage of the county population is the same race and/or ethnic origin of the defendant;
 - (c) Whether members of the defendant's or victim's race and/or ethnic origin were represented on the jury;
 - (d) Whether there was evidence that such members were systematically excluded from the jury;

(e) Whether the sexual orientation of the defendant, victim, or any witness was a factor in the trial;

(f) Whether any specific instruction was given to the jury to exclude race, ethnic origin, or sexual orientation as an issue;

(g) Whether there was extensive publicity concerning the case in the community;

(h) Whether the jury was instructed to disregard such publicity;

(i) Whether the jury was instructed to avoid any influence of passion, prejudice, or any other arbitrary factor when considering its verdict or its findings in the special sentencing proceeding;

(j) The nature of the evidence resulting in such instruction; and

(k) General comments of the trial judge concerning the appropriateness of the sentence considering the crime, defendant, and other relevant factors.

(7) Information about the chronology of the case, including the date that:

(a) The defendant was arrested;

(b) Trial began;

(c) The verdict was returned;

(d) Post-trial motions were ruled on;

(e) Special sentencing proceeding began;

(f) Sentence was imposed;

(g) Trial judge's report was completed; and

(h) Trial judge's report was filed.

(8) The trial judge shall sign and date the questionnaire when it is completed.

NEW SECTION. Sec. 13. (1) The sentence review required by section 10 of this act shall be in addition to any appeal. The sentence review and an appeal shall be consolidated for consideration. The defendant and the prosecuting attorney may submit briefs within the time prescribed by the court and present oral argument to the court.

(2) With regard to the sentence review required by this act, the supreme court of Washington shall determine:

(a) Whether there was sufficient evidence to justify the affirmative finding to the question posed by section 6(4) of this act; and

(b) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant. For the purposes of this subsection, "similar cases" means cases reported in the Washington Reports or Washington Appellate Reports since January 1, 1965, in which the judge or jury considered the imposition of capital punishment regardless of whether it was imposed or executed, and cases in which reports have been filed with the supreme court under section 12 of this act; and

(c) Whether the sentence of death was brought about through passion or prejudice.

NEW SECTION. Sec. 14. Upon completion of a sentence review:

(1) The supreme court of Washington shall invalidate the sentence of death and remand the case to the trial court for resentencing in accordance with section 9 of this act if:

(a) The court makes a negative determination as to the question posed by section 13(2)(a) of this act; or

(b) The court makes an affirmative determination as to either of the questions posed by section 13(2)(b) or (c) of this act.

(2) The court shall affirm the sentence of death and remand the case to the trial court for execution in accordance with section 16 of this act if:

(a) The court makes an affirmative determination as to the question posed by section 13(2)(a) of this act; and

(b) The court makes a negative determination as to the question posed by section 13(2)(b) and (c) of this act.

NEW SECTION. Sec. 15. In all cases in which a sentence of death has been imposed, the appeal, if any, and sentence review to or by the supreme court of Washington shall be decided and an opinion on the merits shall be filed within one year of receipt by the clerk of the supreme court of Washington of the verbatim report of proceedings and clerk's papers filed under section 11 of this act. If this time requirement is not met, the chief justice of the supreme court of Washington shall state on the record the extraordinary and compelling circumstances causing the delay and the facts supporting such circumstances. A failure to comply with the time requirements of this subsection shall in no way preclude the ultimate execution of a sentence of death.

NEW SECTION. Sec. 16. If a death sentence is affirmed and the case remanded to the trial court as provided in section 14(2) of this act, a death warrant shall forthwith be issued by the clerk of the trial court, which shall be signed by a judge of the trial court and attested by the clerk thereof under the seal of the court. The warrant shall be directed to the superintendent of the state penitentiary and shall state the conviction of the person named therein and the judgment and sentence of the court, and shall appoint a day on which the judgment and sentence of the court shall be executed by the superintendent, which day shall not be less than thirty nor more than ninety days from the date the trial court receives the remand from the supreme court of Washington.

NEW SECTION. Sec. 17. The defendant shall be imprisoned in the state penitentiary within ten days after the trial court enters a judgment and sentence imposing the death penalty and shall be imprisoned both prior to and subsequent to the issuance of the death warrant as provided in section 16 of this act. During such period of imprisonment, the defendant shall be confined in segregation from other prisoners not under sentence of death.

NEW SECTION. Sec. 18. (1) The punishment of death shall be supervised by the superintendent of the penitentiary and shall be inflicted either by hanging by the neck until death is pronounced by a licensed physician or, at the election of the defendant, by continuous, intravenous administration of a lethal dose of sodium thiopental until death is pronounced by a licensed physician.

(2) All executions, for both men and women, shall be carried out within the walls of the state penitentiary.

NEW SECTION. Sec. 19. (1) The superintendent of the state penitentiary shall keep in his or her office as part of the public records a book in which shall be kept a copy of each death warrant together with a complete statement of the superintendent's acts pursuant to such warrants.

(2) Within twenty days after each execution of a sentence of death, the superintendent of the state penitentiary shall return the death warrant to the clerk of the trial court from which it was issued with the superintendent's return thereon showing all acts and proceedings done by him or her thereunder.

NEW SECTION. Sec. 20. Whenever the day appointed for the execution of a defendant shall have passed, from any cause whatever, without the execution of such defendant having occurred, the defendant shall be returned to the trial court from which the death warrant was issued and the trial court shall issue a new death warrant in accordance with section 16 of this act.

Sec. 21. Section 9A.32.040, chapter 260, Laws of 1975 1st ex. sess. as amended by section 3, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.040 are each amended to read as follows:

Notwithstanding RCW 9A.32.030(2), any person convicted of the crime of murder in the first degree shall be sentenced ~~((as follows:~~

~~(1) If, pursuant to a special sentencing proceeding held under RCW 10.94.020, the jury finds that there are one or more aggravating circumstances and that there are not sufficient mitigating circumstances to merit leniency, and makes an affirmative finding on both of the special questions submitted to the jury pursuant to RCW 10.94.020(10), the sentence shall be death;~~

~~(2) If, pursuant to a special sentencing proceeding held under RCW 10.94.020, the jury finds that there are one or more aggravating circumstances but fails to find that there are not sufficient mitigating circumstances to merit leniency, or the jury answers in the negative either of the special questions submitted pursuant to RCW 10.94.020(10), the sentence shall be life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this subsection shall not have that sentence suspended, deferred, or commuted by any judicial officer, and the board of prison terms and paroles shall never parole a prisoner nor reduce~~

~~the period of confinement. The convicted person shall not be released as a result of any type of good time calculation nor shall the department of social and health services permit the convicted person to participate in any temporary release or furlough program; and~~

~~(3) In all other convictions for first degree murder, the sentence shall be life imprisonment)) to life imprisonment.~~

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. Sections 1 through 20 of this act shall constitute a new chapter in Title 10 RCW.

NEW SECTION. Sec. 24. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 9, Laws of 1975-'76 2nd ex. sess., section 4, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.045;

(2) Section 2, chapter 9, Laws of 1975-'76 2nd ex. sess., section 5, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.046;

(3) Section 3, chapter 9, Laws of 1975-'76 2nd ex. sess., section 6, chapter 206, Laws of 1977 ex. sess. and RCW 9A.32.047;

(4) Section 87, page 115, Laws of 1854, section 223, page 231, Laws of 1873, section 1062, Code of 1881 and RCW 10.49.010;

(5) Section 8, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.040;

(6) Section 152, page 125, Laws of 1854, section 291, page 152, Laws of 1860, section 288, page 244, Laws of 1873, section 1130, Code of 1881, section 1, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.050;

(7) Section 2, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.060;

(8) Section 6, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.070;

(9) Section 3, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.080;

(10) Section 153, page 125, Laws of 1854, section 289, page 244, Laws of 1873, section 1131, Code of 1881 and RCW 10.70.090;

(11) Section 4, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.100;

(12) Section 5, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.110;

(13) Section 155, page 125, Laws of 1854, section 291, page 245, Laws of 1873, section 1133, Code of 1881 and RCW 10.70.120;

(14) Section 154, page 125, Laws of 1854, section 1132, Code of 1881, section 7, chapter 9, Laws of 1901 ex. sess. and RCW 10.70.130;

(15) Section 1, chapter 206, Laws of 1977 ex. sess. and RCW 10.94.010;

(16) Section 2, chapter 206, Laws of 1977 ex. sess. and RCW 10.94.020;

(17) Section 7, chapter 206, Laws of 1977 ex. sess. and RCW 10.94-.030; and

(18) Section 10, chapter 206, Laws of 1977 ex. sess. and RCW 10.94.900.

NEW SECTION. Sec. 25. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 26, 1981.

Passed the Senate April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 139

[Engrossed Substitute Senate Bill No. 3307]

CONTROL OF GAMBLING

AN ACT Relating to the control of gambling; reenacting and amending section 3, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 165, Laws of 1977 ex. sess. and by section 2, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.030; reenacting and amending section 7, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 76, Laws of 1977 ex. sess. and by section 3, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.070; amending section 12, chapter 166, Laws of 1975 1st ex. sess. and RCW 9.46.075; amending section 8, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 4, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.080; amending section 9, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 4, chapter 75, Laws of 1977 and RCW 9.46.090; amending section 11, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 198, Laws of 1977 ex. sess. and RCW 9.46.110; amending section 1, chapter 87, Laws of 1975-76 2nd ex. sess. as amended by section 6, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.115; amending section 13, chapter 218, Laws of 1973 1st ex. sess. as amended by section 7, chapter 166, Laws of 1975 1st ex. sess. and RCW 9.46.130; amending section 21, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 15, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.210; amending section 23, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 16, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.230; creating new sections; adding new sections to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW; providing penalties; and declaring an emergency.

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

Section 1. Section 2, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 76, Laws of 1977 ex. sess. and by section 1, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.020 are each reenacted and amended to read as follows:

(1) "Amusement game" means a game played for entertainment in which:

- (a) The contestant actively participates;
- (b) The outcome depends in a material degree upon the skill of the contestant;
- (c) Only merchandise prizes are awarded;
- (d) The outcome is not in the control of the operator;

(e) The wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game; and

(f) Said game is conducted or operated by any agricultural fair, person, association, or organization in such manner and at such locations as may be authorized by rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended.

Cake walks as commonly known and fish ponds as commonly known shall be treated as amusement games for all purposes under this chapter.

The legislature hereby authorizes the wagering on the outcome of the roll of dice or the flipping of or matching of coins on the premises of an establishment engaged in the business of selling food or beverages for consumption on the premises to determine which of the participants will pay for certain items of food or beverages served or sold by such establishment and therein consumed. Such establishments are hereby authorized to possess dice and dice cups on their premises, but only for use in such limited wagering. Persons engaged in such limited form of wagering shall not be subject to the criminal or civil penalties otherwise provided for in this chapter: PROVIDED, That minors shall be barred from engaging in the wagering activities allowed by this ((1977 amendatory act)) chapter.

(2) "Bingo" means a game conducted only in the county within which the organization is principally located in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and in which no cards are sold except at the time and place of said game, when said game is conducted by a bona fide charitable or nonprofit organization which does not conduct or allow its premises to be used for conducting bingo on more than three occasions per week and which does not conduct bingo in any location which is used for conducting bingo on more than three occasions per week, or if an agricultural fair authorized under chapters 15.76 and 36.37 RCW, which does not conduct bingo on more than twelve consecutive days in any calendar year, and except in the case of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a bona fide member or an employee of said organization takes any part in the management or operation of said game, and no person who takes any part in the management or operation of said game takes any part in the management or operation of any game conducted by any other organization or any other branch of the same organization, unless approved by the commission, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game. For the purposes of this subsection the organization shall be deemed to be principally located in the county within which it has its primary business office. If the organization has no business office, the organization shall be deemed to be located in the county of principal residence of its chief executive officer: PROVIDED, That any organization

which is conducting any licensed and established bingo game in any locale as of January 1, 1981 shall be exempt from the requirement that such game be conducted in the county in which the organization is principally located.

(3) "Bona fide charitable or nonprofit organization" means: (a) any organization duly existing under the provisions of chapters 24.12, 24.20, or 24.28 RCW, any agricultural fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes only, or any nonprofit organization, whether incorporated or otherwise, when found by the commission to be organized and operating for one or more of the aforesaid purposes only, all of which in the opinion of the commission have been organized and are operated primarily for purposes other than the operation of gambling activities authorized under this chapter; or (b) any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same. Such an organization must have been organized and continuously operating for at least twelve calendar months immediately preceding making application for any license to operate a gambling activity, or the operation of any gambling activity authorized by this chapter for which no license is required. It must have not less than fifteen bona fide active members each with the right to an equal vote in the election of the officers, and board members, if any, who determine the policies of the organization in order to receive a gambling license. An organization must demonstrate to the commission that it has made significant progress toward the accomplishment of the purposes of the organization during the twelve consecutive month period preceding the date of application for a license or license renewal. The fact that contributions to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.

Any person, association or organization which pays its employees, including members, compensation other than is reasonable therefor under the local prevailing wage scale shall be deemed paying compensation based in part or whole upon receipts relating to gambling activities authorized under this chapter and shall not be a bona fide charitable or nonprofit organization for the purposes of this chapter.

(4) "Bookmaking" means accepting bets as a business, rather than in a casual or personal fashion, upon the outcome of future contingent events.

(5) "Commercial stimulant". An activity is operated as a commercial stimulant, for the purposes of this chapter, only when it is an incidental activity operated in connection with, and incidental to, an established business, with the primary purpose of increasing the volume of sales of food or drink for consumption on that business premises. The commission may by rule establish guidelines and criteria for applying this definition to its applicants and licensees for gambling activities authorized by this chapter as commercial stimulants.

(6) "Commission" means the Washington state gambling commission created in RCW 9.46.040.

(7) "Contest of chance" means any contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(8) "Fishing derby" means a fishing contest, with or without the payment or giving of an entry fee or other consideration by some or all of the contestants wherein prizes are awarded for the species, size, weight, or quality of fish caught in a bona fide fishing or recreational event.

(9) "Gambling". A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include fishing derbies as defined by this chapter, parimutuel betting as authorized by chapter 67.16 RCW, bona fide business transactions valid under the law of contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guarantee and life, health or accident insurance. In addition, a contest of chance which is specifically excluded from the definition of lottery under subsection (14) of this section shall not constitute gambling.

(10) "Gambling device" means: (a) Any device or mechanism the operation of which a right to money, credits, deposits or other things of value may be created, in return for a consideration, as the result of the operation of an element of chance; (b) any device or mechanism which, when operated for a consideration, does not return the same value or thing of value for the same consideration upon each operation thereof; (c) any device, mechanism, furniture, fixture, construction or installation designed primarily for use in connection with professional gambling; and (d) any subassembly or essential part designed or intended for use in connection with any such device, mechanism, furniture, fixture, construction or installation. But in the application of this definition, a pinball machine or similar mechanical

amusement device which confers only an immediate and unrecorded right of replay on players thereof, which does not contain any mechanism which varies the chance of winning free games or the number of free games which may be won or a mechanism or a chute for dispensing coins or a facsimile thereof, and which prohibits multiple winnings depending upon the number of coins inserted and requires the playing of five balls individually upon the insertion of a nickel or dime, as the case may be, to complete any one operation thereof, shall not be deemed a gambling device: PROVIDED FURTHER, That owning, possessing, buying, selling, renting, leasing, financing, holding a security interest in, storing, repairing and transporting such pinball machines or similar mechanical amusement devices shall not be deemed engaging in professional gambling for the purposes of this chapter and shall not be a violation of this chapter: PROVIDED FURTHER, That any fee for the purchase or rental of any such pinball machines or similar amusement devices shall have no relation to the use to which such machines are put but be based only upon the market value of any such machine, regardless of the location of or type of premises where used, and any fee for the storing, repairing and transporting thereof shall have no relation to the use to which such machines are put, but be commensurate with the cost of labor and other expenses incurred in any such storing, repairing and transporting.

(11) "Gambling information" means any wager made in the course of and any information intended to be used for professional gambling. In the application of this definition information as to wagers, betting odds and changes in betting odds shall be presumed to be intended for use in professional gambling: PROVIDED, HOWEVER, That this subsection shall not apply to newspapers of general circulation or commercial radio and television stations licensed by the federal communications commission.

(12) "Gambling premises" means any building, room, enclosure, vehicle, vessel or other place used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found, shall be presumed to be intended to be used for professional gambling.

(13) "Gambling record" means any record, receipt, ticket, certificate, token, slip or notation given, made, used or intended to be used in connection with professional gambling.

(14) "Lottery" means a scheme for the distribution of money or property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance.

For the purpose of this chapter, the following activities do not constitute "valuable consideration" as an element of a lottery:

(a) Listening to or watching a television or radio program or subscribing to a cable television service;

(b) Filling out and returning a coupon or entry blank or facsimile which is received through the mail or published in a bona fide newspaper or magazine, or in a program sold in conjunction with and at a regularly scheduled sporting event, or the purchase of such a newspaper, magazine or program;

(c) Sending a coupon or entry blank by United States mail to a designated address in connection with a promotion conducted in this state;

(d) Visitation to any business establishment to obtain a coupon, or entry blank;

(e) Mere registration without purchase of goods or services;

(f) Expenditure of time, thought, attention and energy in perusing promotional material;

(g) Placing or answering a telephone call in a prescribed manner or otherwise making a prescribed response or answer;

(h) Furnishing the container of any product as packaged by the manufacturer, or a particular portion thereof but only if furnishing a plain piece of paper or card with the name of the manufacturer or product handwritten on it is acceptable in lieu thereof: PROVIDED, That where any drawing is held by or on behalf of in-state retail outlets in connection with business promotions authorized under subsections (d) and (e) hereof, no such in-state retail outlet may conduct more than one such drawing during each calendar year and the period of the drawing and its promotion shall not extend for more than seven consecutive days: PROVIDED FURTHER, That if the sponsoring organization has more than one outlet in the state such drawings must be held in all such outlets at the same time except that a sponsoring organization with more than one outlet may conduct a separate drawing in connection with the initial opening of any such outlet; or

(i) The payment of an admission fee to gain admission to any agricultural fair authorized under chapters 15.76 or 36.37 RCW where (i) the scheme is conducted for promotional or advertising purposes, not including the promotion or advertisement of the scheme itself; and (ii) the person or organization conducting the scheme receives no portion of the admission fee either directly or indirectly and receives no other money for conducting the scheme either directly or indirectly, other than what might be received indirectly as a result of the success of the promotional or advertising aspect of the scheme.

For purposes of this chapter, radio and television broadcasting is hereby declared to be preempted by applicable federal statutes and the rules applicable thereto by the federal communications commission. Broadcast programming, including advertising and promotion, that complies with said federal statutes and regulations is hereby authorized.

(15) "Member" and "bona fide member". As used in this chapter, member ((means)) and bona fide member each mean a ((member-of)) person accepted for membership in an organization eligible to be licensed by the commission under this chapter((, or a member of an organization which

is an auxiliary of such an eligible organization, or a member of an organization of which the eligible organization is an auxiliary, or a member of an organization which is affiliated with the eligible organization by being with it auxiliary to another organization)) upon application, with such action being recorded in the official minutes of a regular meeting or who has held full and regular membership status in the organization for a period of not less than twelve consecutive months prior to participating in the management or operation of any gambling activity. Such membership must in no way be dependent upon, or in any way related to, the payment of consideration to participate in any gambling activity.

Member or bona fide member shall include only members of an organization's specific chapter or unit licensed by the commission or otherwise actively conducting the gambling activity: PROVIDED, That

(a) Members of chapters or local units of a state, regional or national organization may be considered members of the parent organization for the purpose of a gambling activity conducted by the parent organization, if the rules of the parent organization so permit; and

(b) Members of a bona fide auxiliary to a principal organization may be considered members of the principal organization for the purpose of a gambling activity conducted by the principal organization. Members of the principal organization may also be considered members of its auxiliary for the purpose of a gambling activity conducted by the auxiliary.

No person shall be a member of any organization if that person's primary purpose for membership is to become, or continue to be, a participant in, or an operator or manager of, any gambling activity or activities.

(16) "Player" 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 therein does not otherwise render material assistance to the establishment, conduct or operation thereof 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 therefor, and supplying cards or other equipment used therein. A person who engages in "bookmaking" as defined in this section is not a "player".

(17) A person is engaged in "professional gambling" when:

(a) Acting other than as a player or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly engages in conduct which materially aids any other form of gambling activity; or

(b) Acting other than as a player, or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly accepts or receives

money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity;

(c) He engages in bookmaking; or

(d) He conducts a lottery as defined in subsection (14) of this section.

Conduct under subparagraph (a), except as exempted under RCW 9.46.030 as now or hereafter amended, 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 said premises to be used with the person's knowledge for the purpose of conducting gambling activity other than gambling activities as set forth in RCW 9.46.030 as now or hereafter amended, and acting other than as a player, and said person permits such to occur or continue or makes no effort to prevent its occurrence or continuation, he 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.

(18) "Punch boards" and "pull-tabs" shall be given their usual and ordinary meaning as of July 16, 1973, except that such definition may be revised by the commission pursuant to rules and regulations promulgated pursuant to this chapter.

(19) "Raffle" means a game in which tickets bearing an individual number are sold for not more than one dollar each and in which a prize or prizes are awarded on the basis of a drawing from said tickets by the person or persons conducting the game, when said game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game.

(20) "Social card game" means a card game, including but not limited to the game commonly known as "Mah Jongg", which constitutes gambling and contains each of the following characteristics:

(a) There are two or more participants and each of them are players; and

(b) A player's success at winning money or other thing of value by overcoming chance is in the long run largely determined by the skill of the player; and

(c) No organization, corporation or person collects or obtains or charges any percentage of or collects or obtains any portion of the money or thing of value wagered or won by any of the players: PROVIDED, That this item (c) shall not preclude a player from collecting or obtaining his winnings; and

(d) No organization or corporation, or person collects or obtains any money or thing of value from, or charges or imposes any fee upon, any person which either enables him to play or results in or from his playing in excess of one dollar per half hour of playing time by that person collected in advance: PROVIDED, That a fee may also be charged for entry into a tournament for prizes, which fee shall not exceed twenty-five dollars, including all separate fees which might be paid by a player for various phases or events of the tournament: PROVIDED FURTHER, That this item (d) shall not apply to the membership fee in any bona fide charitable or non-profit organization; and

(e) The type of card game is one specifically approved by the commission pursuant to RCW 9.46.070; and

(f) The extent of wagers, money or other thing of value which may be wagered or contributed by any player does not exceed the amount or value specified by the commission pursuant to RCW 9.46.070.

(21) "Thing of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise, directly or indirectly, contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

(22) "Whoever" and "person" include natural persons, corporations and partnerships and associations of persons; and when any corporate officer, director or stockholder or any partner authorizes, participates in, or knowingly accepts benefits from any violation of this chapter committed by his corporation or partnership, he shall be punishable for such violation as if it had been directly committed by him.

(23) "Fund raising event" means a fund raising event conducted during any ~~((three consecutive days))~~ seventy-two consecutive hours but exceeding twenty-four consecutive hours and not more than once in any calendar year or a fund raising event conducted not more than twice each calendar year for not more than ~~((one calendar day))~~ twenty-four consecutive hours each time by a bona fide charitable or nonprofit organization as defined in subsection (3) of this section other than any agricultural fair referred to thereunder, upon authorization therefor by the commission, which the legislature

hereby authorizes to issue a license therefor, with or without fee, permitting the following activities, or any of them, during such event: Bingo, amusement games, contests of chance, lotteries and raffles: **PROVIDED**, That (a) gross wagers and bets received by the organization less the amount of money paid by the organization as winnings and for the purchase cost of prizes given as winnings do not exceed five thousand dollars during the total calendar days of such fund raising event in the calendar year; (b) such activities shall not include any mechanical gambling or lottery device activated by the insertion of a coin or by the insertion of any object purchased by any person taking a chance by gambling in respect to the device; (c) only bona fide members of the organization who are not paid for such service shall participate in the management or operation of the activities, and all income therefrom, after deducting the cost of prizes and other expenses, shall be devoted solely to the lawful purposes of the organization; and (d) such organization shall notify the appropriate local law enforcement agency of the time and place where such activities shall be conducted. The commission shall require an annual information report setting forth in detail the expenses incurred and the revenue received relative to the activities permitted.

Sec. 2. Section 3, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 165, Laws of 1977 ex. sess. and by section 2, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.030 are each reenacted and amended to read as follows:

(1) The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct bingo games, raffles, amusement games, and fund raising events, and to utilize punch boards and pull-tabs and to allow their premises and facilities to be used by only members and guests to play social card games authorized by the commission, when licensed, conducted or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

(2) Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of raffles, are hereby authorized to conduct raffles without obtaining a license to do so from the commission when such raffles are held in accordance with all other requirements of chapter 9.46 RCW, other applicable laws, and rules of the commission; when gross revenues from all such raffles held by the organization during the calendar year do not exceed five thousand dollars; and when tickets to such raffles are sold only to, and winners are determined only from among, the regular members of the organization conducting the raffle: **PROVIDED**, That the term members for this purpose shall mean only those persons who have become members prior to the commencement of the raffle and whose qualification for membership was not dependent upon, or in any way related to, the purchase of a ticket, or tickets, for such raffles.

(3) Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of such activities are hereby

authorized to conduct bingo, raffles, and amusement games, without obtaining a license to do so from the commission but only when:

(a) Such activities are held in accordance with all other requirements of chapter 9.46 RCW as now or hereafter amended, other applicable laws, and rules of the commission; and

(b) Said activities are, alone or in any combination, conducted no more than twice each calendar year and over a period of no more than twelve consecutive days each time, notwithstanding the limitations of RCW 9.46.020(2) as now or hereafter amended: PROVIDED, That a raffle conducted under this subsection may be conducted for a period longer than twelve days; and

(c) Only bona fide members of that organization, who are not paid for such services, participate in the management or operation of the activities; and

(d) Gross revenues to the organization from all the activities together does not exceed five thousand dollars during any calendar year; and

(e) All revenue therefrom, after deducting the cost of prizes and other expenses of the activity, is devoted solely to the purposes for which the organization qualifies as a bona fide charitable or nonprofit organization; and

(f) The organization gives notice at least five days in advance of the conduct of any of the activities to the local police agency of the jurisdiction within which the activities are to be conducted of the organization's intent to conduct the activities, the location of the activities, and the date or dates they will be conducted; and

(g) The organization conducting the activities maintains records for a period of one year from the date of the event which accurately show at a minimum the gross revenue from each activity, details of the expenses of conducting the activities, and details of the uses to which the gross revenue therefrom is put.

(4) The legislature hereby authorizes any person, association or organization operating an established business primarily engaged in the selling of food or drink for consumption on the premises to conduct social card games and to utilize punch boards and pull-tabs as a commercial stimulant to such business when licensed and utilized or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

(5) The legislature hereby authorizes any person to conduct or operate amusement games when licensed and operated pursuant to the provisions of this chapter and rules and regulations adopted by the commission at such locations as the commission may authorize.

(6) The legislature hereby authorizes any person, association, or organization to conduct sports pools without a license to do so from the commission but only when the outcome of which is dependent upon the score, or scores, of a certain athletic contest and which is conducted only in the following manner:

(a) A board or piece of paper is divided into one hundred equal squares, each of which constitutes a chance to win in the sports pool and each of which is offered directly to prospective contestants at one dollar or less; and

(b) The purchaser of each chance or square signs his or her name on the face of each square or chance he or she purchases; and

(c) At some time not later than prior to the start of the subject athletic contest the pool is closed and no further chances in the pool are sold; and

(d) After the pool is closed a prospective score is assigned by random drawing to each square; and

(e) All money paid by entrants to enter the pool less taxes is paid out as the prize or prizes to those persons holding squares assigned the winning score or scores from the subject athletic contest; and

(f) The sports pool board is available for inspection by any person purchasing a chance thereon, the commission, or by any law enforcement agency upon demand at all times prior to the payment of the prize; and

(g) The person or organization conducting the pool is conducting no other sports pool on the same athletic event; and

(h) The sports pool conforms to any rules and regulations of the commission applicable thereto.

(7) 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 in this chapter prohibited, 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:

(a) 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

(b) 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

(c) Participation is limited to members of the sponsoring organization and their bona fide guests.

(8) The legislature hereby authorizes bowling establishments to conduct, without the necessity of obtaining a permit or license to do so, as a commercial stimulant, a bowling activity which permits bowlers to purchase tickets from the establishment for a predetermined and posted amount of money which tickets are then selected by the luck of the draw and the holder of the matching ticket so drawn has an opportunity to bowl a strike and if successful receives a predetermined and posted monetary prize: PROVIDED, That all sums collected by the establishment from the sale of tickets shall be returned to purchasers of tickets and no part of the proceeds shall inure to any person other than the participants winning in the game or a recognized charity. The tickets shall be sold, and accounted for, separately from all other sales of the establishment. The price of any single ticket shall not exceed one dollar. Accounting records shall be available for inspection during business hours by any person purchasing a chance thereon, by the commission or its representatives, or by any law enforcement agency.

(9) (a) The legislature hereby authorizes any bona fide charitable or nonprofit organization which is licensed pursuant to RCW 66.24.400, and its officers and employees, to allow the use of the premises, furnishings, and other facilities not gambling devices of such organization by members of the organization who engage as players in the following types of gambling activities only:

(i) Social card games as defined in RCW 9.46.020(20)(a), (b), (c), and (d); and

(ii) Social dice games, which shall be limited to contests of chance, the outcome of which are determined by one or more rolls of dice.

(b) Bona fide charitable or nonprofit organizations shall not be required to be licensed by the commission in order to allow use of their premises in accordance with this subsection; however, the following conditions must be met:

(i) No organization, corporation, or person shall collect or obtain or charge any percentage of or shall collect or obtain any portion of the money or thing of value wagered or won by any of the players: PROVIDED, That a player may collect his or her winnings; and

(ii) No organization, corporation, or person shall collect or obtain any money or thing of value from, or charge or impose any fee upon, any person which either enables him or her to play or results in or from his or her playing: PROVIDED, That this subparagraph (ii) shall not preclude collection of a membership fee which is unrelated to participation in gambling activities authorized under this subsection.

The penalties provided for professional gambling in this chapter shall not apply to ~~((sports pools as described in subsection (8) of this section, golfing sweepstakes and bowling activities as described in subsections (6) and (7) of this section, the wagering described in subsection (9) of this section, social card games, bingo games, raffles, fund raising events, punch~~

~~boards, pull-tabs, amusement games, or to the use of facilities of a bona fide charitable or nonprofit organization for social card games or dice games;))~~ the activities authorized by this section when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations of the commission.

Sec. 3. Section 7, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 76, Laws of 1977 ex. sess. and section 3, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.070 are each reenacted and amended to read as follows:

The commission shall have the following powers and duties:

(1) To authorize and issue licenses for a period not to exceed one year to bona fide charitable or nonprofit organizations approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said organizations to conduct bingo games, raffles, amusement games, and social card games, to utilize punch boards and pull-tabs in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter or any rules and regulations adopted pursuant thereto: **PROVIDED**, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: **PROVIDED FURTHER**, That the commission or director shall not issue, deny, suspend or revoke any license because of considerations of race, sex, creed, color, or national origin: **AND PROVIDED FURTHER**, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(2) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization operating a business primarily engaged in the selling of items of food or drink for consumption on the premises, approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said person, association, or organization to utilize punch boards and pull-tabs and to conduct social card games as a commercial stimulant in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter and any rules and regulations adopted pursuant thereto: **PROVIDED**, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: **PROVIDED FURTHER**, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(3) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any

rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to conduct or operate amusement games in such manner and at such locations as the commission may determine;

(4) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization to engage in the selling, distributing, or otherwise supplying or in the manufacturing of devices for use within this state for those activities authorized by RCW 9.46.030 as now or hereafter amended;

(5) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which fees shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: PROVIDED, That all licensing fees shall be submitted with an application therefor and such portion of said fee as the commission may determine, based upon its cost of processing and investigation, shall be retained by the commission upon the withdrawal or denial of any such license application as its reasonable expense for processing the application and investigation into the granting thereof: PROVIDED FURTHER, That if in a particular case the basic license fee established by the commission for a particular class of license is less than the commission's actual expenses to investigate that particular application, the commission may at any time charge to that applicant such additional fees as are necessary to pay the commission for those costs. The commission may decline to proceed with its investigation and no license shall be issued until the commission has been fully paid therefor by the applicant: AND PROVIDED FURTHER, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs;

(6) To prescribe the manner and method of payment of taxes, fees and penalties to be paid to or collected by the commission;

(7) To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons (a) having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, or (b) participating as an employee in the operation of any gambling activity, shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the

persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such application: PROVIDED FURTHER, That the commission may require fingerprinting and background checks on any persons seeking licenses under this chapter or of any person holding an interest in any gambling activity, building, or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity;

((77)) (8) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

((88)) (9) To require that all income from bingo games, raffles, and amusement games be recorded and reported as established by rule or regulation of the commission to the extent deemed necessary by considering the scope and character of the gambling activity in such a manner that will disclose gross income from any gambling activity, amounts received from each player, the nature and value of prizes, and the fact of distributions of such prizes to the winners thereof;

((99)) (10) To regulate and establish maximum limitations on income derived from bingo: PROVIDED, That in establishing limitations pursuant to this subsection the commission shall take into account (i) the nature, character, and scope of the activities of the licensee; (ii) the source of all other income of the licensee; and (iii) the percentage or extent to which income derived from bingo is used for charitable, as distinguished from non-profit, purposes;

((100)) (11) To regulate and establish the type and scope of and manner of conducting the gambling activities authorized by RCW 9.46.030, including but not limited to, the extent of wager, money, or other thing of value which may be wagered or contributed or won by a player in any such activities;

((111)) (12) To regulate the collection of and the accounting for the fee which may be imposed by an organization, corporation or person licensed to conduct a social card game on a person desiring to become a player in a social card game in accordance with RCW 9.46.020 (20)(d) as now or hereafter amended;

((122)) (13) To cooperate with and secure the cooperation of county, city, and other local or state agencies in investigating any matter within the scope of its duties and responsibilities;

((133)) (14) In accordance with RCW 9.46.080, to adopt such rules and regulations as are deemed necessary to carry out the purposes and provisions of this chapter. All rules and regulations shall be adopted pursuant to the administrative procedure act, chapter 34.04 RCW;

((144)) (15) To set forth for the perusal of counties, city-counties, cities and towns, model ordinances by which any legislative authority thereof

may enter into the taxing of any gambling activity authorized in RCW 9.46.030 as now or hereafter amended;

~~((+5))~~ (16) To establish and regulate a maximum limit on salaries or wages which may be paid to persons employed in connection with activities conducted by bona fide charitable or nonprofit organizations and authorized by this chapter, where payment of such persons is allowed, and to regulate and establish maximum limits for other expenses in connection with such authorized activities, including but not limited to rent or lease payments.

In establishing these maximum limits the commission shall take into account the amount of income received, or expected to be received, from the class of activities to which the limits will apply and the amount of money the games could generate for authorized charitable or nonprofit purposes absent such expenses. The commission may also take into account, in its discretion, other factors, including but not limited to, the local prevailing wage scale and whether charitable purposes are benefited by the activities;

~~((+6))~~ (17) To authorize, require, and issue for a period not to exceed one year such licenses or permits, for which the commission may by rule provide, to any person to work for any operator of any gambling activity authorized by this chapter in connection with that activity, or any manufacturer, supplier, or distributor of devices for those activities in connection with such business. The commission shall not require that persons working solely as volunteers in an authorized activity conducted by a bona fide charitable or bona fide nonprofit organization, who receive no compensation of any kind for any purpose from that organization, and who have no managerial or supervisory responsibility in connection with that activity, be licensed to do such work. The commission may require that licensees employing such unlicensed volunteers submit to the commission periodically a list of the names, addresses, and dates of birth of the volunteers. If any volunteer is not approved by the commission, the commission may require that the licensee not allow that person to work in connection with the licensed activity;

~~((+7))~~ (18) To publish and make available at the office of the commission or elsewhere to anyone requesting it a list of the commission licensees, including the name, address, type of license, and license number of each licensee;

~~((+8))~~ (19) To establish guidelines for determining what constitutes active membership in bona fide nonprofit or charitable organizations for the purposes of this chapter; and

~~((+9))~~ (20) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

Sec. 4. Section 12, chapter 166, Laws of 1975 1st ex. sess. and RCW 9.46.075 are each amended to read as follows:

The commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the

public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein:

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(2) Knowingly causes, aids, abets, or conspires with another to cause, any person to violate any of the laws of this state or the rules of the commission;

(3) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;

(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude;

(5) Denies the commission or its authorized representatives, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted or who fails promptly to produce for inspection or audit any book, record, document or item required by law or commission rule;

(6) Shall fail to display its license on the premises where the licensed activity is conducted at all times during the operation of the licensed activity;

(7) Makes a misrepresentation of, or fails to disclose, a material fact to the commission;

(8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter;

(9) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under subsection (4) of this section: PROVIDED, That at the request of an applicant for an original license, the commission may defer decision upon the application during the pendency of such prosecution or appeal;

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall

be defined as the systematic planning, administration, management or execution of an activity for financial gain;

(11) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the policy of this chapter or to the proper operation of the authorized gambling or related activities in this state. For the purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders.

For the purpose of reviewing any application for a license and for considering the denial, suspension or revocation of any license the gambling commission may consider any prior criminal conduct of the applicant or licensee and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases.

NEW SECTION. Sec. 5. There is added to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW a new section to read as follows:

The commission, when suspending any license for a period of thirty days or less, may further provide in the order of suspension that such suspension shall be vacated upon payment to the commission of a monetary penalty in an amount then fixed by the commission.

Sec. 6. Section 8, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 4, chapter 326, Laws of 1977 ex. sess. and RCW 9.46-.080 are each amended to read as follows:

The commission shall employ a full time director, who shall be the administrator for the commission in carrying out its powers and duties and who shall issue rules and regulations adopted by the commission governing the activities authorized hereunder and shall supervise commission employees in carrying out the purposes and provisions of this chapter. In addition, the director shall employ a deputy director, two assistant directors, together with such investigators and enforcement officers and such staff as the commission determines is necessary to carry out the purposes and provisions of this chapter. The director, the deputy director, both assistant directors, and personnel occupying positions requiring the performing of undercover investigative work shall be exempt from the provisions of chapter 41.06 RCW, as now law or hereafter amended. Neither the director nor any commission employee working therefor shall be an officer or manager of any bona fide charitable or bona fide nonprofit organization, or of any organization which conducts gambling activity in this state.

The director, subject to the approval of the commission, is authorized to enter into agreements on behalf of the commission for mutual assistance and services, based upon actual costs, with any state or federal agency or

with any city, town, or county, and such state or local agency is authorized to enter into such an agreement with the commission. If a needed service is not available from another agency of state government within a reasonable time, the director may obtain that service from private industry.

Sec. 7. Section 9, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 4, chapter 75, Laws of 1977 and RCW 9.46.090 are each amended to read as follows:

The commission shall, from time to time, make reports to the governor covering such matters in connection with this chapter as he may require, and in addition shall prepare and forward to the governor, to be laid before the legislature, a report for the period ending on the thirty-first day of December of 1973, and a report annually thereafter as soon as possible after the close of the fiscal year, which report shall be a public document and contain such general information and remarks as the commission deems pertinent thereto and any information requested by either the governor or members of the legislature: PROVIDED, That the commission appointed pursuant to RCW 9.46.040 (~~shall~~) may conduct a thorough study of the types of gambling activity permitted and the types of gambling activity prohibited by this chapter and (~~shall~~) may make recommendations to the legislature as to: (1) Gambling activity that ought to be permitted; (2) gambling activity that ought to be prohibited; (3) the types of licenses and permits that ought to be required; (4) the type and amount of tax that ought to be applied to each type of permitted gambling activity; (5) any changes which may be made to the law of this state which further the purposes and policies set forth in RCW 9.46.010 as now law or hereafter amended; and (6) any other matter that the commission may deem appropriate. Members of the commission and its staff may contact the legislature, or any of its members, at any time, to advise it of recommendations of the commission.

~~((The commission shall conduct a thorough study of the effectiveness of the criminal sections of the act, and penalties imposed thereby, and shall make a separate report to the legislature on or before January 1, 1977, outlining its findings and any recommendation for specific amendments to these sections it may have.))~~

Sec. 8. Section 11, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 198, Laws of 1977 ex. sess. and RCW 9.46-.110 are each amended to read as follows:

The legislative authority of any county, city-county, city, or town, by local law and ordinance, and in accordance with the provisions of this chapter and rules and regulations promulgated hereunder, may provide for the taxing of any gambling activity authorized in RCW 9.46.030 as now or hereafter amended within its jurisdiction, the tax receipts to go to the county, city-county, city, or town so taxing the same: PROVIDED, That any such tax imposed by a county alone shall not apply to any gambling

activity within a city or town located therein but the tax rate established by a county, if any, shall constitute the tax rate throughout such county including both incorporated and unincorporated areas, except for any city located therein with a population of twenty thousand or more persons as of the most recent decennial census taken by the federal government: PROVIDED FURTHER, That (1) punch boards and pull-tabs, chances on which shall only be sold to adults, which shall have a twenty-five cent limit on a single chance thereon, shall be taxed on a basis which shall reflect only the gross receipts from such punch boards and pull-tabs; and (2) no punch board or pull-tab may award as a prize upon a winning number or symbol being drawn the opportunity of taking a chance upon any other punch board or pull-tab; and (3) all prizes for punch boards and pull-tabs must be on display within the immediate area of the premises wherein any such punch board or pull-tab is located and upon a winning number or symbol being drawn, such prize must be immediately removed therefrom, or such omission shall be deemed a fraud for the purposes of this chapter; and (4) when any person shall win over ~~((five))~~ twenty dollars in money or merchandise from any punch board or pull-tab, every licensee hereunder shall keep a public record thereof for at least ninety days thereafter containing such information as the commission shall deem necessary: AND PROVIDED FURTHER, That taxation of bingo and raffles shall never be in an amount greater than ten percent of the gross revenue received therefrom less the amount paid for or as prizes. Taxation of amusement games shall only be in an amount sufficient to pay the actual costs of enforcement of the provisions of this chapter by the county, city or town law enforcement agency and in no event shall such taxation exceed two percent of the gross revenue therefrom less the amount paid for as prizes: PROVIDED FURTHER, That no tax shall be imposed under the authority of this chapter on bingo, raffles or amusement games when such activities or any combination thereof are conducted by any bona fide charitable or nonprofit organization as defined in RCW 9.46.020(3), which organization has no paid operating or management personnel and has gross income from bingo, raffles or amusement games, or any combination thereof, not exceeding five thousand dollars per year less the amount paid for as prizes. Taxation of punch boards and pull-tabs shall not exceed five percent of gross receipts, nor shall taxation of social card games exceed twenty percent of the gross revenue from such games.

Sec. 9. Section 1, chapter 87, Laws of 1975-'76 2nd ex. sess. as amended by section 6, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.115 are each amended to read as follows:

(1) (a) In addition to any other fee~~((s and taxes))~~ or tax imposed by or under the authority of this chapter, ~~((or by commission rule,))~~ there is hereby imposed a special tax to be paid by ~~((every))~~ any person who maintains for use or permits the use of~~((, on any place or premises occupied by~~

him)) a coin-operated ((gaming)) gambling device ((which is subject to the federal tax on coin-operated devices imposed by section 4461 of the Internal Revenue Code (79 Stat. 148; 26 U.S.C. Sec. 4461), as amended and in effect on March 11, 1976 and any subsequent amendments thereto. The amount of such tax shall be equal to eighty percent of the amount of the tax required to be paid to the federal government pursuant to section 4461 of the Internal Revenue Code (79 Stat. 148; 26 U.S.C. Sec. 4461), as amended and in effect on March 11, 1976 and any subsequent amendments thereto: PROVIDED, That such tax shall not exceed the amount of the credit for state taxes allowed by section 4464 of the Internal Revenue Code (85 Stat. 534, 26 U.S.C. Sec. 4464), as amended and in effect on March 11, 1976 and any subsequent amendments thereto:

~~This tax shall be imposed on any coin-operated gaming device as defined in section 4462 of the Internal Revenue Code (79 Stat. 149; 26 U.S.C. Sec. 4462), as amended and in effect on March 11, 1976 and any amendments thereto:~~

~~(2))) on any place or premises occupied by the person. The tax shall be three hundred fifty dollars per year for each tax year, July 1 through June 30, thereafter. The tax shall apply to each device so maintained or permitted at any time during the tax period. After July 1, 1981, the tax shall not apply for any month during the tax year in which the device is not in use when such month is prior to the month in which the device is initially put out for use. The commission shall adopt a schedule prorated by month, setting out the tax due for the remainder of the tax year, for devices initially put out for use after the beginning of the tax year. No such device may be placed out for public play unless and until the tax due respecting it has first been paid: PROVIDED, That if one such device is replaced by another and removed from play, the other device shall not be considered an additional device for that year.~~

~~(b) This tax shall not be imposed on a device which is commonly known as a claw, crane, or digger machine if:~~

~~(i) The charge for each operation of the device is not more than twenty-five cents;~~

~~(ii) The device never dispenses a prize other than merchandise of a maximum retail value of one dollar, and with respect to the device there is never a display or offer of any prize or merchandise other than merchandise dispensed by the machine;~~

~~(iii) The device is actuated by a crank and operates solely by means of a nonelectrical mechanism; and~~

~~(iv) The device is not operated other than in connection with and as a part of an agricultural fair as authorized under chapter 15.76 or 36.37 RCW; or a civic center of a county, city, or town; or a world's fair or similar exposition which is approved by the bureau of international expositions at Paris, France; or a community-wide civic festival held not more than~~

once annually and sponsored or approved by the city, town, or county in which it is held.

(2)(a) For purposes of this section, "coin-operated gambling device" means a machine which is:

(i) A so-called "slot" machine which operates by means of the insertion of a coin, token, or similar object and which, by application, in whole or in part, of the element of chance, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, or tokens; or

(ii) A machine which is similar to machines described in subparagraph (i) of this subsection and is operated without the insertion of a coin, token, or similar object.

(b) The term "coin-operated gambling device" does not include:

(i) A bona fide vending or amusement machine in which no gambling feature is incorporated; or

(ii) A vending machine operated by means of the insertion of a coin of not more than ten cents which, when it dispenses a prize, never dispenses a prize of a retail value of, or entitles a person to receive a prize of a retail value of, more than twenty-five cents, and if the only prize dispensed is merchandise and not cash or tokens; or

(iii) Any device which is employed in such manner as to qualify as an amusement game as defined in RCW 9.46.020 and the rules and regulations of the commission.

(3) The tax established in subsection (1) of this section shall be payable to the commission on or before June 20 of each year in advance of the following (~~fiscal~~) tax year, July 1 through June 30, pursuant to rules and regulations adopted by the commission. Payment of any tax due shall be a condition precedent to the issuance or renewal of any license of any nature by the commission to the taxpayer. (~~The tax shall apply to each such device so maintained or permitted at any time during the year and no such device shall be placed out for public play unless and until the tax due respecting it has first been paid. PROVIDED, That a replacement for such a device removed from play shall not be deemed an additional device for that year.~~) Proceeds from the tax shall be deposited in the gambling revolving fund and used by the commission for its expenses of administering this chapter.

The commission shall adopt rules setting out the procedure for collection of the tax and for the administration of this section.

(~~(3)~~) (4) The tax imposed by subsection (1) of this section shall be in addition to any tax imposed upon such coin-operated (~~gaming~~) gambling devices, or the income therefrom, by any municipal corporation or political subdivision of the state.

(~~(4)~~) (5) At any time within five years after any amount of tax which is imposed under this chapter, or rules adopted pursuant thereto, shall become due and payable, the attorney general, on behalf of the commission,

may bring a civil action in the courts of this state, or any other state, or of the United States, to collect the amount delinquent, together with penalties and interest. An action may be brought whether or not the person owing the amount is at such time a licensee under this chapter. If such an action is brought in the courts of this state, a writ of attachment may be issued and no bond or affidavit prior to the issuance thereof shall be required. In all actions in this state, the records of the commission shall be prima facie evidence of the determination of the tax due or the amount of the delinquency.

(6) Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 10. Section 13, chapter 218, Laws of 1973 1st ex. sess. as amended by section 7, chapter 166, Laws of 1975 1st ex. sess. and RCW 9.46.130 are each amended to read as follows:

The premises and paraphernalia, and all the books and records of any person, association or organization conducting gambling activities authorized under ((RCW 9.46.030)) this chapter and any person, association or organization receiving profits therefrom or having any interest therein shall be subject to inspection and audit at any reasonable time, with or without notice, upon demand, by the commission or its designee, the attorney general or his designee, the chief of the Washington state patrol or his designee or the prosecuting attorney, sheriff or director of public safety or their designees of the county wherein located, or the chief of police or his designee of any city or town in which said organization is located, for the purpose of determining compliance or noncompliance with the provisions of this chapter and any rules or regulations or local ordinances adopted pursuant thereto. A reasonable time for the purpose of this section shall be: (1) If the items or records to be inspected or audited are located anywhere upon a premises any portion of which is regularly open to the public or members and guests, then at any time when the premises are so open, or at which they are usually open; or (2) if the items or records to be inspected or audited are not located upon a premises set out in subsection (1) above, then any time between the hours of 8:00 a.m. and 9:00 p.m., Monday through Friday.

The commission shall be provided at such reasonable intervals as the commission shall determine with a report, under oath, detailing all receipts and disbursements in connection with such gambling activities together with such other reasonable information as required in order to determine whether such activities comply with the purposes of this chapter or any local ordinances relating thereto.

Sec. 11. Section 21, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 15, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.210 are each amended to read as follows:

(1) It shall be the duty of all peace officers, law enforcement officers, and law enforcement agencies within this state to investigate, enforce, and prosecute all violations of this chapter.

(2) In addition to the authority granted by subsection (1) of this section law enforcement agencies of cities and counties shall investigate and report to the commission all violations of the provisions of this chapter and of the rules of the commission found by them and shall assist the commission in any of its investigations and proceedings respecting any such violations. Such law enforcement agencies shall not be deemed agents of the commission.

(3) In addition to its other powers and duties, the commission shall have the power to enforce the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. The director, the deputy director, both assistant directors, and each of the commission's investigators, enforcement officers, and inspectors shall have the power, under the supervision of the commission, to enforce the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power and authority to apply for and execute all warrants and serve process of law issued by the courts in enforcing the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power to arrest without a warrant, any person or persons found in the act of violating any of the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. To the extent set forth above, the commission shall be a law enforcement agency of this state with the power to investigate for violations of and to enforce the provisions of this chapter, as now law or hereafter amended, and to obtain information from and provide information to all other law enforcement agencies.

Sec. 12. Section 23, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 16, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.230 are each amended to read as follows:

(1) All gambling devices as defined in RCW 9.46.020(10), as now or hereafter amended, are common nuisances and shall be subject to seizure, immediately upon detection by any peace officer, and to confiscation and destruction by order of a superior or district justice court, except when in the possession of officers enforcing this chapter.

(2) No property right in any gambling device as defined in RCW 9.46.020(10), as now or hereafter amended, shall exist or be recognized in any person, except the possessory right of officers enforcing this chapter.

(3) 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, and all money or other things of value at stake or displayed in or in connection with professional gambling or any gambling device used therein, shall be subject to seizure, immediately upon detection, by any peace officer, and unless good cause is shown to the contrary by the owner, shall be forfeited to the state or political subdivision by which seized by order of a court having jurisdiction, for disposition by public auction or as otherwise provided by law. Bona fide liens against property so forfeited, on good cause shown by the lienor, shall be transferred from the property to the proceeds of the sale of the property. Forfeit moneys and other proceeds realized from the enforcement of this subsection shall be paid into the general fund of the state if the property was seized by officers thereof or to the political subdivision or other public agency, if any, whose officers made the seizure, except as otherwise provided by law. This subsection shall not apply to such items (~~(utilized in activities enumerated in)~~) which are actually being used by, or being held for use by, a person licensed by the commission or who is otherwise authorized by RCW 9.46.030, as now or hereafter amended, or by commission rule to conduct gambling activities without a license in connection with gambling activities authorized by this section when:

(a) The person is acting in conformance with the provisions of chapter 9.46 RCW, as now or hereafter amended, and the rules and regulations adopted pursuant thereto; and

(b) The items are of the type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply 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 and regulations adopted pursuant thereto.

(4) Whoever knowingly owns, manufactures, possesses, buys, sells, rents, leases, finances, holds a security interest in, stores, repairs, or transports any gambling device as defined in RCW 9.46.020 as now or hereafter amended or offers or solicits any interest therein, whether through an agent or employee or otherwise, shall be guilty of a felony and fined not more than one

hundred thousand dollars or imprisoned not more than five years or both: **PROVIDED, HOWEVER,** That this subsection shall not apply to ~~((devices used in those activities enumerated in RCW 9.46.030, as now or hereafter amended, when the devices are of the type and kind traditionally and usually employed in connection with the particular activity))~~ persons licensed by the commission, or who are otherwise authorized by RCW 9.46.030, as now or hereafter amended, or by commission rule, to conduct gambling activities without a license, respecting devices which are to be used, or are being used, solely in that activity for which the license was issued, or for which the person has been otherwise authorized when:

(a) The person is acting in conformance with the provisions of chapter 9.46 RCW, as now or hereafter amended, and the rules and regulations adopted pursuant thereto; and

(b) The devices are a type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply to any act or acts by such persons in furtherance of ~~((such activities))~~ the activity for which the license was issued, or for which the person is authorized, when such activity is conducted in compliance with the provisions of this chapter, as now or hereafter amended, and in accordance with the rules and regulations adopted pursuant thereto. Subsection (2) of this section shall have no application in the enforcement of this subsection. In the enforcement of this subsection direct possession of any such gambling device shall be presumed to be knowing possession thereof.

(5) Whoever knowingly prints, makes, possesses, stores, or transports any gambling record, or buys, sells, offers, or solicits any interest therein, whether through an agent or employee or otherwise, shall be guilty of a gross misdemeanor: **PROVIDED, HOWEVER,** That this subsection shall not apply to records relating to and kept for activities enumerated in RCW 9.46.030, as now or hereafter amended, when the records are of the type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply 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 and regulations adopted pursuant thereto. In the enforcement of this subsection direct possession of any such gambling record shall be presumed to be knowing possession thereof.

NEW SECTION. Sec. 13. There is added to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW a new section to read as follows:

No person shall manufacture, and no person shall sell, distribute, furnish or supply to any other person, any gambling device, including but not limited to punchboards and pull tabs, in this state, or for use within this state, without first obtaining a license to do so from the commission under the provisions of this chapter.

Such licenses shall not be issued by the commission except respecting devices which are designed and permitted for use in connection with activities authorized under this chapter: PROVIDED, That this requirement for licensure shall apply only insofar as the commission has adopted, or may adopt, rules implementing it as to particular categories of gambling devices and related equipment.

NEW SECTION. Sec. 14. There is added to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW a new section to read as follows:

(1) It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted;

(2) All applicants and licensees shall consent to inspections, searches and seizures and the supplying of handwriting examples as authorized by this chapter and rules adopted hereunder;

(3) All licensees, and persons having any interest in licensees, including but not limited to employees and agents of licensees, and other persons required to be qualified under this chapter or rules of the commission shall have a duty to inform the commission or its staff of any action or omission which they believe would constitute a violation of this chapter or rules adopted pursuant thereto. No person who so informs the commission or the staff shall be discriminated against by an applicant or licensee because of the supplying of such information;

(4) All applicants, licensees, persons who are operators or directors thereof and persons who otherwise have a substantial interest therein shall have the continuing duty to provide any assistance or information required by the commission and to investigations conducted by the commission. If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee or officer or director thereof or person with a substantial interest therein, refuses to comply, the applicant or licensee may be denied or revoked by the commission;

(5) All applicants and licensees shall waive any and all liability as to the state of Washington, its agencies, employees and agents for any damages resulting from any disclosure or publication in any manner, other than a wilfully unlawful disclosure or publication, of any information acquired by the commission during its licensing or other investigations or inquiries or hearings;

(6) Each applicant or licensee may be photographed for investigative and identification purposes in accordance with rules of the commission;

(7) An application to receive a license under this chapter or rules adopted pursuant thereto constitutes a request for determination of the applicant's and those person's with an interest in the applicant, general character, integrity and ability to engage or participate in, or be associated with,

gambling or related activities impacting this state. Any written or oral statement made in the course of an official investigation, proceeding or process of the commission by any member, employee or agent thereof or by any witness, testifying under oath, which is relevant to the investigation, proceeding or process, is absolutely privileged and shall not impose any liability for slander, libel or defamation, or constitute any grounds for recovery in any civil action.

NEW SECTION. Sec. 15. There is added to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW a new section to read as follows:

No applicant or licensee shall give or provide, or offer to give or provide, directly or indirectly, to any public official or employee or agent of this state, or any of its agencies or political subdivisions, any compensation or reward, or share of the money or property paid or received through gambling activities, in consideration for obtaining any license, authorization, permission or privilege to participate in any gaming operations except as authorized by this chapter or rules adopted pursuant thereto. Violation of this section shall be a felony for which a person, upon conviction, shall be punished by imprisonment for not more than five years or a fine of not more than one hundred thousand dollars, or both.

NEW SECTION. Sec. 16. There is added to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW a new section to read as follows:

At any time within five years after any amount of fees, interest, penalties, or tax which is imposed pursuant to this chapter, or rules adopted pursuant thereto, shall become due and payable, the attorney general, on behalf of the commission, may bring a civil action in the courts of this state, or any other state, or of the United States, to collect the amount delinquent, together with penalties and interest: PROVIDED, That where the tax is one imposed by a county, city or town under RCW 9.46.110, any such action shall be brought by that county, city or town on its own behalf. An action may be brought whether or not the person owing the amount is at such time a licensee pursuant to the provisions of this chapter.

If such an action is brought in the courts of this state, a writ of attachment may be issued and no bond or affidavit prior to the issuance thereof shall be required. In all actions in this state, the records of the commission, or the appropriate county, city or town, shall be prima facie evidence of the determination of the tax due or the amount of the delinquency.

NEW SECTION. Sec. 17. There is added to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW a new section to read as follows:

No court of the state of Washington other than the superior court of Thurston county shall have jurisdiction over any action or proceeding against the commission or any member thereof for anything done or omitted to be done in or arising out of the performance of his or her duties under

this title: PROVIDED, That an appeal from a contested case of a final decision of the commission to deny, suspend or revoke a license shall be governed by chapter 34.04 RCW.

Neither the commission nor any member or members thereof shall be personally liable in any action at law for damages sustained by any person because of any acts performed or done, or omitted to be done, by the commission or any member of the commission, or any employee of the commission, in the performance of his or her duties and in the administration of this title.

NEW SECTION. Sec. 18. There is added to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW a new section to read as follows:

No applicant for a license from, nor licensee of, the commission, nor any operator of any gambling activity, shall, without advance approval of the commission, knowingly permit any person to participate in the management or operation of any activity for which a license from the commission is required or which is otherwise authorized by this chapter if that person:

(1) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude; or

(2) Has violated, failed, or refused to comply with provisions, requirements, conditions, limitations or duties imposed by this chapter, and any amendments thereto, or any rules adopted by the commission pursuant thereto, or has permitted, aided, abetted, caused, or conspired with another to cause, any person to violate any of the provisions of this chapter or rules of the commission.

NEW SECTION. Sec. 19. If any provision of this amendatory 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. 20. This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 25, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 140

[House Bill No. 212]

ARTISTIC OR CULTURAL ORGANIZATIONS—EXCISE TAX EXEMPTION

AN ACT Relating to excise taxation; adding new sections to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; and adding a new section to chapter 82.12 RCW.

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

NEW SECTION. Section 1. There is added to chapter 82.04 RCW a new section to read as follows:

In computing tax there may be deducted from the measure of tax amounts received from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or subdivision thereof as compensation for, or to support, artistic or cultural exhibitions, performances, or programs provided by an artistic or cultural organization for attendance or viewing by the general public.

NEW SECTION. Sec. 2. There is added to chapter 82.04 RCW a new section to read as follows:

In computing tax there may be deducted from the measure of tax by persons subject to payment of the tax on manufacturing under RCW 82.04.240, the value of articles to the extent manufacturing activities are undertaken by an artistic or cultural organization solely for the purpose of manufacturing articles for use by the organization in displaying art objects or presenting artistic or cultural exhibitions, performances, or programs for attendance or viewing by the general public.

NEW SECTION. Sec. 3. There is added to chapter 82.04 RCW a new section to read as follows:

In computing tax there may be deducted from the measure of tax amounts received by artistic or cultural organizations as tuition charges collected for the privilege of attending artistic or cultural education programs.

NEW SECTION. Sec. 4. There is added to chapter 82.08 RCW a new section to read as follows:

The tax levied by RCW 82.08.020 shall not apply to sales to artistic or cultural organizations of objects which are acquired for the purpose of exhibition or presentation to the general public if the objects are:

- (1) Objects of art;
- (2) Objects of cultural value;
- (3) Objects to be used in the creation of a work of art, other than tools;

or

(4) Objects to be used in displaying art objects or presenting artistic or cultural exhibitions or performances.

NEW SECTION. Sec. 5. There is added to chapter 82.12 RCW a new section to read as follows:

The provisions of this chapter shall not apply in respect to the use by artistic or cultural organizations of:

- (1) Objects of art;
- (2) Objects of cultural value;
- (3) Objects to be used in the creation of a work of art, other than tools;

or

(4) Objects to be used in displaying art objects or presenting artistic or cultural exhibitions or performances.

NEW SECTION. Sec. 6. There is added to chapter 82.04 RCW a new section to read as follows:

(1) For the purposes of sections 1, 2, 3, 4, and 5 of this act, the term "artistic or cultural organization" means an organization which is organized and operated exclusively for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, as defined in subsection (2) of this section, for viewing or attendance by the general public. The organization must be a not-for-profit corporation under chapter 24.03 RCW and managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or by a corporation sole under chapter 24.12 RCW. In addition, to qualify for deduction or exemption from taxation under sections 1, 2, 3, 4, and 5 of this act, the corporation shall satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation which also would be entitled to the exemption;

(d) The corporation must be duly licensed or certified when licensing or certification is required by law or regulation;

(e) The amounts received that qualify for exemption must be used for the activities for which the exemption is granted;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The director of revenue shall have access to its books in order to determine whether the corporation is exempt from taxes.

(2) The term "artistic or cultural exhibitions, presentations, or performances or cultural or art education programs" includes and is limited to:

(a) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(b) A musical or dramatic performance or series of performances; or

(c) An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject.

Passed the House April 25, 1981.

Passed the Senate April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 141

[House Bill No. 214]

NONPROFIT ORGANIZATIONS—ARTISTIC OR CULTURAL PRODUCTION FACILITIES, PUBLIC ASSEMBLY HALLS—PROPERTY TAX EXEMPTION

AN ACT Relating to property taxes; amending section 84.36.060, chapter 15, Laws of 1961 as amended by section 5, chapter 40, Laws of 1973 2nd ex. sess. and RCW 84.36.060; amending section 6, chapter 40, Laws of 1973 2nd ex. sess. and RCW 84.36.800; amending section 7, chapter 40, Laws of 1973 2nd ex. sess. and RCW 84.36.805; amending section 8, chapter 40, Laws of 1973 2nd ex. sess. as amended by section 1, chapter 209, Laws of 1977 ex. sess. and RCW 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:

Section 1. Section 84.36.060, chapter 15, Laws of 1961 as amended by section 5, chapter 40, Laws of 1973 2nd ex. sess. and RCW 84.36.060 are each amended to read as follows:

The following property shall be exempt from taxation:

All art, scientific, or historical collections of associations maintaining and exhibiting such collections for the benefit of the general public and not for profit, together with all real and personal property of such associations used exclusively for the safekeeping, maintaining and exhibiting of such collections; and all the real and personal property owned by or leased to associations engaged in the production and performance of musical, dance, artistic, dramatic, or literary works for the benefit of the general public and not for profit, which real and personal property is used exclusively for this production or performance: PROVIDED, That to qualify for this exemption an organization must be organized and operated exclusively for artistic, scientific, historical, literary, musical, dance, dramatic, or educational purposes and receive a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its purpose or function)

from the United States or any state or any political subdivision thereof or from direct or indirect contributions from the general public;

All fire engines and other implements used for the extinguishment of fire, with the buildings used exclusively for the safekeeping thereof, and for meetings of fire companies, provided such properties belong to any city or town or to a fire company therein;

Property owned by humane societies in this state in actual use by such societies.

NEW SECTION. Sec. 2. There is added to chapter 84.36 RCW a new section to read as follows:

Real or personal property owned by a nonprofit organization, association, or corporation in connection with the operation of a public assembly hall or meeting place is exempt from taxation. The area exempt under this section includes the building or buildings, the land under the buildings, and an additional area necessary for parking, not exceeding a total of one acre: **PROVIDED**, That for property essentially unimproved except for restroom facilities and structures on such property which has been used primarily for annual community celebration events for at least ten years, such exempt property shall not exceed twenty-nine acres.

To qualify for this exemption the property must be used exclusively for public gatherings and be available to all organizations or persons desiring to use the property, but the owner may impose conditions and restrictions which are necessary for the safekeeping of the property and promote the purposes of this exemption. Membership shall not be a prerequisite for the use of the property.

The use of the property for pecuniary gain or to promote business activities, except fund raising activities conducted by a nonprofit organization, nullifies the exemption otherwise available for the property for the assessment year. The exemption is not nullified by the collection of rent or donations if the amount is reasonable and does not exceed maintenance and operation expenses created by the user.

The department of revenue shall narrowly construe this exemption and shall annually report to the legislature the names of organizations receiving such property tax exemptions.

Sec. 3. Section 6, chapter 40, Laws of 1973 2nd ex. sess. and RCW 84.36.800 are each amended to read as follows:

As used in (~~this 1973 amendatory act~~) RCW 84.36.020, 84.36.030, 84.36.040, 84.36.050, 84.36.060, section 2 of this 1981 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 clergymen 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 clergyman who is designated for a particular congregation and who holds regular services therefor.

Sec. 4. Section 7, chapter 40, Laws of 1973 2nd ex. sess. and RCW 84.36.805 are each amended to read as follows:

In order to be exempt pursuant to RCW 84.36.030, 84.36.040, 84.36.050 (~~and~~), 84.36.060, and section 2 of this 1981 act, said nonprofit organizations, associations or corporations shall satisfy the following conditions:

(a) The property is used for the actual operation of the activity for which exemption is granted and does not exceed an amount reasonably necessary for that purpose;

(b) 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 provision of this subsection shall not apply to those qualified for exemption pursuant to RCW 84.36.040 if the property used for the purpose stated is either leased or rented;

(c) The facilities and services are available to all regardless of race, color, national origin or ancestry;

(d) The organization, association, or corporation is duly licensed or certified where such licensing or certification is required by law or regulation;

(e) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller shall not qualify for exempt status;

(f) 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, 84.36.040, 84.36.050 (~~and~~), 84.36.060, and section 2 of this 1981 act.

Sec. 5. Section 8, chapter 40, Laws of 1973 2nd ex. sess. as amended by section 1, chapter 209, Laws of 1977 ex. sess. and RCW 84.36.810 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, 84.36.040, (~~and~~), 84.36.060, and section 2 of this 1981 act, the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the seven 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.

(2) Upon cessation of a use under which an exemption has been granted pursuant to RCW 84.36.050 to a school or college, 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, plus a tax, at the same rate as the property tax rate for that year, on the amount of profit from the sale of property (the difference between the sales price and the purchase price plus improvements): PROVIDED, That where the school or college has operated for more than ten years, no penalty shall be assessed.

(3) If the cessation of use under subsections (1) or (2) of this section involves a portion of the total property exemptions the provisions of those subsections shall apply only to that portion: PROVIDED FURTHER, That such additional tax shall not be imposed if the cessation of use resulted solely from:

(a) Transfer to an 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.

NEW SECTION. Sec. 6. This act shall apply to taxes payable in 1982 and in subsequent years and shall be strictly construed.

Passed the House April 25, 1981.

Passed the Senate April 24, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 142

[Engrossed Senate Bill No. 3610]

NONPROFIT ARTS ORGANIZATIONS—CLASS L LIQUOR LICENSES

AN ACT Relating to nonprofit arts organizations; and adding a new section to chapter 66.24 RCW.

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

NEW SECTION. Section 1. There is added to chapter 66.24 RCW a new section to read as follows:

(1) There shall be a retailer's license to be designated as class L. This shall be a special license to be issued to any nonprofit arts organization which sponsors and presents productions or performances of an artistic or cultural nature in a specific theater or other appropriate designated indoor premises approved by the board. The license shall permit the licensee to sell liquor to patrons of productions or performances for consumption on the premises at these events. The fee for the license shall be two hundred fifty dollars per annum.

(2) For the purposes of this section, the term "nonprofit arts organization" means an organization which is organized and operated for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, as defined in subsection (3) of this section, for viewing or attendance by the general public. The organization must be a not-for-profit corporation under chapter 24.03 RCW and managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or by a corporation sole under chapter 24.12 RCW. In addition, the corporation must satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the license is granted and, on the liquidation, dissolution, or

abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation;

(d) The corporation must be duly licensed or certified when licensing or certification is required by law or regulation;

(e) The proceeds derived from sales of liquor, except for reasonable operating costs, must be used in furtherance of the purposes of the organization;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The liquor control board shall have access to its books in order to determine whether the corporation is entitled to a license.

(3) The term "artistic or cultural exhibitions, presentations, or performances or cultural or art education programs" includes and is limited to:

(a) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(b) A musical or dramatic performance or series of performances; or

(c) An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject.

Passed the Senate April 2, 1981.

Passed the House April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 143

[Reengrossed Substitute Senate Bill No. 3843]

CAPITAL BUDGET

AN ACT Adopting the capital budget; making appropriations and authorizing expenditures for capital improvements; authorizing certain projects; providing an effective date; and declaring an emergency.

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

NEW SECTION. Section 1. A capital budget is hereby adopted and, subject to the provisions hereinafter set forth, 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 disbursed for capital projects during the period ending June 30, 1983, out of the several funds hereinafter named.

NEW SECTION. Sec. 2. As used in this act, the following phrases have the following meanings:

- (1) "GF, Cap Bldg Constr Acct" means General Fund—Capitol Building Construction Account;
- (2) "GF, State Bldg Constr Acct" means General Fund—State Building Construction Account;
- (3) "GF, Fish Cap Proj Acct" means General Fund—Fisheries Capital Projects Account;
- (4) "GF, ORA" means General Fund—Outdoor Recreation Account;
- (5) "GF, Sal Enhmt Constr Acct" means General Fund—Salmon Enhancement Construction Account;
- (6) "GF, For Dev Acct" means General Fund—Forest Development Account;
- (7) "GF, Res Mgmt Cost Acct" means General Fund—Resource Management Cost Account;
- (8) "GF, LIRA, DSHS Fac" means General Fund—Local Improvements Revolving Account—Department of Social and Health Services Facilities;
- (9) "GF, DSHS Constr Acct" means General Fund—State Social and Health Services Construction Account;
- (10) "GF, CEP & RI Acct" means General Fund—Charitable, Educational, Penal, and Reformatory Institutions Account;
- (11) "GF, Fire Trng Constr Acct" means General Fund—Fire Training Construction Account;
- (12) "GF, WSU Constr Acct" means General Fund—Washington State University Construction Account;
- (13) "GF, WSU Bldg Acct" means General Fund—Washington State University Building Account;
- (14) "GF, St H Ed Constr Acct" means General Fund—State Higher Education Construction Account;
- (15) "GF, H Ed Constr Acct" means General Fund—Higher Education Construction Account 1979;
- (16) "GF, EWU Cap Proj Acct" means General Fund—Eastern Washington University Capital Projects Account;
- (17) "GF, TESC Cap Proj Acct" means General Fund—The Evergreen State College Capital Projects Account;
- (18) "GF, Com Col Cap Impvmt Acct" means General Fund—Community College Capital Improvement Account;
- (19) "GF, Com Col Cap Proj Acct" means General Fund—Community College Capital Projects Account;
- (20) "GF, Com Col Cap Constr Acct" means General Fund—1975 Community College Capital Construction Account;
- (21) "GF, CWU Cap Proj Acct" means General Fund—Central Washington University Capital Projects Account;
- (22) "GF, UW Bldg Acct" means General Fund—University of Washington Building Account;

(23) "GF, St Bldg Auth Constr Acct" means General Fund—State Building Authority Construction Account;

(24) "GF, WWU Cap Proj Acct" means General Fund—Western Washington University Capital Projects Account;

(25) "GF, Cap Purch & Dev Acct" means General Fund—Capitol Purchase and Development Account;

(26) "GF, Hndcp Fac Constr Acct" means General Fund—Handicapped Facilities Construction Account;

(27) "GF, LIRA, Waste Disp Fac" means General Fund—State and Local Improvement Revolving Account—Waste Disposal Facilities;

(28) "GF, State Emerg Water Proj Rev" means General Fund—Emergency Water Project Revolving Fund—State;

(29) "GF, LIRA, Waste Fac 1980" means General Fund—State and Local Improvement Revolving Account—Waste Facilities 1980;

(30) "GF, Public Water Supply" means General Fund—Public Water Supply Bond;

(31) "GF, LIRA, Public Rec Fac" means General Fund State and Local Improvement Revolving Account—Public Recreation Facilities;

(32) "GF, Snowmobile Acct" means General Fund—Snowmobile Account;

(33) "Game Fund—Game Sp Wildlife Acct" means Game Fund—Game Special Wildlife Account;

(34) "GF, Pacific Northwest Festival Facility Constr Acct" means General Fund—Pacific Northwest Festival Facility Construction Account;

(35) "GF, Cultural Facilities Constr Acct" means General Fund—Cultural Facilities Construction Account;

(36) "GF, Indian Cultural Center Constr Acct" means General Fund—Indian Cultural Center Construction Account.

(37) The words "capital improvements" or "capital projects" used in this act mean acquisition of sites, easements, rights of way, or improvements thereon and appurtenances thereto, construction and initial equipment, reconstruction, demolition, or major alterations of new or presently owned capital assets.

*** NEW SECTION. Sec. 3. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

(1) Campus electrical repairs.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		2,472,000
GF, State Bldg Constr Acct	745,000	
Project Costs	Estimated Costs	Estimated Total

Through 6/30/81	7/1/83 and Thereafter	Costs
1,977,000		5,194,000

(2) Capitol Campus miscellaneous mechanical and electrical repairs.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct	300,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
651,000		951,000

(3) Rehabilitate Capitol Lake.

	Reappropriation	Appropriation
GF, State Bldg Constr Acct	2,000	215,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
2,020,000		2,237,000

(4) Office Building No. 2—Contractor claim defense.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct	213,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
37,000		250,000

(5) Office Building No. 2—Contractor claim settlement.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		840,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		840,000

(6) Insurance Building renovation. The appropriation contained in this subsection shall complete the renovation of the Insurance Building. The department of general administration shall revise the renovation specifications in order that the project is completed within the funds appropriated in this subsection.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct	196,000	3,390,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
2,178,000		5,764,000

(7) Campus roof repairs.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		290,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
184,000		474,000

(8) Elevator/escalator repair and replacement.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct	450,000	344,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
56,000		850,000

(9) Capitol campus garage repairs.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		490,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
590,000		1,080,000

(10) Legislative Building stonework repair.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		140,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
357,000		497,000

(11) To purchase land adjacent to Olympia Technical Community College.

	Reappropriation	Appropriation
GF, State Bldg Constr Acct		500,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		500,000

(12) State building energy audits. The department of general administration shall expend the appropriation contained in this subsection to perform energy audits and to implement the recommendations of energy audits in state-owned buildings. If House Bill No. 658 is enacted during the 1981 regular session of the legislature, the state building construction account appropriation shall be reduced to \$4,500,000.

	Reappropriation	Appropriation
GF, State Bldg Constr Acct		6,500,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
14,000		6,514,000

(13) Northern State Hospital repairs.

	Reappropriation	Appropriation
GF, State Bldg Constr Acct		1,206,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs

6/30/81	Thereafter	
869,000		2,075,000
(14) Miscellaneous repairs on the Capitol Campus.		
	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct	300,000	371,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
688,000		1,359,000

(15) Capitol Area Master Plan. The appropriation contained in this subsection shall initiate and complete the Capitol Area Master Plan. The department of general administration shall develop the project specifications in order that the master plan is completed within the funds appropriated in this subsection. A selection panel shall be assembled by the department of general administration, whose function shall be to evaluate proposals submitted by firms interested in performing the study and formulating the master plan. In addition to panel members chosen by the department of general administration, the selection panel shall include two members from the senate, one from the majority and one from the minority party, appointed by the president of the senate; two members from the house, one from the majority and one from the minority party, appointed by the speaker of the house; and one representative of the office of financial management.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		250,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		250,000

(16) Old Capitol Building renovation. ***The appropriation contained in this subsection shall complete the Old Capitol Building renovation. The department of general administration shall revise renovation specifications in order that the renovation is completed within the funds appropriated in this subsection.***

	Reappropriation	Appropriation
GF, State Bldg Constr Acct	3,200,000	

GF, Cap Bldg Constr Acct		4,821,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
1,071,000		9,092,000

(17) Capitol campus electrical energy conservation.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		468,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		468,000

(18) Powerhouse equipment modification and replacement.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		987,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		987,000

(19) Regional archives renovation.

	Reappropriation	Appropriation
GF, State Bldg Constr Acct		46,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		46,000

(20) Office Building No. 2 window drip cap installation.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		106,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs

6/30/81

Thereafter

106,000

(21) Heating, ventilation, and air conditioning replacement and modification.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		441,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		441,000

(22) Perform engineering study to determine cost of restoring Thurston county courthouse for alternate uses.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		75,000

(23) Expansion of legislative facilities. No expenditures of moneys shall be made from this appropriation by the department of general administration without the prior approval of the joint committee on legislative facilities. The joint committee shall be composed of members of the house of representatives executive rules committee and the senate facilities and operations committee and such other members appointed by the president of the senate or the speaker of the house of representatives as are deemed appropriate to assure equal representation.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		3,110,000
GF, State Bldg Constr Acct		500,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
	3,610,000	3,610,000

(24) The department of general administration shall not expend any capital funds appropriated herein for the legislative art work project.

*Sec. 3. was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 4. FOR THE MILITARY DEPARTMENT

(1) Vancouver Armory.

Reappropriation	Appropriation
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General Fund—State	50,000	
General Fund—Federal		78,000
GF, State Bldg Constr Acct	50,000	39,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
	1,718,000	1,935,000

(2) Replace furnace fire units.

	Reappropriation	Appropriation
GF, State Bldg Constr Acct		106,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
59,000		165,000

(3) Minor rehabilitation of facilities state-wide.

	Reappropriation	Appropriation
GF, State Bldg Constr Acct		450,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		450,000

(4) Purchase Port Angeles Armory.

	Reappropriation	Appropriation
GF, State Bldg Constr Acct		300,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		300,000

(5) Federal Way Armory.

	Reappropriation	Appropriation
General Fund—Federal		14,000
GF, State Bldg Constr Acct		125,000

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
	1,853,000	1,992,000

(6) Tacoma Armory repairs.

	Reappropriation	Appropriation
GF, State Bldg Constr Acct		105,000
General Fund—State		60,000

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		165,000

NEW SECTION. Sec. 5. FOR THE COURT OF APPEALS

Purchase Court of Appeals, Division III, facility in Spokane.

	Reappropriation	Appropriation
GF, State Bldg Constr Acct		1,041,000

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		1,041,000

NEW SECTION. Sec. 6. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—FOR DEPARTMENTAL CAPITAL SERVICES (HEADQUARTERS)

(1) Construct and equip community social and health services facilities (Referendum 29).

	Reappropriation	Appropriation
GF, LIRA, DSHS Fac	250,000	

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
24,750,000		25,000,000	12/81

(2) Construct and equip facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps (Referendum 37).

		Reappropriation	Appropriation
GF, Hndcp Fac Constr Acct		24,800,000	
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
200,000		25,000,000	6/87

(3) To repair and improve utilities and facilities—Omnibus: PROVIDED, That if a department of corrections is created during the 1981 regular session of the legislature, that portion of omnibus funds reappropriated in this section which is required to satisfy outstanding contractual obligations for the department of corrections as of the effective date of this act, shall be transferred to the department of corrections.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		1,200,000	2,000,000
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
1,513,485		4,713,485	12/83

(4) Design and prepare site for construction of new state public health laboratory.

		Reappropriation	Appropriation
GF, DSHS Constr Acct			1,115,900
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
	10,861,800	11,977,700	7/85

(5) Establish energy management program and implement energy conservation projects.

		Reappropriation	Appropriation
GF, DSHS Constr Acct			1,440,000
Project	Estimated	Estimated	Estimated

Costs Through 6/30/81	Costs 7/1/83 and Thereafter	Total Costs	Completion Date
	1,721,000	3,161,000	12/83

(6) Develop project plans for all major current and backlog facility deficiencies.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		288,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
565,000		853,000	6/83

(7) To provide funding for department of social and health services compliance with section 504 relating to handicapped access to facilities.

		Reappropriation	Appropriation
DSHS Constr Acct		400,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
162,000		562,000	9/82

NEW SECTION. Sec. 7. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—FOR ADULT CORRECTIONS

The appropriations contained in this section shall be transferred to the department of corrections if a department of corrections is created during the 1981 regular session of the legislature.

(1) Construct and equip a 100-man honor camp.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		100,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
3,207,259		3,307,259	9/81

(2) Construct and equip a 120-man housing unit at the Washington Corrections Center.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		500,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
2,927,000		3,427,000	9/81

(3) Convert 300-bed minimum security building to medium security at the Washington State Penitentiary.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		1,275,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
4,153,000		5,428,000	12/81

(4) Construct and equip maximum security facility at the Washington State Reformatory.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		1,000,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
11,054,000		12,054,000	6/82

(5) Renovate and expand visiting, dining, and recreation facility at the Washington State Reformatory.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		1,000,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
524,000		1,524,000	2/82

(6) Construct a 500-man medium security corrections center on the grounds of the Washington State Reformatory.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		4,000,000	28,433,300
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
1,429,000		33,862,300	9/83

(7) To improve security, facilities, and utilities, Phase II, Washington State Penitentiary: PROVIDED, That if alternative housing arrangements are approved by the special master, \$2,500,000 of this appropriation, which is intended to be used only for the construction of temporary inmate housing, shall be placed in reserve and left unexpended. If construction has not begun by September 15, 1981, all remaining funds not disbursed or contractually obligated shall remain unexpended and shall be held in reserve unless a revised project schedule is approved by the director of financial management.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		2,900,000	19,450,200
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
3,024,000	5,245,300	30,619,500	6/84

(8) Improve security, facilities, and ventilation at the Washington State Reformatory, Phase I. If construction has not begun by August 15, 1982, all remaining funds not disbursed or contractually obligated shall remain unexpended and shall be held in reserve unless a revised project schedule is approved by the director of financial management.

		Reappropriation	Appropriation
GF, DSHS Constr Acct			723,400
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
	8,911,400	9,634,800	12/85

(9) Purchase equipment for institutional industries at the Washington State Penitentiary (81-83), Washington State Reformatory (83-85), and Purdy Treatment Center for Women (83-85).

		Reappropriation	Appropriation
GF, DSHS Constr Acct			500,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
	334,300	834,300	6/83

(10) Make repairs and alterations to McNeil Island Penitentiary to maintain serviceability of the institution for short-term use by the state. If House Bill No. 459 is enacted during the 1981 regular session of the legislature, the funds unexpended as of June 30, 1981, shall be reappropriated for the 1981-83 biennium. If House Bill No. 459 is enacted during the 1981 regular session of the legislature, the GF, CEP & RI Acct appropriation shall be reduced by the amount of the appropriation in House Bill No. 459, but in no case shall the reappropriation plus the appropriation exceed \$2,674,900. If construction has not begun by September 15, 1981, all remaining funds not disbursed or contractually obligated shall remain unexpended and shall be held in reserve unless a revised project schedule is approved by the director of financial management.

		Reappropriation	Appropriation
GF, DSHS Constr Acct			674,900
GF, CEP & RI Acct			2,000,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
		2,674,900	6/83

(11) Repair and expand education building damaged by December 31, 1980, fire at Washington Corrections Center. If construction has not begun by August 15, 1981, all remaining funds not disbursed or contractually obligated shall remain unexpended and shall be held in reserve unless a revised project schedule is approved by the director of financial management.

		Reappropriation	Appropriation
GF, DSHS Constr Acct			1,386,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
		1,386,000	4/82

(12) Fire and safety improvements at the Washington State Penitentiary.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		220,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
529,000		749,000	9/81

(13) Fire and safety improvements at the Washington State Reformatory.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		700,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
604,000		1,304,000	9/81

(14) To repair and improve utilities and facilities—Omnibus: PROVIDED, That if a department of corrections is not created during the 1981 regular session of the legislature, this appropriation shall be transferred to the budget and fiscal services division of the department of social and health services.

		Reappropriation	Appropriation
GF, DSHS Constr Acct			1,600,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
		1,600,000	12/83

(15) Complete a ten-year facility plan by December 15, 1981, identifying year-by-year projected population for all institutional and noninstitutional correctional programs including jails; space standards for residential and support service facilities; the capacity of existing facility resources; and the projected demand for additional space based upon these projections, standards, and resources. It is the intent of this appropriation to provide the data to support the need for any additional correctional beds and, if needed, based on this data, to determine feasible locations for new adult corrections

facilities and to initiate planning and design for any new facility(s): PROVIDED, That no funds shall be expended for design without this plan being presented to the house and senate ways and means committees.

		Reappropriation	Appropriation
GF, DSHS Constr Acct			1,285,000
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
		1,285,000	8/85

NEW SECTION. Sec. 8. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—FOR JUVENILE REHABILITATION

(1) Construct and equip a group home in eastern Washington.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		50,000	
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
373,000		423,000	9/81

(2) Construct and equip an academic/vocational building at the Naselle Youth Camp.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		650,000	
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
1,277,500		1,927,500	9/81

(3) Construct and equip multi-service building, Maple Lane School.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		740,000	
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date

6/30/81	Thereafter		
1,900,000		2,640,000	1/82

(4) Renovate and replace steam plant, Maple Lane School.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		500,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
2,505,000		3,005,000	9/81

(5) Purchase, renovate, and equip a replacement for the Pioneer Group Home.

		Reappropriation	Appropriation
GF, DSHS Constr Acct			275,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
		275,000	6/83

(6) For study, testing, and design to repair or replace roofs, Echo Glen Children's Center. The study and detailed cost estimates shall be submitted to the 1982 regular session of the legislature.

		Reappropriation	Appropriation
GF, DSHS Constr Acct			209,200
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
		209,200	11/82

(7) Construct new academic facility at Green Hill. The department shall prepare detailed cost estimates for repair or replacement of other deficient buildings for submission to the legislature by November 15, 1981. If construction has not begun by November 15, 1982, all remaining funds not disbursed or contractually obligated shall remain unexpended and shall be held in reserve unless a revised project schedule is approved by the director of financial management.

	Reappropriation	Appropriation
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GF, DSHS Constr Acct			1,800,000
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
	8,032,000	9,832,000	2/84

(8) Renovate kitchen, dining room, and administration building and construct new commissary, Naselle Youth Camp. If construction has not begun by July 15, 1982, all remaining funds not disbursed or contractually obligated shall remain unexpended and shall be held in reserve unless a revised project schedule is approved by the director of financial management.

		Reappropriation	Appropriation
GF, DSHS Constr Acct			628,900
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
		628,900	6/83

NEW SECTION. Sec. 9. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—FOR MENTAL HEALTH

(1) Design, construct, and equip 225-bed modular facility for nonoffender population, Western State Hospital.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		15,793,000	
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
5,500,000		21,293,000	6/82

(2) Design, construct, and equip 130-bed modular facility for nonoffender population, Eastern State Hospital.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		9,835,000	
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date

6/30/81	Thereafter		
2,200,000		12,035,000	7/82

(3) Renovate for accreditation, Western State Hospital.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		150,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
1,350,000		1,500,000	9/81

(4) Purchase movable medical equipment and furnishings for new facilities at Western and Eastern State Hospitals.

		Reappropriation	Appropriation
GF, DSHS Constr Acct			3,305,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
		3,305,000	4/82

(5) Make health, safety, facility, utility, and roofing improvements, Western State Hospital. If construction has not begun by June 15, 1982, all remaining funds not disbursed or contractually obligated shall remain unexpended and shall be held in reserve unless a revised project schedule is approved by the director of financial management.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		100,000	1,300,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
931,000		2,331,000	8/83

(6) Renovate for accreditation, Eastern State Hospital.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		50,000	
Project Costs	Estimated Costs	Estimated Total	Estimated Completion

Through 6/30/81	7/1/83 and Thereafter	Costs	Date
437,000		487,000	9/81

NEW SECTION. Sec. 10. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—FOR DEVELOPMENTAL DISABILITIES

(1) Repair and upgrade utilities, Phase III, Fircrest School.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		2,100,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
1,377,280		3,477,280	1/82

(2) Renovate Primary and Administration buildings, Phase II, School for the Blind.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		150,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
469,000		619,000	9/81

(3) Renovate heating and ventilating system, Interlake School.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		300,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
227,000		527,000	8/81

(4) Provide site preparation of a community horticultural training center for the handicapped, south King County.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		400,000	
Project	Estimated	Estimated	Estimated

Costs Through 6/30/81	Costs 7/1/83 and Thereafter	Total Costs	Completion Date
100,000		500,000	1/82

(5) Construct and equip nine residential units, renovate skilled nursing center and health center, renovate kitchen, improve utilities and site at the Rainier School, Phase III; design through working drawings for Phase IV. If construction has not begun by November 15, 1981, all remaining funds not disbursed or contractually obligated shall remain unexpended and shall be held in reserve unless a revised project schedule is approved by the director of financial management.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		3,900,000	18,597,200
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
9,634,151	16,984,500	49,115,851	7/84

(6) Renovate Douglas Hall, renovate or construct infirmary, renovate for habilitation center, make utility and site improvements, and demolish old buildings on north campus at Lakeland Village, Phase III; design through working drawings for Phase IV. If construction has not begun by December 15, 1982, all remaining funds not disbursed or contractually obligated shall remain unexpended and shall be held in reserve unless a revised project schedule is approved by the director of financial management.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		6,930,300	9,336,700
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs	Estimated Completion Date
8,633,455	12,603,600	37,504,055	7/84

(7) Construct and equip seven 16-bed residential units, complete utility extensions, and complete site work for residences at Yakima Valley School, Phase II; plan for Phase III. If construction has not begun by October 15, 1981, all remaining funds not disbursed or contractually obligated shall remain unexpended and shall be held in reserve unless a revised project schedule is approved by the director of financial management.

Reappropriation Appropriation

GF, DSHS Constr Acct		1,000,000	6,664,600
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
546,000	8,453,700	16,664,300	7/84

(8) Design for two additional cottages and renovate to meet federal IMR requirements at the Francis Haddon Morgan Children's Center.

		Reappropriation	Appropriation
GF, DSHS Constr Acct		667,700	
Project	Estimated	Estimated	Estimated
Costs	Costs	Total	Completion
Through	7/1/83 and	Costs	Date
6/30/81	Thereafter		
500,000	14,772,500	15,940,200	3/85

NEW SECTION. Sec. 11. FOR THE DEPARTMENT OF VETERANS AFFAIRS

(1) Repair and improve facilities—Omnibus.

		Reappropriation	Appropriation
GF, CEP & RI Acct			1,044,900
Project	Estimated		Estimated
Costs	Costs		Total
Through	7/1/83 and		Costs
6/30/81	Thereafter		
			1,044,900

(2) Develop a well producing thirty-five gallons per minute for domestic water supply and fire prevention, Soldiers Home.

		Reappropriation	Appropriation
GF, CEP & RI Acct			390,300
Project	Estimated		Estimated
Costs	Costs		Total
Through	7/1/83 and		Costs
6/30/81	Thereafter		
27,500			417,800

(3) Replace steam and condensate return lines with hot water system, Soldiers Home.

	Reappropriation	Appropriation
GF, CEP & RI Acct		551,300
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		551,300

(4) Construct and equip a laundry facility, Veterans Home.

	Reappropriation	Appropriation
GF, CEP & RI Acct	869,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
225,000		1,094,000

(5) Construct permanent clinic, Veterans Home.

	Reappropriation	Appropriation
GF, CEP & RI Acct		354,600
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		354,600

NEW SECTION. Sec. 12. FOR THE DEPARTMENT OF EMPLOYMENT SECURITY

To purchase land and construct an office building in Walla Walla, including such improvements, facilities, paving, landscaping, and fixed equipment as may be required for its proper use and operation.

	Reappropriation	Appropriation
Unemployment Compensation Administration Fund		545,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
	545,000	545,000

NEW SECTION. Sec. 13. FOR THE DEPARTMENT OF ECOLOGY

(1) Provide low water fixtures to reduce water in drainfields, Alta Lake State Park.

	Reappropriation	Appropriation
GF, LIRA, Waste Disp Fac	112,800	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		112,800

(2) Install new septic tank and drainfield, renovate and activate restroom showers, Illahee State Park.

	Reappropriation	Appropriation
GF, LIRA, Waste Disp Fac	8,600	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		8,600

(3) Provide new septic tank and replace drainfield, Lake Chelan State Park.

	Reappropriation	Appropriation
GF, LIRA, Waste Disp Fac	25,400	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		25,400

(4) Eliminate storm sewer entry into sanitary sewer, Fort Columbia State Park.

	Reappropriation	Appropriation
GF, LIRA, Waste Disp Fac	17,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs

6/30/81

Thereafter

17,000

(5) Acquire lands for the purpose of establishing an estuarine sanctuary in Padilla Bay.

	Reappropriation	Appropriation
GF, ORA—State		550,000
General Fund—Federal		1,112,869
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
70,000		1,732,869

(6) Provide sewage system improvements, Blake Island State Park.

	Reappropriation	Appropriation
GF, LIRA, Waste Disp Fac	215,700	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		215,700

(7) To construct waste disposal facilities at various state park facilities state-wide.

	Reappropriation	Appropriation
GF, LIRA, Waste Disp Fac	713,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
33,600		746,000

(8) To construct water supply facilities at various state park facilities state-wide.

	Reappropriation	Appropriation
GF, Public Water Supply	197,900	
Project Costs	Estimated Costs	Estimated Total

Through 6/30/81	7/1/83 and Thereafter	Costs
22,100		220,000

(9) Drill eight wells to acquire hydrologic and geologic subsurface data, Island County.

	Reappropriation	Appropriation
GF, State Emerg Water Proj Rev	204,000	480,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
977,000	580,000	2,241,000

(10) Equip three marine parks (Squaxin Island, Jones Island, and Sucia Island) with self-contained organic sewage treatment systems.

	Reappropriation	Appropriation
GF, LIRA Waste Fac 1980		127,100
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		127,100

(11) Expand and improve the existing self-contained sewage treatment system at Flaming Geyser State Park.

	Reappropriation	Appropriation
GF, LIRA, Waste Fac 1980		85,200
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		85,200

(12) Provide facilities in twenty-seven parks for the disposal of marine sewage from Porta-Potties.

	Reappropriation	Appropriation
GF, LIRA, Waste Fac 1980		104,800
Project Costs	Estimated Costs	Estimated Total

Through 6/30/81	7/1/83 and Thereafter	Costs
		104,800

(13) Provide water service connection for fire protection and public use, Saint Edward State Park.

	Reappropriation	Appropriation
GF, Public Water Supply		183,600
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		183,600

(14) Develop additional 5,000-gallon reservoir, intercept collector lines and well, Jones Island State Park.

	Reappropriation	Appropriation
GF, Public Water Supply		48,300
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		48,300

(15) Provide 5,000-gallon reservoir, extend water system, and provide waste facility and unisex toilet, Blake Island State Park.

	Reappropriation	Appropriation
GF, Public Water Supply		87,700
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		87,700

(16) Provide potable water and electricity, Anderson Island State Park.

	Reappropriation	Appropriation
GF, Public Water Supply		65,800
Project Costs Through	Estimated Costs 7/1/83 and	Estimated Total Costs

6/30/81

Thereafter

65,800

(17) Renovate primary and secondary water distribution system, Larrabee State Park.

	Reappropriation	Appropriation
GF, Public Water Supply		43,600
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
	43,600	

(18) Connect Westhaven State Park water system to the municipal water system.

	Reappropriation	Appropriation
GF, Public Water Supply		77,700
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		77,700

(19) Provide for water system improvements and 20,000-gallon reservoir, Fields Spring State Park.

	Reappropriation	Appropriation
GF, Public Water Supply		107,300
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		107,300

(20) Provide for water system improvements, Sun Lakes State Park.

	Reappropriation	Appropriation
GF, Public Water Supply		83,600
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs

6/30/81

Thereafter

83,600

NEW SECTION. Sec. 14. FOR THE STATE PARKS AND RECREATION COMMISSION

(1) Modernization and improvements at various state parks.

	Reappropriation	Appropriation
GF, LIRA, Public Rec Fac	281,400	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
	112,500	393,900

(2) Develop facilities, Fort Worden.

	Reappropriation	Appropriation
GF, ORA—State	88,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		88,000

(3) Whatcom County Trails.

	Reappropriation	Appropriation
GF, ORA—State	30,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		30,000

(4) Conconully acquisition.

	Reappropriation	Appropriation
GF, ORA—State	8,000	
GF, ORA—Federal	8,000	
Project Costs Through	Estimated Costs 7/1/83 and	Estimated Total Costs

6/30/81

Thereafter

16,000

(5) Acquire access to ocean beach, Copalis State Park.

	Reappropriation	Appropriation
GF, ORA—State	109,000	
GF, ORA—Federal	109,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		218,000

(6) Palmer Development, Green River Gorge.

	Reappropriation	Appropriation
GF, ORA—State	524,000	
GF, ORA—Federal	476,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		1,000,000

(7) Develop facilities, Fort Canby.

	Reappropriation	Appropriation
GF, ORA—State	44,000	
GF, ORA—Federal	44,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		88,000

(8) Develop facilities, Spencer Spit.

	Reappropriation	Appropriation
GF, ORA—State	319,000	
GF, ORA—Federal	319,000	
Project Costs Through	Estimated Costs 7/1/83 and	Estimated Total Costs

6/30/81

Thereafter

638,000

(9) Acquire land, Squak Mountain.

	Reappropriation	Appropriation
GF, ORA—State	39,000	
GF, ORA—Federal	39,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		78,000

(10) Renovate facilities, Camp Wooten.

	Reappropriation	Appropriation
GF, ORA—State	55,000	
GF, ORA—Federal	54,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		109,000

(11) Develop facilities, Clallam Spit.

	Reappropriation	Appropriation
GF, ORA—State	90,000	
GF, ORA—Federal	89,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		179,000

(12) For acquisition and development of recreational sites state-wide.

	Reappropriation	Appropriation
GF, ORA—State	1,922,100	
GF, ORA—Federal	1,628,400	
GF, LIRA, Public Rec Fac	24,000	
Project Costs	Estimated Costs	Estimated Total

Through 6/30/81	7/1/83 and Thereafter	Costs
4,765,700		8,340,300

(13) Funds necessary to meet unanticipated requirements.

	Reappropriation	Appropriation
GF, ORA—State		350,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
	1,000,000	1,350,000

(14) Acquire approximately 130 acres of land, Haley Property, Phase III.

	Reappropriation	Appropriation
GF, ORA—State		150,000
GF, ORA—Federal		150,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
600,000		900,000

(15) Continue to acquire approximately three-quarters of a mile of ocean beach frontage with an upland area of approximately ninety acres, Grayland Beach.

	Reappropriation	Appropriation
GF, ORA—State		150,000
GF, ORA—Federal		150,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
4,315,077	600,000	5,215,077

(16) Continue to acquire approximately 350 to 400 acres and 1.5 miles of riverfront, Green River Gorge.

	Reappropriation	Appropriation
GF, ORA—State		250,000

GF, ORA—Federal		250,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
4,196,071	1,000,000	5,696,071

(17) Acquire approximately 152 acres adjacent to Yakima Sportsman State Park.

	Reappropriation	Appropriation
GF, ORA—State		75,000
GF, ORA—Federal		75,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		150,000

(18) Acquire approximately 160 acres of surplus property from the department of game, Auburn Game Farm. This appropriation is contingent on the enactment of House Bill No. 66 during the 1981 regular session of the legislature.

	Reappropriation	Appropriation
GF, ORA—State		1,500,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		1,500,000

(19) Repair and replace roof of Fort Canby Interpretive Center.

	Reappropriation	Appropriation
GF, ORA—State		26,250
GF, ORA—Federal		26,250
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		52,500

(20) Repair and replace timber breakwater, Fort Worden.

	Reappropriation	Appropriation
GF, ORA—State		96,900
GF, ORA—Federal		96,900
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		193,800

(21) Renovate car-top boat launch ramp and turnaround, Potholes.

	Reappropriation	Appropriation
GF, ORA—State		15,250
GF, ORA—Federal		15,250
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		30,500

(22) Expand boat moorage, Deception Pass.

	Reappropriation	Appropriation
GF, ORA—State		22,350
GF, ORA—Federal		22,350
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		44,700

(23) Renovate campground and day-use area, Riverside.

	Reappropriation	Appropriation
GF, ORA—State		150,000
GF, ORA—Federal		150,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		300,000

(24) Begin trail system development, Mt. Spokane.

	Reappropriation	Appropriation
GF, ORA—State		100,000
GF, ORA—Federal		100,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 200,000

(25) Construct small bathhouse and kitchen, Fort Worden.

	Reappropriation	Appropriation
GF, ORA—State		89,900
GF, ORA—Federal		89,900
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 179,800

(26) Purchase and renovate Region III Headquarters.

	Reappropriation	Appropriation
GF, ORA—State		145,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 145,000

(27) Develop boater destination site, Lower Columbia (Hump Island).

	Reappropriation	Appropriation
GF, ORA—State		10,550
GF, ORA—Federal		10,550
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 21,100

(28) Acquire department of natural resources land, Seaquest.

	Reappropriation	Appropriation
GF, ORA—State		80,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		80,000

(29) Acquire two parcels of surplus department of transportation right-of-way property, Paradise Point.

	Reappropriation	Appropriation
GF, ORA—State		25,800
GF, ORA—Federal		25,800
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		51,600

(30) Development of new access road and contact station facility, Lake Chelan.

	Reappropriation	Appropriation
GF, ORA—State		112,750
GF, ORA—Federal		112,750
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		225,500

(31) Renovate concession area, Twenty-Five Mile Creek.

	Reappropriation	Appropriation
GF, ORA—State		134,000
GF, ORA—Federal		134,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		268,000

(32) Complete 1977-79 facilities renovation, Lake Chelan.

	Reappropriation	Appropriation
GF, ORA—State		96,350
GF, ORA—Federal		96,350
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
144,462		337,162

(33) Renovate day-use area, Saltwater.

	Reappropriation	Appropriation
GF, ORA—State		57,750
GF, ORA—Federal		57,750
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		115,500

(34) Renovate campground area, Larrabee.

	Reappropriation	Appropriation
GF, ORA—State		68,550
GF, ORA—Federal		68,550
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		137,100

(35) Renovate day-use area, Wenberg.

	Reappropriation	Appropriation
GF, ORA—State		67,100
GF, ORA—Federal		67,100
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		134,200

(36) Renovate boat moorage areas; Squaxin Island, Mystery Bay, Jarrell Cove, Penrose Point, Blake Island, and Cornet Bay.

	Reappropriation	Appropriation
GF, ORA—State		216,150
GF, ORA—Federal		216,150
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		432,300

(37) Begin phased restoration of day-use buildings, Millersylvania.

	Reappropriation	Appropriation
GF, ORA—State		124,650
GF, ORA—Federal		124,650
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		249,300

(38) Renovate 25 campsites, Birch Bay.

	Reappropriation	Appropriation
GF, ORA—State		62,650
GF, ORA—Federal		62,650
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		125,300

(39) Install rock riprap, Fort Casey.

	Reappropriation	Appropriation
GF, ORA—State		26,000
GF, ORA—Federal		26,000
Project Costs Through	Estimated Costs 7/1/83 and	Estimated Total Costs

	6/30/81	Thereafter	
			52,000
(40) Remodel and renovate the St. Edwards facility.			
		Reappropriation	Appropriation
GF, ORA—State			297,000
	Project	Estimated	Estimated
	Costs	Costs	Total
	Through	7/1/83 and	Costs
	6/30/81	Thereafter	
			297,000
(41) Acquire from the department of natural resources approximately forty acres of common school trust land near Puyallup.			
		Reappropriation	Appropriation
GF, ORA—State			400,000
	Project	Estimated	Estimated
	Costs	Costs	Total
	Through	7/1/83 and	Costs
	6/30/81	Thereafter	
			400,000
(42) Acquire portions of riverbank on the Green River.			
		Reappropriation	Appropriation
GF, ORA (HJR 52)		375,000	375,000
	Project	Estimated	Estimated
	Costs	Costs	Total
	Through	7/1/83 and	Costs
	6/30/81	Thereafter	
			750,000
(43) To construct an information center, view points, and sanitary facilities in the Mt. St. Helens vicinity.			
		Reappropriation	Appropriation
GF, ORA—State			100,000
	Project	Estimated	Estimated
	Costs	Costs	Total
	Through	7/1/83 and	Costs
	6/30/81	Thereafter	
			100,000

NEW SECTION. Sec. 15. FOR THE DEPARTMENT OF FISHERIES

(1) Renovate to meet health, safety, and code requirements.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct	655,000	248,700
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		1,595,840
		692,140

(2) Continue pollution abatement and pond cleaning to meet various water quality standards.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct	732,000	1,269,715
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		3,998,940
		997,225
		1,000,000

(3) Provide handicap access to various facilities.

	Reappropriation	Appropriation
General Fund—Federal		256,614
GF, Fish Cap Proj Acct	243,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		595,991
		96,377

(4) Provide necessary replacements and alterations at facilities to maintain current productions.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct	1,466,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs

6/30/81	Thereafter	
1,023,250		2,489,250

(5) Stabilize Jordan Creek at Skagit Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct	216,000	224,266
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
	25,734	466,000

(6) Complete projects for improvement of operations and production efficiency.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct	542,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		1,385,964

(7) Complete salmon enhancement program. The \$2,000,000 salmon enhancement construction account appropriation is to provide increased funding for the Skagit River spawning channel and is contingent on the enactment of Senate Bill No. 3586 during the 1981 regular session of the legislature.

	Reappropriation	Appropriation
GF, Sal Enhmt Constr Acct	14,381,000	2,000,000
General Fund—Federal	1,559,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		36,424,500

(8) Complete outdoor recreation account projects.

	Reappropriation	Appropriation
GF, ORA—State	186,000	
GF, ORA—Federal	254,000	

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
590,327		1,030,327

(9) Replace auxiliary generators at various hatcheries.

	Reappropriation	Appropriation
General Fund—Federal		327,366
GF, Fish Cap Proj Acct	18,000	302,184
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
160,000		807,550

(10) Provide artificial reef structures in Puget Sound and Hood Canal.

	Reappropriation	Appropriation
GF, ORA—State	205,000	
GF, ORA—Federal	205,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		410,000

(11) Construct wooden walkways and handrails at Westhaven Cove Marina, Westport.

	Reappropriation	Appropriation
GF, ORA—State	62,000	
GF, ORA—Federal	62,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		124,000

(12) Develop breakwater launch ramp, loading and tie-up floats, sanitary facilities, parking, and other related facilities for recreational fishing at Snow Creek.

Reappropriation	Appropriation
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GF, ORA—State	322,500
GF, ORA—Federal	322,500

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 645,000
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(13) Construct public fishing pier and related facilities on the downtown Tacoma waterfront of Commencement Bay.

	Reappropriation	Appropriation
GF, ORA—State	339,250	99,250
GF, ORA—Federal	339,250	99,250

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 877,000
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(14) Replace auxiliary fuel tanks at hatcheries.

	Reappropriation	Appropriation
General Fund—Federal		30,558
GF, Fish Cap Proj Acct		144,400

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
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(15) Rebuild main water supply, Humptulips Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		331,663

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
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(16) Replace sand separator, Green River Hatchery.

Reappropriation	Appropriation
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GF, Fish Cap Proj Acct		91,175
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		91,175

(17) Construct adult holding and spawning facilities, Buck Creek Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		340,769
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		340,769

(18) Construct adult holding and spawning pond, Lewis River Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		439,520
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		439,520

(19) Construct new incubation system, George Adams Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		392,832
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		392,832

(20) Replace fishway intake, Sunset Falls.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		133,416
Project	Estimated	Estimated
Costs	Costs	Total

Through 6/30/81	7/1/83 and Thereafter	Costs
		133,416
(21) Provide riprap for erosion control, Green River Hatchery.		
	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		39,519
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		39,519
(22) Provide isolated storage buildings or approved cabinet facilities for volatile products storage at primary hatchery locations.		
	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		56,223
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		56,223
(23) Replace electrical service, Washougal Hatchery.		
	Reappropriation	Appropriation
General Fund—Federal		77,260
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		77,260
(24) Install new incubation system, Lewis River Hatchery.		
	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		231,579
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		231,579

(25) Install intake pump, Skagit Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		161,912
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		161,912

(26) Replace storage building, Washougal Hatchery.

	Reappropriation	Appropriation
General Fund—Federal		59,803
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		59,803

(27) Replace roofs, Kalama Falls and Elokomin Hatcheries.

	Reappropriation	Appropriation
General Fund—Federal		51,623
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs

(28) Install Heath incubators, Simpson Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		122,112
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs

(29) Complete building renovation, Puyallup Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		130,567

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
74,470		205,037

(30) Cover work area with asphalt, Hood Canal Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		14,588
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		14,588

(31) Install gas island, Elwha Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		9,209
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		9,209

(32) Install effluent-line booster pump, Humptulips Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		9,914
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		9,914

(33) Construct adult holding and spawning pond, Skykomish Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		194,700
Project Costs Through	Estimated Costs 7/1/83 and	Estimated Total Costs

6/30/81

Thereafter

194,700

(34) Install 10,000-gallon, fresh water, metal storage tank, Brinnon Laboratory.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		20,721
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 20,721

(35) Replace gravity pipeline, Hord Creek Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		179,166
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 179,166

(36) Replace pond drains, Issaquah Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		207,254
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 207,254

(37) Install deep saltwater pipe and filter system, Brinnon Laboratory.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		68,600
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 68,600

(38) Construct new storage buildings, Elwha, Humptulips, and Skagit Hatcheries.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		154,100
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
297,000		451,100

(39) Install Heath incubators, Washougal Hatchery.

	Reappropriation	Appropriation
General Fund—Federal		136,402
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		136,402

(40) Provide domestic water supply and incinerator toilet, Garrison Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		29,402
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
325,000		354,402

(41) Install Heath incubators and improve water supply, Skykomish Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		406,217
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		406,217

(42) Install adult trapping weirs and salmon egg incubation boxes in various streams, western Washington.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		140,920
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
130,000	690,000	960,920

(43) Construct adult pond separators, Soleduck Hatchery.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct	40,000	58,135
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
172,063		270,198

(44) Install incubation filters, Grays River Hatchery.

	Reappropriation	Appropriation
General Fund—Federal		160,062
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		160,062

(45) Install permanent sills, Kalama Falls Hatchery.

	Reappropriation	Appropriation
General Fund—Federal		364,946
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	

(46) Improve adult holding pond and spawning structures, Elokomin Hatchery.

Reappropriation	Appropriation
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General Fund—Federal 71,497

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
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(47) Install electric automated seawater system, Willapa Laboratory.

Reappropriation Appropriation

GF, Fish Cap Proj Acct 8,820

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
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8,820

(48) Improve grounds and blacktop laboratory site area, Brinnon Laboratory.

Reappropriation Appropriation

GF, Fish Cap Proj Acct 46,983

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
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46,983

(49) Repair gabion sill, Soleduck Hatchery.

Reappropriation Appropriation

GF, Fish Cap Proj Acct 47,092

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
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47,092

(50) Asphalt rearing pond, Klickitat Hatchery.

Reappropriation Appropriation

General Fund—Federal 36,392

Project Costs	Estimated Costs	Estimated Total
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Through 6/30/81	7/1/83 and Thereafter	Costs
		36,392

(51) Repair standard ponds, Klickitat Hatchery.

	Reappropriation	Appropriation
General Fund—Federal		266,066
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		266,066

(52) Construct public recreational fishing access facilities on the pontoon level of the Hood Canal bridge.

	Reappropriation	Appropriation
GF, ORA—State	190,000	
GF, ORA—Federal	190,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		380,000

(53) Place gravel on public recreational tideland area, Seahurst County Park.

	Reappropriation	Appropriation
GF, ORA—State		14,000
GF, ORA—Federal		14,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		28,000

(54) Place gravel on public recreational tideland area, Fay Bainbridge.

	Reappropriation	Appropriation
GF, ORA—State		7,000
GF, ORA—Federal		7,000
Project	Estimated	Estimated

Costs Through 6/30/81	Costs 7/1/83 and Thereafter	Total Costs 14,000
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(55) Place gravel on public recreational tideland area, Quartermaster Harbor.

	Reappropriation	Appropriation
GF, ORA—State		4,250
GF, ORA—Federal		4,250
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 8,500

(56) Place gravel on public recreational tideland area, Fry Cove County Park.

	Reappropriation	Appropriation
GF, ORA—State		17,750
GF, ORA—Federal		17,750
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 35,500

(57) Place gravel on public recreational tideland area, Bywater Bay.

	Reappropriation	Appropriation
GF, ORA—State		14,000
GF, ORA—Federal		14,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 28,000

(58) Renovate and improve to protect park and boat launch from erosion, Pillar Point.

Reappropriation	Appropriation
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GF, ORA—State	81,700
GF, ORA—Federal	81,700

Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		163,400

(59) Acquire tidelands and/or saltwater shoreline access.

	Reappropriation	Appropriation
GF, ORA—State		100,000
GF, ORA—Federal		100,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		200,000

(60) Purchase a salmon rearing net pen complex.

	Reappropriation	Appropriation
GF, Fish Cap Proj Acct		200,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		200,000

NEW SECTION. Sec. 16. FOR THE DEPARTMENT OF GAME

(1) Reappropriation of various 1979–81 projects which have not been completed.

	Reappropriation	Appropriation
GF, ORA—State	825,000	
GF, ORA—Federal	346,000	
Game Fund—State	837,000	
Game Fund—Federal	1,055,000	
Game Fund—Game Sp Wildlife Acct	95,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs

6/30/81

Thereafter

1,799,626

(2) Relocate shop facilities from the Auburn Game Farm to the Olympia area from proceeds of the sale of the Auburn Game Farm. This appropriation is contingent on the enactment of House Bill No. 66 during the 1981 regular session of the legislature.

	Reappropriation	Appropriation
Game Fund—State		819,700
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
200,000		1,019,700

(3) Replace raceways and roads, South Tacoma Hatchery.

	Reappropriation	Appropriation
Game Fund—State		133,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
67,000	200,000	400,000

(4) Emergency repair and replacement.

	Reappropriation	Appropriation
Game Fund—State		150,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
	300,000	450,000

(5) Replace thirty-nine sets of outdoor toilets on department access areas state-wide.

	Reappropriation	Appropriation
Game Fund—State		195,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs

6/30/81	Thereafter	
	400,000	595,000

(6) Repair three dikes, Skagit Wildlife Recreation Area.

	Reappropriation	Appropriation
Game Fund—State		88,000
Game Fund—Federal		264,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		352,000

(7) Construct dike and water control structures, McNary Wildlife Recreation Area.

	Reappropriation	Appropriation
Game Fund—State		17,000
Game Fund—Federal		250,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		267,000

(8) Replace hatchery building, South Tacoma Hatchery.

	Reappropriation	Appropriation
Game Fund—State		227,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		227,000

(9) Construct new residence and upgrade domestic water supply, Ringold Rearing Pond.

	Reappropriation	Appropriation
Game Fund—Federal		119,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs

6/30/81	Thereafter		119,000
(10) Replace roofs on several buildings, state-wide.			
		Reappropriation	Appropriation
Game Fund—State			126,000
Project	Estimated	Estimated	
Costs	Costs	Total	
Through	7/1/83 and	Costs	
6/30/81	Thereafter		126,000
(11) Purchase land and construct new regional office and storage building using proceeds from sale of present regional office in downtown Seattle.			
		Reappropriation	Appropriation
Game Fund—State			1,081,000
Project	Estimated	Estimated	
Costs	Costs	Total	
Through	7/1/83 and	Costs	
6/30/81	Thereafter		1,081,000
(12) Replace fishing sites condemned by the Corps of Engineers near Bonneville Dam, Columbia River.			
		Reappropriation	Appropriation
Game Fund—Federal			120,000
Project	Estimated	Estimated	
Costs	Costs	Total	
Through	7/1/83 and	Costs	
6/30/81	Thereafter		120,000
(13) Replace wildlife habitat lost to inundation of Snake River Canyon.			
		Reappropriation	Appropriation
Game Fund—Federal			2,480,000
Project	Estimated	Estimated	
Costs	Costs	Total	
Through	7/1/83 and	Costs	
6/30/81	Thereafter		4,960,000
			7,440,000

(14) Complete acquisition of thirty-five acres in three parcels of cooperative project with Whatcom county, Tennant Lake Wildlife Recreation Area.

	Reappropriation	Appropriation
GF, ORA—State		76,500
GF, ORA—Federal		76,500
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		153,000

(15) Complete cooperative development project with Whatcom County, Tennant Lake Wildlife Recreation Area.

	Reappropriation	Appropriation
GF, ORA—State		93,500
GF, ORA—Federal		93,500
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		187,000

(16) Construct fishing dock with parking and sanitary facilities, Mercer Island.

	Reappropriation	Appropriation
GF, ORA—State		29,500
GF, ORA—Federal		29,500
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		59,000

(17) Redevelop fishing and boating access with parking and sanitary facilities, Heller Basin—Snake River.

	Reappropriation	Appropriation
GF, ORA—State		63,500
GF, ORA—Federal		63,500
Project	Estimated	Estimated

Costs Through 6/30/81	Costs 7/1/83 and Thereafter	Total Costs
15,000		142,000

(18) Redevelop fishing and boating access with parking and sanitary facilities, Kenmore access—Lake Washington.

	Reappropriation	Appropriation
GF, ORA—State		17,000
GF, ORA—Federal		17,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		34,000

(19) Develop fishing and boating access with parking and sanitary facilities, city of Snohomish—Snohomish River.

	Reappropriation	Appropriation
GF, ORA—State		62,500
GF, ORA—Federal		62,500
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		125,000

(20) Provide fishing and launch float, Clear Lake.

	Reappropriation	Appropriation
GF, ORA—State		11,000
GF, ORA—Federal		11,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
41,000		63,000

(21) Develop public fishing access with launch, parking, and sanitary facilities, Wenas Lake.

Reappropriation	Appropriation
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GF, ORA—State	35,000
GF, ORA—Federal	35,000
Game Fund—Private/Local	27,000

Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		97,000

(22) Redevelop fishing and boating access with launch, parking, and sanitary facilities, Deep Lake.

	Reappropriation	Appropriation
GF, ORA—State		37,500
GF, ORA—Federal		37,500
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		75,000

(23) Redevelop fishing and boating access with launch, parking, and sanitary facilities, Jamison Lake.

	Reappropriation	Appropriation
GF, ORA—State		133,000
GF, ORA—Federal		133,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		266,000

(24) Develop fishing and boating access with launch, parking and sanitary facilities, Mitchell Access—Klickitat River.

	Reappropriation	Appropriation
GF, ORA—State		32,500
GF, ORA—Federal		32,500
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs

6/30/81

Thereafter

65,000

(25) Acquire fishing area for public access, Cottage Lake.

	Reappropriation	Appropriation
GF, ORA—State		32,500
GF, ORA—Federal		32,500
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		65,000

(26) Acquire three public fishing easements and two parking areas between Auburn and Flaming Geyser, Green River.

	Reappropriation	Appropriation
GF, ORA—State		42,500
GF, ORA—Federal		42,500
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		85,000

(27) Acquire remainder parcels between Union Gap and Zillah on I-82 for wildlife habitat and public use.

	Reappropriation	Appropriation
GF, ORA—State		69,000
GF, ORA—Federal		69,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		138,000

NEW SECTION. Sec. 17. FOR THE DEPARTMENT OF NATURAL RESOURCES

(1) Prepare sites for commercial leases and land development projects.

	Reappropriation	Appropriation
GF, Res Mgmt Cost Acct	2,541,000	

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
965,000	1,578,000	5,084,000

(2) Provide equipment repair and vehicle storage facility, Clearwater Correction Center Annex.

	Reappropriation	Appropriation
GF, CEP & RI Acct	268,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
268,300		536,300

(3) Construct roads and bridges to state land, Cavanaugh Block Access.

	Reappropriation	Appropriation
GF, For Dev Acct	450,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
25,000		475,000

(4) Develop irrigation for state land, Black Rock Project.

	Reappropriation	Appropriation
GF, Res Mgmt Cost Acct	206,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
84,000		290,000

(5) Improve road for timber sales activities, Elbe Hills Betterment.

	Reappropriation	Appropriation
GF, For Dev Acct	300,000	
GF, Res Mgmt Cost Acct	135,000	
Project Costs	Estimated Costs	Estimated Total

Through 6/30/81	7/1/83 and Thereafter	Costs
105,000		540,000

(6) Acquire recreational property on Mt. Si.

	Reappropriation	Appropriation
GF, ORA—State	200,000	
GF, ORA—Federal	200,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
1,400,000		1,800,000

(7) Replace existing water system at department of natural resources Lacey compound.

	Reappropriation	Appropriation
General Fund—State		16,000
GF, Res Mgmt Cost Acct		34,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		50,000

(8) Purchase land for resource management, Natural Resources Land Bank.

	Reappropriation	Appropriation
GF, For Dev Acct		2,000,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
1,000,000	4,000,000	7,000,000

(9) Construct and improve roads and bridges, management ponds.

	Reappropriation	Appropriation
GF, For Dev Acct		240,000
GF, Res Mgmt Cost Acct	1,273,000	929,000
Project	Estimated	Estimated

Costs Through 6/30/81	Costs 7/1/83 and Thereafter	Total Costs
193,000	4,000,000	6,958,000

(10) Develop irrigation projects on state-owned land.

	Reappropriation	Appropriation
GF, Res Mgmt Cost Acct	2,742,000	4,899,400
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
2,968,000	12,000,000	22,609,400

(11) Acquire rights-of-way access for land management.

	Reappropriation	Appropriation
GF, For Dev Acct		169,000
GF, Res Mgmt Cost Acct		676,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
	1,600,000	3,311,000

(12) Construct boat launch ramp and breakwater, Marine Research Center.

	Reappropriation	Appropriation
GF, Res Mgmt Cost Acct		19,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		19,000

(13) Purchase culverts and other materials for honor camp road maintenance.

	Reappropriation	Appropriation
GF, CEP & RI Acct		150,000
Project Costs	Estimated Costs	Estimated Total

Through 6/30/81	7/1/83 and Thereafter	Costs
20,000	200,000	370,000

(14) Increase seedling quality and production, Forest Nursery.

	Reappropriation	Appropriation
GF, Res Mgmt Cost Acct		110,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		310,000

(15) Improve forest fire protection facilities.

	Reappropriation	Appropriation
General Fund—State		49,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
15,000	40,000	104,000

(16) Provide access to potential commercial lease property, highway 18 interchange.

	Reappropriation	Appropriation
GF, For Dev Acct		250,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		250,000

(17) Construct access to road to state land, Rock Creek Road rehabilitation.

	Reappropriation	Appropriation
GF, For Dev Acct		250,000
Project Costs Through	Estimated Costs 7/1/83 and	Estimated Total Costs

6/30/81

Thereafter

(18) Construct and improve campsites, roads, trails, and other recreation projects.

	Reappropriation	Appropriation
GF, ORV	507,000	429,000
GF, Snowmobile Acct		67,000
GF, ORA—State	99,000	310,000
GF, ORA—Federal	300,000	310,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
2,470,000	1,379,000	5,871,000

(19) Construct bridge and access road to state lands, McDonald Mainline.

	Reappropriation	Appropriation
GF, For Dev Acct		69,700
GF, Res Mgmt Cost Acct		135,300
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		205,000

(20) Remodel five field buildings.

	Reappropriation	Appropriation
General Fund—State		27,000
GF, For Dev Acct		23,000
GF, Res Mgmt Cost Acct		46,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		96,000

(21) Acquire the Milwaukee Railroad right-of-way and existing bridges from Easton in Kittitas County to Tekoa in Whitman County.

Reappropriation	Appropriation
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GF, ORA—State		3,500,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		3,500,000

NEW SECTION. Sec. 18. FOR THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

(1) \$5,000,000 for the planning, design, construction, furnishing and landscaping of a multi-theatre international performing arts facility designated as the "Pacific Northwest festival facility" located in south King county in the vicinity of Federal Way. The appropriation contained in this section shall not be expended until the state is in receipt of \$15,000,000 from the federal government and/or other sources. Should federal legislation dictate that the facility be owned by the federal government, the state moneys shall be granted to such federal administering agency which is representing the federal government.

	Reappropriation	Appropriation
GF, Pacific Northwest Festival		
Facility Constr Acct—State	5,000,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		5,000,000

(2) To provide matching grants for the planning, design, construction, furnishing, and landscaping of two regionally based performing arts facilities, to be known as the "Washington center for the performing arts" facility located in Thurston county within the area of the city of Olympia, and "the Pantages theatre" facility located in Pierce county within the area of the city of Tacoma.

	Reappropriation	Appropriation
GF, Cultural Facilities		
Constr Acct	3,000,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		3,000,000

(3) The Indian Cultural Center Construction Account Appropriation contained in this subsection shall be expended exclusively for a grant to the city of Seattle in trust for the United Indians of All Tribes Foundation for the development of a regional Indian cultural, educational, tourist, and economic development facility designated as the "People's Lodge." If \$2,700,000 or more in additional federal and/or private funding is not secured within three years of the effective date of this 1981 act and applied towards the completion of the "People's Lodge," ownership of the property and/or facility developed with this appropriation shall be transferred to the state.

	Reappropriation	Appropriation
GF, Indian Cultural Center Constr Acct	1,000,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		1,000,000

NEW SECTION. Sec. 19. FOR THE UNIVERSITY OF WASHINGTON

(1) Provide for completion of Phase III, Bagley Hall renovation.

	Reappropriation	Appropriation
GF, UW Bldg Acct	400,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		4,170,000

(2) Provide for completion of utility and service projects.

	Reappropriation	Appropriation
GF, UW Bldg Acct	1,000,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		2,248,000

(3) Provide for completion of remodeling, Eagleson Hall.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	150,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
387,000		537,000

(4) Provide for completion of remodeling, Health Sciences D wing.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	1,368,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
438,000		1,806,000

(5) Provide for completion of remodeling, Health Sciences Intramural Dentistry Clinic.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	429,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
8,000		437,000

(6) Provide for completion of remodeling, Staff Personnel Office.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	507,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
139,000		646,000

(7) Provide for completion of new mechanical room and court addition, Health Sciences E wing.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	300,000	

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
1,280,000		1,580,000

(8) Provide for completion of restoration work, Johnson Annex B.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	154,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
96,000		250,000

(9) Provide for completion of new teaching building and dormitory, Pack Forest.

	Reappropriation	Appropriation
GF, UW Bldg Acct	130,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
414,000		544,000

(10) Provide for completion of two new dormitories and one apartment building, Friday Harbor.

	Reappropriation	Appropriation
GF, UW Bldg Acct	200,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
517,000		717,000

(11) Design facilities for cooperative federal, state, and the college of fisheries use, Big Beef Creek Laboratory.

	Reappropriation	Appropriation
GF, UW Bldg Acct	50,000	
Project	Estimated	Estimated

Costs Through 6/30/81	Costs 7/1/83 and Thereafter	Total Costs
150,000		200,000

(12) Provide for completion of addition to existing structure, Physical Plant Office Building.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	410,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
24,000		434,000

(13) Provide for completion of addition to existing structure, Purchasing/Accounting Building.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	942,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
61,000		1,003,000

(14) Provide for completion of new teaching building, Biological Sciences.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	3,500,000	2,366,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
8,125,000		14,139,000

(15) Provide for continuation of general upgrading of the Health Sciences E and F wings, completion of E Court, and fire safety improvements throughout the Health Sciences Building.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	250,000	3,514,000

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
110,000		3,874,000

(16) Provide for completion of upgrading of building systems and re-modeling of interior space, Raitt Hall.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	2,850,000	1,448,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
174,000		4,472,000

(17) Provide for minor repairs and improvements, including fire safety—Omnibus.

	Reappropriation	Appropriation
GF, UW Bldg Acct	750,000	2,165,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
5,284,000		12,925,000

(18) Replace instructional and support equipment.

	Reappropriation	Appropriation
GF, UW Bldg Acct		6,843,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
6,843,000		6,843,000

(19) Provide for upgraded utilities services and substation, extend services to plant services building, and extend supervisory control and emergency power systems.

	Reappropriation	Appropriation
GF, UW Bldg Acct		1,010,000

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		1,010,000

(20) Replace old oil/gas boiler with new coal/oil/gas boiler and provide plant modifications to make coal primary fuel of the campus.

	Reappropriation	Appropriation
GF, H Ed Constr Acct		6,000,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
	4,000,000	10,000,000

(22) Provide for energy conservation improvements to building systems, increase insulation on utility steam lines, and modify chilled water systems.

	Reappropriation	Appropriation
GF, UW Bldg Acct		1,710,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		1,710,000

(23) Construct and equip first wing of new building to house College of Marine Sciences.

	Reappropriation	Appropriation
GF, H Ed Constr Acct		5,457,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
150,000		5,607,000

(24) Provide for design of renovation of Roberts Hall engineering facilities.

	Reappropriation	Appropriation
GF, UW Bldg Acct		657,000

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter 6,555,000	Estimated Total Costs 7,212,000
(25) Construct, equip, and acquire land and/or purchase an existing facility for a consolidated hospital laundry facility.		
	Reappropriation	Appropriation
GF, H Ed Constr Acct		4,673,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 5,323,000
(26) Construct, equip, and acquire land for a hospital general service facility.		
	Reappropriation	Appropriation
GF, H Ed Constr Acct		1,602,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter 1,402,000	Estimated Total Costs 3,204,000
(27) Construct and equip renovations and additions to University Hospital.		
	Reappropriation	Appropriation
GF, H Ed Constr Acct		45,225,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter 41,825,000	Estimated Total Costs 58,886,000
(28) Parrington Hall renovation preplanning.		
	Reappropriation	Appropriation
GF, UW Bldg Acct		64,000
(29) Fisheries Center remodel preplanning.		

	Reappropriation	Appropriation
GF, UW Bldg Acct		43,000
(30) Johnson Hall renovation preplanning.		

	Reappropriation	Appropriation
GF, UW Bldg Acct		55,000
(31) Health Sciences Building G-Wing renovation preplanning.		

	Reappropriation	Appropriation
GF, UW Bldg Acct		43,000

NEW SECTION. Sec. 20. FOR WASHINGTON STATE UNIVERSITY

(1) Provide for completion of remodeling, Morrill Hall.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	985,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
990,000		1,975,000

(2) Provide for completion of handicap access remodeling.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct	2,740,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
225,000		2,965,000

(3) Provide for completion of remodeling and addition, Wegner Hall.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	1,848,000	
GF, WSU Constr Acct	208,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
6,364,000		9,547,000

(4) Provide for completion of new facility, Multipurpose Animal Holding Facility.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	1,978,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
40,000		2,018,000

(5) Provide for minor capital improvements—Omnibus.

	Reappropriation	Appropriation
GF, WSU Bldg Acct	2,574,000	5,909,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
4,822,000		15,143,000

(6) Continue phased renovation of offices, teaching and research laboratories for the Department of Chemistry, Fullmer Hall.

	Reappropriation	Appropriation
GF, H Ed Constr Acct		2,340,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
54,000		2,394,000

(7) Replace instructional and support equipment.

	Reappropriation	Appropriation
GF, WSU Bldg Acct		2,283,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		2,283,000

(8) Provide for the design, renovation, and equipping of College Hall.

Reappropriation	Appropriation
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GF, H Ed Constr Acct		3,891,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
38,000		3,929,000

(9) Provide for the design, renovation, and equipping of Science Hall, Phase I.

	Reappropriation	Appropriation
GF, H Ed Constr Acct		4,181,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
56,000		4,237,000

NEW SECTION. Sec. 21. FOR EASTERN WASHINGTON UNIVERSITY

(1) Provide for completion of new facility, HPERA Fieldhouse.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct	295,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
2,162,000		2,457,000

(2) Provide for completion of health, safety, and handicapped improvements.

	Reappropriation	Appropriation
GF, EWU Cap Proj Acct	17,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
439,000		456,000

(3) Provide for completion handicap access remodeling.

	Reappropriation	Appropriation
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GF, St H Ed Constr Acct	210,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
231,000		441,000

(4) Provide for completion of new facility, Aquatics Buildings.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	60,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
1,705,000		1,765,000

(5) Provide for completion of remodeling, Martin Hall.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	2,600,000	
GF, EWU Cap Proj Acct		625,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
500,000		3,725,000

(6) Provide for minor capital improvements and energy conservation projects—Omnibus.

	Reappropriation	Appropriation
GF, EWU Cap Proj Acct	1,000,000	1,140,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
1,472,000		3,946,000

(7) Replace instructional and support equipment.

	Reappropriation	Appropriation
GF, EWU Cap Proj Acct		400,000
Project	Estimated	Estimated

Costs Through 6/30/81	Costs 7/1/83 and Thereafter	Total Costs
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400,000

(8) To provide for the design, renovation, and equipping of the Manual Arts Building and Sutton Hall for Student Services.

	Reappropriation	Appropriation
GF, H Ed Constr Acct		5,231,000

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
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3,181,000	8,412,000
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NEW SECTION. Sec. 22. FOR CENTRAL WASHINGTON UNIVERSITY

(1) Planning funds to restore and remodel Barge Hall.

	Reappropriation	Appropriation
GF,CWU Cap Proj Acct	5,000	

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
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13,000	18,000
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(2) To provide funding which will enable the university to share costs with the city of Ellensburg in a fire pumper truck purchase.

	Reappropriation	Appropriation
GF, CWU Cap Proj Acct	40,000	

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
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40,000

(3) Provide for completion of utility system repairs and alterations.

	Reappropriation	Appropriation
GF, CWU Cap Proj Acct	119,000	

Project	Estimated	Estimated
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Costs Through 6/30/81	Costs 7/1/83 and Thereafter	Total Costs
271,000		390,000

(4) Provide for completion of remodeling, Bouillon.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct	20,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
2,095,000		2,115,000

(5) Provide for completion of safety corrections, Randall.

	Reappropriation	Appropriation
GF, CWU Cap Proj Acct	5,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
79,000		84,000

(6) Provide for completion of WISHA safety corrections.

	Reappropriation	Appropriation
GF, CWU Cap Proj Acct	53,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
66,000		119,000

(7) Provide for completion of modifications for handicapped.

	Reappropriation	Appropriation
GF, CWU Cap Proj Acct	50,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
112,000		162,000

(8) Provide for completion of utilities improvements.

	Reappropriation	Appropriation
GF, CWU Cap Proj Acct	900,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
126,000		1,026,000

(9) Provide for completion of handicap access remodeling.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct	444,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
88,000		532,000

(10) Provide for completion of new facility, Botany Greenhouse.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	40,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
445,000		485,000

(11) Provide for completion of renovation and remodeling, McConnel Hall and Wildcat Shop.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	512,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
2,987,000		3,499,000

(12) Provide for minor capital improvements—Omnibus.

	Reappropriation	Appropriation
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GF, CWU Cap Proj Acct	1,823,000	890,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
719,000		3,432,000

(13) Remove asbestos in fibrous form with priority removal from places of public occupancy.

	Reappropriation	Appropriation
GF, CWU Cap Proj Acct		239,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		239,000

(14) Improve, extend, and modify underground utilities and services.

	Reappropriation	Appropriation
GF, CWU Cap Proj Acct		270,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		270,000

(15) Install economizers, monitoring equipment, fuel atomizers, control equipment, and insulation, Boiler House.

	Reappropriation	Appropriation
GF, CWU Cap Proj Acct		535,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		535,000

(16) Expand supervisory control system throughout the campus.

	Reappropriation	Appropriation
GF, CWU Cap Proj Acct		1,100,000
Project	Estimated	Estimated

Costs Through 6/30/81	Costs 7/1/83 and Thereafter	Total Costs
		1,100,000
(17) Replace instructional and support equipment.		
	Reappropriation	Appropriation
GF, CWU Cap Proj Acct		425,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		425,000
(18) To provide computer equipment and systems.		
	Reappropriation	Appropriation
GF, CWU Cap Proj Acct		700,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		700,000

NEW SECTION. Sec. 23. FOR THE EVERGREEN STATE COLLEGE

(1) To provide emergency repairs and renovations for the library building.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct		432,000
GF, TESC Cap Proj Acct	95,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
15,000		542,000

(2) Reroof Seminar Building.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct		61,000
Project	Estimated	Estimated

Costs Through 6/30/81	Costs 7/1/83 and Thereafter	Total Costs
		60,856

(3) Replace instructional and support equipment.

	Reappropriation	Appropriation
GF, TESC Cap Proj Acct		400,000
GF, St H Ed Constr Acct		50,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		450,000

(4) Make improvements to existing building systems to achieve energy conservation.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct		120,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		120,000

(5) Provide for the design of a recreation facility/gymnasium.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct		270,000

(6) Provide for completion of soccer fields.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct		580,000

NEW SECTION. Sec. 24. FOR WESTERN WASHINGTON UNIVERSITY

(1) Complete design to improve access to service facilities on south campus physical plant site including hazardous materials storage for non-academic needs.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct	20,000	

Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
103,000		123,000

(2) Provide for completion of handicap access remodeling.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct	100,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
227,000		327,000

(3) Provide for completion of work on south campus fields.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct	200,000	
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
2,207,000		2,407,000

(4) Provide for completion of new facility, South Academic Building.

	Reappropriation	Appropriation
GF, H Ed Constr Acct	3,000,000	
GF, WWU Cap Proj Acct	788,000	843,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
1,500,000		6,131,000

(5) Purchase several parcels of private property which remain within the Western Washington University comprehensive land use plan.

	Reappropriation	Appropriation
GF, WWU Cap Proj Acct		250,000
Project Costs	Estimated Costs	Estimated Total

Through 6/30/81	7/1/83 and Thereafter	Costs
	300,000	550,000

(6) Provide for minor capital improvements—Omnibus.

	Reappropriation	Appropriation
GF, WWU Cap Proj Acct	250,000	1,269,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
1,052,000		2,571,000

(7) Construct and equip solid waste incineration system.

	Reappropriation	Appropriation
GF, WWU Cap Proj Acct		386,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		386,000

(8) Replace instructional and support equipment.

	Reappropriation	Appropriation
GF, WWU Cap Proj Acct		556,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		556,000

NEW SECTION. Sec. 25. FOR THE STATE BOARD FOR COMMUNITY COLLEGE EDUCATION

This act assumes that Big Bend community college will design, construct, and equip a business education and vocational classroom building to replace World War II temporary barracks from local funds derived from the sale proceeds of \$1,000,000 for the south campus.

(1) To construct a new parking facility at Seattle central community college. This appropriation reflects the deposit of \$352,000 in the state general fund in 1974 from the sale of surplus Seattle community college property.

General Fund-----State	Reappropriation	Appropriation
		352,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		352,000

(2) Reappropriations for projects approved and funded in previous biennia.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct	1,250,000	
GF, Com Col Cap Impvmt Acct	799,000	
GF, Com Col Cap Proj Acct	1,105,000	
GF, Com Col Cap Constr Acct	10,754,000	

(3) Provide for emergency repair projects on various community college campuses.

GF, St H Ed Constr Acct	Reappropriation	Appropriation
		2,200,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		2,200,000

(4) Provide for nondeferrable repair projects on various campuses.

GF, St H Ed Constr Acct	Reappropriation	Appropriation
		2,974,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
		2,974,000

(5) Provide for nondeferrable improvements, Edmonds Community College.

GF, St H Ed Constr Acct	Reappropriation	Appropriation
		144,000
Project	Estimated	Estimated

Costs Through 6/30/81	Costs 7/1/83 and Thereafter	Total Costs
		144,000

(6) Provide for code repair projects on various campuses.

	Reappropriation	Appropriation
GF, St H Ed Constr Acct		609,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		609,000

(7) Provide for minor repairs and improvements on twenty campuses.

	Reappropriation	Appropriation
GF, Com Col Cap Constr Acct		2,599,000
GF, St H Ed Constr Acct		176,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		3,201,000

(8) Provide for minor repair projects on four campuses.

	Reappropriation	Appropriation
GF, Com Col Cap Constr Acct		111,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs
		111,000

(9) To provide for minor capital improvements to correct facility deficiencies and improve utilization, to be allocated to each district by the state board for community college education.

	Reappropriation	Appropriation
GF, Com Col Cap Constr Acct		2,500,000
Project Costs	Estimated Costs	Estimated Total

Through 6/30/81	7/1/83 and Thereafter	Costs 1,949,000
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(10) To provide for unforeseen emergency capital repairs, to be administered by the state board for community college education.

	Reappropriation	Appropriation
GF, Com Col Cap Constr Acct		500,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 500,000

(11) Provide for minor improvements.

	Reappropriation	Appropriation
GF, Com Col Cap Constr Acct		1,636,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 1,636,000

(12) Provide for minor improvements, six projects, on five campuses.

	Reappropriation	Appropriation
GF, Com Col Cap Impvmt Acct		58,000
GF, Com Col Cap Constr Acct		654,000
Project Costs Through 6/30/81	Estimated Costs 7/1/83 and Thereafter	Estimated Total Costs 712,000

(13) Provide for minor improvements, two projects, on two campuses.

	Reappropriation	Appropriation
GF, Com Col Cap Impvmt Acct		109,000
Project Costs Through	Estimated Costs 7/1/83 and	Estimated Total Costs

6/30/81

Thereafter

109,000

(14) Purchase dormitory, Yakima Valley College.

Reappropriation

Appropriation

GF, Com Col Cap Impvmt Acct

507,000

Project

Estimated

Estimated

Costs

Costs

Total

Through

7/1/83 and

Costs

6/30/81

Thereafter

507,000

(15) Remodel/relocate auto shop, administration and parent education facilities, Lower Columbia College.

Reappropriation

Appropriation

GF, St H Ed Const Acct

391,000

Project

Estimated

Estimated

Costs

Costs

Total

Through

7/1/83 and

Costs

6/30/81

Thereafter

391,000

**NEW SECTION. Sec. 26. FOR THE BOARD OF EDUCATION—
SUPERINTENDENT OF PUBLIC INSTRUCTION**

Provide for planning, construction, remodeling, and demolition of public school facilities: PROVIDED, That no more than \$251,700,000 shall be disbursed from this appropriation during the 1981-83 biennium.

Reappropriation

Appropriation

Common School Construction Fund

133,800,000

184,700,000

Project

Estimated

Estimated

Costs

Costs

Total

Through

7/1/83 and

Costs

6/30/81

Thereafter

218,497,082

200,000,000

736,997,082

NEW SECTION. Sec. 27. FOR THE COMMISSION FOR VOCATIONAL EDUCATION

Provide for planning, design, and construction of a Fire Service and Training Center.

Reappropriation

Appropriation

GF, Fire Trng Constr Acct	4,159,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/83 and	Costs
6/30/81	Thereafter	
294,000		4,453,000

**NEW SECTION. Sec. 28. FOR THE ARTS COMMISSION—
ART WORK ALLOWANCE**

In accordance with RCW 43.17.200, all state agencies or departments shall expend, as a nondeductible item, out of any moneys appropriated for the original construction of any state building, an amount of one-half of one percent of the appropriation for the acquisition of works of art which may be an integral part of the structure, attached to the structure, detached within or outside of the structure, or can be exhibited by the agency in other public facilities. If the amount is not required in toto or in part for any project, the unrequired amounts may be accumulated and expended for art in other projects of the agency. For the purpose of this section, "building" does not include highway construction sheds, warehouses, or other buildings of a temporary nature.

NEW SECTION. Sec. 29. To effectively, efficiently, and economically carry out the provisions of this act, each agency shall establish a start date and completion date on each project which has an estimated total cost which exceeds two hundred thousand dollars and for which a start or completion date is not specified in this act. This information shall be furnished to the office of financial management and the legislative auditor no later than the date the allotment request is filed with the office of financial management. If a project cannot start on or before the indicated start date or be completed by the indicated completion date, the director of the agency shall document and file with the office of financial management and the legislative budget committee the reason for the delay and indicate the new start and/or completion date(s). The legislative auditor shall review these filings and report thereon to the legislative budget committee and the appropriate standing committees of the senate and house of representatives.

As a result of these filings, agency directors may be required to appear before the legislative budget committee for further explanation of a project delay.

NEW SECTION. Sec. 30. To effectively carry out the provisions of this act, the governor may assign responsibility for planning, engineering, construction, and other related activities to any appropriate agency.

NEW SECTION. Sec. 31. Reappropriations shall be limited to the unexpended balances remaining June 30, 1981, in the current appropriation for each project.

NEW SECTION. Sec. 32. Notwithstanding any other provisions of law, for the 1981–83 biennium, state treasurer transfers of reimbursement to the general fund from the community college capital projects account for debt service payments made under the provisions of Title 28B RCW shall occur only after such debt service payment has been made and only to the extent that funds are actually available in the account. Any unpaid reimbursements shall be a continuing obligation against the community college capital projects account until paid. The state board for community college education 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. 33. Any capital improvements or capital project involving construction or major expansion of a state office facility, including district headquarters, detachment offices, and off-campus faculty offices, shall be reviewed by the department of general administration for possible consolidation and compliance with state office standards prior to 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. 34. The governor, through the director of financial management, may authorize a transfer of appropriation authority provided for a capital project which 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 shall 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 which are funded from the same fund or account.

A report of any transfer effected under this section shall be filed with the legislative auditor by the director of financial management within thirty days of the date the transfer is effected. The legislative auditor shall review and compile these filings and periodically report thereon to the legislative budget committee and the appropriate standing committees of the senate and house of representatives.

NEW SECTION. Sec. 35. 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 any moneys 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 committees on ways and means of the senate and house of representatives.

NEW SECTION. Sec. 36. Each agency receiving appropriations or re-appropriations from the general fund—outdoor recreation account shall provide a master list of all incomplete projects funded in full or in part from the outdoor recreation account. Projects shall be considered incomplete if the project is not completed before November 1, 1981.

The master list shall include but is not limited to the following:

- (1) A list of projects in order of priority as determined by the agency;
- (2) A brief description of the project;
- (3) A complete explanation of the status of each project; and
- (4) A reconciliation of moneys, by subsource of funds, available to the agency to fund the projects.

Each agency shall submit its master list to the office of financial management. The office financial management shall forward each agency's master list of projects, along with any recommendations, to the committees on ways and means of the house of representatives and senate by December 1, 1981.

***NEW SECTION.** Sec. 37. *State agencies shall not receive or make a contractual agreement to receive any donation of real property or an interest therein which commits the agency to assume on a current basis or request at a future time appropriated funds for operating, development, or acquisition costs without prior approval of the legislative budget committee or the committees on ways and means of the senate and house of representatives if the legislature is in session.*

*Sec. 37. was vetoed, see message at end of chapter.

***NEW SECTION.** Sec. 38. *Expenditure of moneys appropriated by section 3 of this act shall be made in consultation and with the prior approval of the state capitol committee in accordance with chapter 79.24 RCW. In addition, the department of general administration shall consult with and obtain the approval of the joint legislative committee on capitol facilities prior to expenditure of moneys appropriated by section 3 of this act on projects involving capitol buildings occupied wholly or in part by the legislature.*

*Sec. 38. was vetoed, see message at end of chapter.

NEW SECTION. Sec. 39. As the principal and interest requirements of outstanding state bonds, notes, or other evidences of indebtedness and all such indebtedness as is hereafter issued approaches the statutory debt limitation provided for in RCW 39.42.060, the state finance committee shall notify the director of financial management. It is the responsibility of the director to establish priorities for capital projects according to the following order:

- (1) Projects requiring reappropriations to fulfill any existing contractual obligations of the state;
- (2) Projects which address critical and emergent needs of the state;

(3) Projects which are necessary to prevent the deterioration and structural damage to existing buildings and structures;

(4) All other projects for which funds have been appropriated.

The director of financial management shall notify the state finance committee and the committees on ways and means of the senate and house of representatives of the list of projects, by priority, as soon as possible. The state finance committee shall utilize the lists with respect to the issuance of bonds, notes, or other evidences of indebtedness of the state.

NEW SECTION. Sec. 40. For each capital project or improvement provided for in this act, and for any future capital budget requests, the office of financial management shall prepare an estimate of the dollar amount of the debt service and an estimate of the total principal and interest payments required for each project or improvement. The report for the items contained in this budget shall be submitted to each member of the legislature not more than one hundred twenty days after final adjournment of the 1981 legislative session. Future reports shall be submitted with any future capital budget requests.

NEW SECTION. Sec. 41. 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. 42. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981, with the exception of section 7(10) of this act, which shall take effect immediately.

Passed the Senate April 26, 1981.

Passed the House April 25, 1981.

Approved by the Governor May 14, 1981, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 14, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to certain sections and items Reengrossed Substitute Senate Bill 3843 as amended by the House entitled:

"AN ACT Adopting the capital budget; making appropriations and authorizing expenditures for capital improvements; authorizing certain projects; providing an effective date; and declaring an emergency."

The specific items and sections that I vetoed are as follows:

1. General Administration

On page 7, Section 3 (16), I have vetoed the following language on line 6 and ending on line 11:

The appropriation contained in this subsection shall complete the Old Capitol Building renovation. The department of general administration shall revise renovation specifications in order that the renovation is completed within the funds appropriated in this subsection.

This language leaves the department no flexibility should unanticipated problems occur which would require additional funding.

There are numerous difficulties and unknowns associated with the renovation of a building constructed 90 years ago. Health and safety codes become more demanding, structural deterioration occurs, and functions and spatial requirements change. I want to ensure that the department has sufficient latitude to complete this project as planned.

2. General Administration

On page 8, Section 3 (23), I have vetoed the entire Subsection 23. It is the apparent intent of this language to move the Office of Financial Management and the Department of Natural Resources out of the House Office Building and the Public Lands Building so that the space can be converted to legislative use. No space provisions have been made for the agencies that would be displaced from the two buildings.

This project had not been reviewed by the Department of General Administration for feasibility and cost before being placed in the capital budget by the legislature. Approval of this project would be premature since funds have been appropriated within this act for a Capitol Area Master Plan.

3. Donations of Real Estate

I have vetoed Section 37 on page 78. In a study conducted by the Office of Financial Management during the current biennium it was determined that land donations could be acquired through the unanticipated receipts system. This procedure ensures that a potential acquisition will be reported to the Office of Financial Management and analyzed for potential impact before acceptance. It also ensures timely notification to the legislature of contemplated actions while allowing for the expeditious acceptance of donations that may be beneficial to the state. Therefore, Section 37 is excessively restrictive and unnecessary.

4. Capitol Facilities

I have vetoed Section 38 on page 79. The section in effect transfers control of capitol buildings occupied wholly or in part by the legislature from the Department of General Administration to the legislature. This language would unduly restrict the executive branch in its responsibility to complete projects in an efficient and timely manner.

With the exceptions of the foregoing sections and items which I have vetoed for the reasons stated, the remainder of Reengrossed Substitute Senate Bill 3843 as amended by the House is approved."

CHAPTER 144

[Substitute House Bill No. 61]

TELEPHONE BUSINESS TAXATION

AN ACT Relating to telecommunications; amending section 82.16.010, chapter 15, Laws of 1961 as last amended by section 20, chapter 173, Laws of 1965 ex. sess. and RCW 82.16.010; amending section 1, chapter 8, Laws of 1970 ex. sess. as last amended by section 5, chapter 291, Laws of 1975 1st ex. sess. and RCW 82.04.050; amending section 3, chapter 94, Laws of 1970 ex. sess. and RCW 82.14.020; amending section 80.04.270, chapter 14, Laws of 1961 and RCW 80.04.270; amending section 6, chapter 134, Laws of 1972 ex. sess. and RCW 35.21.710; amending section 7, chapter 134, Laws of 1972 ex. sess. and RCW 35A.82.050; adding new sections to chapter 35.21 RCW; adding new sections to chapter 35A.82 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. Section 1. The legislature recognizes that there have been significant changes in the nature of the telephone business in recent

years. Once solely the domain of regulated monopolies, the telephone business has now been opened up to competition with respect to most of its services and equipment. As a result of this competition, the state and local excise tax structure in the state of Washington has become discriminatory when applied to regulated telephone company transactions that are similar in nature to those consummated by nonregulated competitors. Telephone companies are forced to operate at a significant state and local tax disadvantage when compared to these nonregulated competitors.

To remedy this situation, it is the intent of the legislature to place telephone companies and nonregulated competitors of telephone companies on an equal excise tax basis with regard to the providing of similar goods and services. Therefore competitive telephone services shall for excise tax purposes only, unless otherwise provided, be treated as retail sales under the applicable state and local business and occupation and sales and use taxes. This shall not affect any requirement that regulated telephone companies have under Title 80 RCW, unless otherwise provided.

Nothing in this act affects the authority and responsibility of the Washington utilities and transportation commission to set fair, just, reasonable, and sufficient rates for telephone service.

Sec. 2. Section 82.16.010, chapter 15, Laws of 1961 as last amended by section 20, chapter 173, Laws of 1965 ex. sess. and RCW 82.16.010 are each amended to read as follows:

For the purposes of this chapter, unless otherwise required by the context:

(1) "Railroad business" means the business of operating any railroad, by whatever power operated, for public use in the conveyance of persons or property for hire. It shall not, however, include any business herein defined as an urban transportation business((:)).

(2) "Express business" means the business of carrying property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business((:)).

(3) "Railroad car business" means the business of renting, leasing or operating stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any other kinds of cars used for transportation of property or persons upon the line of any railroad operated in this state when such railroad is not owned or leased by the person engaging in such business.

(4) "Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale((:)).

(5) "Light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale((:)).

(6) "Telephone business" means the business of ~~((operating or managing any telephone line or part of a telephone line and exchange or exchanges used in the conduct of the business of affording telephonic communication for hire))~~ providing access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or providing telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange((;)). "Telephone business" does not include the providing of competitive telephone service, nor the providing of cable television service.

(7) "Telegraph business" means the business of affording telegraphic communication for hire((;)).

(8) "Gas distribution business" means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural((;)).

(9) "Motor transportation business" means the business (except urban transportation business) of operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and includes, but is not limited to, the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier or contract carrier as defined by RCW 81.68.010 and 81.80.010: PROVIDED, That "motor transportation business" shall not mean or include the transportation of logs or other forest products exclusively upon private roads or private highways.

(10) "Urban transportation business" means the business of operating any vehicle for public use in the conveyance of persons or property for hire, insofar as (a) operating entirely within the corporate limits of any city or town, or within five miles of the corporate limits thereof, or (b) operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof. Included herein, but without limiting the scope hereof, is the business of operating passenger vehicles of every type and also the business of operating cartage, pickup, or delivery services, including in such services the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person performing a local or interstate line-haul of such property((;)).

(11) "Public service business" means any of the businesses defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business hereafter declared by the legislature to be of a public service nature. It includes, among others, without limiting the scope hereof: Airplane transportation, boom, dock, ferry,

log patrol, pipe line, warehouse, toll bridge, toll logging road, water transportation and wharf businesses(;;).

(12) "Tugboat business" means the business of operating tugboats, towboats, wharf boats or similar vessels in the towing or pushing of vessels, barges or rafts for hire(;;).

(13) "Gross income" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses(;;).

(14) The meaning attributed, in chapter 82.04 RCW, to the term "tax year," "person," "value proceeding or accruing," "business," "engaging in business," "in this state," "within this state," "cash discount" and "successor" shall apply equally in the provisions of this chapter.

(15) "Competitive telephone service" means the providing by any person of telephone equipment, apparatus, or service, other than toll service, which is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.

Sec. 3. Section 1, chapter 8, Laws of 1970 ex. sess. as last amended by section 5, chapter 291, Laws of 1975 1st ex. sess. and RCW 82.04.050 are each amended to read as follows:

"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 (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 providing the property to consumers as part of competitive telephone service, as defined in RCW 82.16.010. 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), ~~((or))~~ (c), or (d) above 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, subsections (2) and (7) and RCW 82.04.290.

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 charges made for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house, trailer camp or tourist camp for the exclusive use of the tenants thereof, and also 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 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; (d) 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; (e) 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; (f) the sale of or charge made for tangible personal property, labor and services to persons taxable under (a),

(b), (c), (d), and (e) above 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 paragraph shall be construed to modify the first paragraph of this section and nothing contained in the first paragraph of this section shall be construed to modify this paragraph.

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 businesses including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows and others; (b) abstract, title insurance and escrow businesses; (c) credit bureau businesses; (d) automobile parking and storage garage businesses.

The term shall also include the renting or leasing of tangible personal property to consumers.

The term shall also include the providing of competitive telephone service as defined in RCW 82.16.010.

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, nor shall it include sales of feed, seed, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects but only when such production and subsequent sale are exempt from tax under RCW 82.04.330, 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.

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.

Sec. 4. Section 3, chapter 94, Laws of 1970 ex. sess. and RCW 82.14-.020 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;

(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 competitive telephone service, as defined in RCW 82.16.010, 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 primary telephone or other instrument through which the competitive telephone service is rendered;

(6) "City" means a city or town;

~~((6))~~ (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;

~~((7))~~ (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.

Sec. 5. Section 80.04.270, chapter 14, Laws of 1961 and RCW 80.04-.270 are each amended to read as follows:

Any public service company engaging in the sale of merchandise or appliances or equipment shall keep separate accounts, as prescribed by the commission, of its capital employed in such business and of its revenues therefrom and operating expenses thereof. The capital employed in such business shall not constitute a part of the fair value of said company's

property for rate making purposes, nor shall the revenues from or operating expenses of such business constitute a part of the operating revenues and expenses of said company as a public service company. For purposes of this section, the providing of competitive telephone service, as defined in RCW 82.16.010, shall not constitute the sale of merchandise, appliances, or equipment, unless the commission determines that it would be in the public interest to hold otherwise.

Sec. 6. Section 6, chapter 134, Laws of 1972 ex. sess. and RCW 35.21-.710 are each amended to read as follows:

Any city which imposes a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales, shall impose such tax at a single uniform rate upon all such business activities. This section shall not apply to any business activities subject to the tax imposed by chapter 82.16 RCW. For purposes of this section, the providing to consumers of competitive telephone service, as defined in RCW 82.16.010, shall be deemed to be the retail sale of tangible personal property.

Sec. 7. Section 7, chapter 134, Laws of 1972 ex. sess. and RCW 35A-.82.050 are each amended to read as follows:

Any code city which imposes a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales, shall impose such tax at a single uniform rate upon all such business activities. This section shall not apply to any business activities subject to the tax imposed by chapter 82.16 RCW. For purposes of this section, the providing to consumers of competitive telephone service, as defined in RCW 82.16.010, shall be deemed to be the retail sale of tangible personal property.

NEW SECTION. Sec. 8. There is added to chapter 35.21 RCW a new section to read as follows:

Any city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.16.010, which is measured by gross receipts or gross income from the business shall impose the tax at a uniform rate on all persons engaged in the telephone business in the city.

This section does not apply to the providing of competitive telephone service as defined in RCW 82.16.010.

NEW SECTION. Sec. 9. There is added to chapter 35A.82 RCW a new section to read as follows:

Any code city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.16.010, which is measured by gross receipts or gross income from the business shall impose the tax at a uniform rate on all persons engaged in the telephone business in the code city.

This section does not apply to the providing of competitive telephone service as defined in RCW 82.16.010.

NEW SECTION. Sec. 10. There is added to chapter 35.21 RCW a new section to read as follows:

Any city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.16.010, which is measured by gross receipts or gross income may impose the fee or tax, if it desires, on one hundred percent of the total gross revenue derived from toll telephone services subject to the fee or tax.

NEW SECTION. Sec. 11. There is added to chapter 35A.82 RCW a new section to read as follows:

Any code city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.16.010, which is measured by gross receipts or gross income may impose the fee or tax, if it desires, on one hundred percent of the total gross revenue derived from toll telephone services subject to the fee or tax.

NEW SECTION. Sec. 12. 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. 13. This act shall take effect on January 1, 1982.

Passed the House April 23, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 145

[Substitute House Bill No. 128]

VICTIMS AND WITNESSES OF CRIMES, RIGHTS—DOMESTIC VIOLENCE
LAW, ENFORCEMENT—RAPE CRISIS CENTER RECORDS

AN ACT Relating to crime victims and witnesses; amending section 3, chapter 105, Laws of 1979 ex. sess. and RCW 10.99.030; amending section 4, chapter 105, Laws of 1979 ex. sess. and RCW 10.99.040; adding a new chapter to Title 7 RCW; adding new sections to chapter 10.99 RCW; and adding a new section to chapter 70.125 RCW.

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

NEW SECTION. Section 1. In recognition of the civic and moral duty of victims and witnesses of crimes to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crime are treated

with dignity, respect, courtesy, and sensitivity; and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Crime" means an act committed by an adult or juvenile in this state which, if committed by a competent adult person, would constitute a crime as provided in either federal, state, or local statute.

(2) "Family member" means spouse, child, parent, or legal guardian.

(3) "Victim" means a person against whom a crime has been committed.

(4) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution in a criminal action, or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding has been commenced.

NEW SECTION. Sec. 3. There shall be a reasonable effort made to assure that victims and witnesses of crimes have the following rights:

(1) To be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim or witness is involved;

(2) To be notified that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court;

(3) To receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

(4) To be informed of the procedure to be followed to apply for and receive any witness fees to which they are entitled;

(5) To be provided, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families or friends of defendants;

(6) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, shall be photographed and returned to the owner within ten days of being taken;

(7) To be provided with appropriate employer intercession services to ensure that employers of victims and witnesses of crime will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

(8) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance; and

(9) To have the family members of homicide victims afforded all of the rights established under subsections (1) through (4), (6), and (7) of this section.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act shall constitute a new chapter in Title 7 RCW.

Sec. 5. Section 3, chapter 105, Laws of 1979 ex. sess. and RCW 10.99-.030 are each amended to read as follows:

(1) All training relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(3)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer may exercise arrest powers with reference to the criteria in RCW 10.31-.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(4) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(5) The law enforcement agency shall forward the offense report to the appropriate prosecutor (~~as soon as practicable,~~) within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

(6) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.

(7) Records kept pursuant to subsections (3) and (6) of this section shall be made identifiable by means of a departmental code for domestic violence.

Sec. 6. Section 4, chapter 105, Laws of 1979 ex. sess. and RCW 10.99-.040 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any defendant charged with a crime involving domestic violence is released from custody before trial on bail or personal recognizance, the court authorizing the release may prohibit the defendant from having any contact with the victim. Wilful violation of a court order issued under this section is a misdemeanor. The written order releasing the defendant shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter ((9A)) 10.99 RCW ((and is also subject to civil contempt proceedings)). A certified copy of such order shall be provided to the victim.

NEW SECTION. Sec. 7. There is added to chapter 10.99 RCW a new section to read as follows:

(1) A defendant arrested for an offense involving domestic violence as defined by RCW 10.99.020(2) shall be required to appear in person before a magistrate within one judicial day after the arrest; or

(2) A defendant who is charged by citation, complaint, or information with an offense involving domestic violence as defined by RCW 10.99.020(2) and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

At the time of the appearances provided in subsection (1) or (2) of this section, the court shall determine the necessity of imposing a no contact order or other conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment. The decision of the judge and findings of fact in support thereof shall be in writing.

Appearances required pursuant to this section are mandatory and cannot be waived.

NEW SECTION. Sec. 8. There is added to chapter 10.99 RCW a new section to read as follows:

Any law enforcement agency in this state may enforce this chapter as it relates to orders restricting the defendants' ability to have contact with the victim.

NEW SECTION. Sec. 9. There is added to chapter 70.125 RCW a new section to read as follows:

Records maintained by rape crisis centers shall not be made available to any defense attorney as part of discovery in a sexual assault case unless:

(1) A written pretrial motion is made by the defendant to the court stating that the defendant is requesting discovery of the rape crisis center's records;

(2) The written motion is accompanied by an affidavit or affidavits setting forth specifically the reasons why the defendant is requesting discovery of the rape crisis center's records;

(3) The court reviews the rape crisis center's records in camera to determine whether the rape crisis center's records are relevant and whether the probative value of the records is outweighed by the victim's privacy interest in the confidentiality of such records taking into account the further trauma that may be inflicted upon the victim by the disclosure of the records to the defendant; and

(4) The court enters an order stating whether the records or any part of the records are discoverable and setting forth the basis for the court's findings.

Passed the House April 25, 1981.

Passed the Senate April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 146

[Substitute House Bill No. 145]

SMALL HARVESTERS—TIMBER TAX

AN ACT Relating to timber taxes; adding new sections to chapter 84.33 RCW; and providing an effective date.

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

NEW SECTION. Section 1. There is added to chapter 84.33 RCW a new section to read as follows:

As used in sections 1 and 2 of this act, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Small harvester" means every person who from his own privately owned land or from the privately owned land of another under a right or license granted by lease or contract, either directly or by contracting with

others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use in an amount not exceeding five hundred thousand board feet in a calendar quarter and not exceeding one million board feet in a calendar year. It does not include persons performing under contract the necessary labor or mechanical services for a harvester, and it does not include harvesters of forest products classified by the department of revenue as special forest products including Christmas trees, posts, shake boards and bolts, and shingle blocks.

(2) "Timber" means forest trees, standing or down on privately owned land.

(3) "Harvesting and marketing costs" means only those costs directly associated with harvesting the timber from the land and delivering it to the buyer and may include the costs of disposing of logging residues but it does not include any other costs which are not directly and exclusively related to harvesting and marketing of the timber such as costs of permanent roads or costs of reforesting the land following harvest.

NEW SECTION. Sec. 2. There is added to chapter 84.33 RCW a new section to read as follows:

(1) A small harvester may elect to calculate the tax imposed by RCW 84.33.071 in the manner provided in this section.

(2) Timber shall be considered harvested at the time when in the ordinary course of business the quantity thereof by species is first definitely determined. The amount harvested shall be determined by the Scribner Decimal C Scale or other prevalent measuring practice adjusted to arrive at substantially equivalent measurements, as approved by the department of revenue.

(3) Timber values shall be determined by either of the following methods, whichever is most appropriate to the circumstances of the harvest:

(a) When standing timber is sold on the stump, the taxable value is the actual gross receipts received by the landowner from the sale of the standing timber.

(b) When timber is sold after it has been harvested, the taxable value is the actual gross receipts from sale of the harvested timber minus the costs of harvesting and marketing the timber. When the taxpayer is unable to provide documented proof of harvesting and marketing costs, this deduction for harvesting and marketing costs shall be a percentage of the gross receipts from sale of the harvested timber as determined by the department of revenue but in no case less than twenty-five percent.

(4) The department of revenue shall prescribe a short filing form which shall be as simple as possible.

NEW SECTION. Sec. 3. This act shall take effect January 1, 1982.

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 April 25, 1981.

Passed the Senate April 24, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 147

[Second Substitute House Bill No. 169]

PHARMACISTS—LICENSURE—POISONS—DRUG INJECTION DEVICES

AN ACT Relating to pharmacy; amending section 1, chapter 9, Laws of 1972 ex. sess. as amended by section 11, chapter 90, Laws of 1979 and RCW 18.64.080; amending section 69.50.210, chapter 308, Laws of 1971 ex. sess. as amended by section 4, chapter 138, Laws of 1980 and RCW 69.50.210; amending section 19, chapter 90, Laws of 1979 and RCW 18.64.255; adding a new section to chapter 69.40 RCW; adding a new section to chapter 70.115 RCW; repealing section 15, chapter 121, Laws of 1899, section 8, chapter 213, Laws of 1909 and RCW 18.64.243; repealing section 256, chapter 249, Laws of 1909 and RCW 69.40.050; repealing section 1, chapter 249, Laws of 1977 ex. sess. and RCW 70.115.010; repealing section 2, chapter 249, Laws of 1977 ex. sess. and RCW 70.115.020; repealing section 3, chapter 249, Laws of 1977 ex. sess. and RCW 70.115.030; repealing section 4, chapter 249, Laws of 1977 ex. sess. and RCW 70.115.040; repealing section 5, chapter 249, Laws of 1977 ex. sess. and RCW 70.115.900; and prescribing a penalty.

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

Section 1. Section 1, chapter 9, Laws of 1972 ex. sess. as amended by section 11, chapter 90, Laws of 1979 and RCW 18.64.080 are each amended to read as follows:

(1) The state board of pharmacy may license as a pharmacist any person who has filed an application therefor, subscribed by the person under oath or affirmation, containing such information as the board may by regulation require, and who—

(a) Is at least eighteen years of age and is a citizen of the United States, an alien in an educational pharmacy graduate or residency program for the period of the program, or a resident alien;

(b) Has satisfied the board that he or she is of good moral and professional character, that he or she will carry out the duties and responsibilities required of a pharmacist, and that he or she is not unfit or unable to practice pharmacy by reason of the extent or manner of his or her proven use of alcoholic beverages, drugs, or controlled substances, or by reason of a proven physical or mental disability;

(c) Holds a baccalaureate degree in pharmacy or a doctor of pharmacy degree granted by a school or college of pharmacy which is accredited by the board of pharmacy;

(d) Has completed or has otherwise met the internship requirements as set forth in board rules;

(e) Has satisfactorily passed the necessary examinations given by the board.

(2) The state board of pharmacy shall, at least once in every calendar year, offer an examination to all applicants for a pharmacist license who have completed their educational and internship requirements pursuant to rules promulgated by the board. The said examination shall be determined by the board. In case of failure at a first examination, the applicant shall have within three years the privilege of a second and third examination. In case of failure in a third examination, the applicant shall not be eligible for further examination until he or she has satisfactorily completed additional preparation as directed and approved by the board. The applicant must pay the examination fee determined by the board for each examination taken. Upon passing the required examinations and complying with all the rules and regulations of the board and the provisions of this chapter, the board shall grant the applicant a license as a pharmacist and issue to him or her a certificate qualifying him or her to enter into the practice of pharmacy.

(3) Any person enrolled as a student of pharmacy (~~(or prepharmacy)~~) in an accredited college may file with the state board of pharmacy an application for registration as a pharmacy intern in which said application he or she shall be required to furnish such information as the board may, by regulation, prescribe and, simultaneously with the filing of said application, shall pay to the board a fee to be determined by the board. All certificates issued to pharmacy interns shall be valid for a period to be determined by the board, but in no instance shall the certificate be valid if the individual is no longer making timely progress toward graduation.

(4) To assure adequate practical instruction, pharmacy internship experience as required under this chapter shall be obtained after registration as a pharmacy intern by practice in any licensed pharmacy or other program meeting the requirements promulgated by regulation of the board, and shall include such instruction in the practice of pharmacy as the board by regulation shall prescribe.

(5) The board may, without examination other than one in the laws relating to the practice of pharmacy, license as a pharmacist any person who, at the time of filing application therefor, is and, for at least one year next preceding, has been licensed as a pharmacist in any other state, territory, or possession of the United States: PROVIDED, That the said person shall produce evidence satisfactory to the board of having had the required secondary and professional education and training and who was licensed as a pharmacist by examination in another state prior to June 13, 1963, shall be required to satisfy only the requirements which existed in this state at the time he or she became licensed in such other state: PROVIDED FURTHER, That the state in which said person is licensed shall under similar conditions grant reciprocal licenses as pharmacist without examination to pharmacists duly licensed by examination in this state. Every application

under this subsection shall be accompanied by a fee determined by the board.

(6) The board shall provide for, regulate, and require all persons licensed as pharmacists to renew their license annually, and shall prescribe the form of such license and information required to be submitted by all applicants.

Sec. 2. Section 69.50.210, chapter 308, Laws of 1971 ex. sess. as amended by section 4, chapter 138, Laws of 1980 and RCW 69.50.210 are each amended to read as follows:

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule IV.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any difenoxin, or its salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows: Not more than 1 milligram and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Barbital;
- (2) Chloral betaine;
- (3) Chloral hydrate;
- (4) Chlordiazepoxide;
- (5) Clonazepam;
- (6) Clorazepate;
- (7) Diazepam;
- (8) Ethchlorvynol;
- (9) Ethinamate;
- (10) Flurazepam;
- (11) Lorazepam;
- (12) Mebutamate;
- (13) Meprobamate;
- (14) Methohexital;
- (15) Methylphenobarbital (mephobarbital);
- (16) Oxazepam;
- (17) Paraldehyde;
- (18) Petrichloral;
- (19) (~~Pentobarbital~~) Phenobarbital;
- (20) Prazepam.

(d) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of fenfluramine, including its salts, isomers

(whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion;
- (2) Phentermine;
- (3) Pemoline (including organometallic complexes and chelates thereof).

(f) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

- (1) Dextropropoxphene (alpha - (+) - 4 - dimethylamino-1, 2-diphenyl - 3 - methyl - 2 - propionoxybutane);
- (2) Pentazocine.

Sec. 3. Section 19, chapter 90, Laws of 1979 and RCW 18.64.255 are each amended to read as follows:

Nothing in this chapter shall operate in any manner:

(1) To restrict the scope of authorized practice of any practitioner other than a pharmacist, duly licensed as such under the laws of this state; or

(2) In the absence of the pharmacist from the hospital pharmacy, to prohibit a registered nurse designated by the hospital and the responsible pharmacist from obtaining from the hospital pharmacy such drugs as are needed in an emergency: PROVIDED, That proper record is kept of such emergency, including the date, time, name of prescriber, the name of the nurse obtaining the drugs, and a list of what drugs and quantities of same were obtained; or

(3) To prevent shopkeepers, itinerant vendors, peddlers, or salesmen from dealing in and selling nonprescription drugs, if such drugs are sold in the original packages of the manufacturer, or in packages put up by a licensed pharmacist in the manner provided by the state board of pharmacy, if such shopkeeper, itinerant vendor, salesman, or peddler shall have obtained a license.

NEW SECTION. Sec. 4. There is added to chapter 69.40 RCW a new section to read as follows:

It shall be unlawful for any person to sell at retail or furnish any re-packaged poison drug or product without affixing or causing to be affixed to the bottle, box, vessel, or package a label containing the name of the article, all labeling required by the Food and Drug Administration and other federal or state laws or regulations, and the word "poison" distinctly shown with the name and place of the business of the seller.

This section shall not apply to the dispensing of drugs or poisons on the prescription of a practitioner.

The board of pharmacy shall have the authority to promulgate rules for the enforcement and implementation of this section.

Every person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

NEW SECTION. Sec. 5. There is added to chapter 70.115 RCW a new section to read as follows:

On the sale at retail of any hypodermic syringe, hypodermic needle, or any device adapted for the use of drugs by injection, the retailer shall satisfy himself or herself that the device will be used for the legal use intended.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

- (1) Section 15, chapter 121, Laws of 1899, section 8, chapter 213, Laws of 1909 and RCW 18.64.243;
- (2) Section 256, chapter 249, Laws of 1909 and RCW 69.40.050;
- (3) Section 1, chapter 249, Laws of 1977 ex. sess. and RCW 70.115.010;
- (4) Section 2, chapter 249, Laws of 1977 ex. sess. and RCW 70.115.020;
- (5) Section 3, chapter 249, Laws of 1977 ex. sess. and RCW 70.115.030;
- (6) Section 4, chapter 249, Laws of 1977 ex. sess. and RCW 70.115-.040; and
- (7) Section 5, chapter 249, Laws of 1977 ex. sess. and RCW 70.115.900.

Passed the House April 23, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 148

[Substitute House Bill No. 175]

TIMBER, FOREST LAND TAXATION

AN ACT Relating to revenue and taxation; amending section 1, chapter 347, Laws of 1977 ex. sess. as amended by section 1, chapter 6, Laws of 1979 and RCW 84.33.071; amending section 5, chapter 294, Laws of 1971 ex. sess. as last amended by section 3, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.050; amending section 9, chapter 294, Laws of 1971 ex. sess. as amended by section 3, chapter 148, Laws of 1972 ex. sess. and RCW 84.33.090; amending section 11, chapter 294, Laws of 1971 ex. sess. as amended by section 4, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.110; amending section 14, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.115; amending section 15, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.116; amending section 12, chapter 294, Laws of 1971 ex. sess. as last amended by section 2, chapter 134, Laws of 1980 and RCW 84.33.120; amending section 13, chapter 294, Laws of 1971 ex. sess. as amended by section

6, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.130; amending section 14, chapter 294, Laws of 1971 ex. sess. as last amended by section 3, chapter 134, Laws of 1980 and RCW 84.33.140; amending section 6, chapter 87, Laws of 1970 ex. sess. as amended by section 7, chapter 212, Laws of 1973 1st ex. sess. and RCW 84.34.060; amending section 82.32.010, chapter 15, Laws of 1961 and RCW 82.32.010; amending section 14, chapter 154, Laws of 1980 (uncodified); creating a new section; repealing section 10, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.111; repealing section 16, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.117; repealing section 15, chapter 294, Laws of 1971 ex. sess. and RCW 84.33.150; providing an effective date; and declaring an emergency.

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

Section 1. Section 1, chapter 347, Laws of 1977 ex. sess. as amended by section 1, chapter 6, Laws of 1979 and RCW 84.33.071 are each amended to read as follows:

(1) Upon every person engaging within this state in business as a harvester of timber; as to such persons the amount of tax imposed with respect to such business shall be equal to the stumpage value of timber harvested for sale or for commercial or industrial use multiplied by the appropriate rate as follows:

~~((a)) For timber harvested between ((October 1, 1972 and September 30, 1973 inclusive, the rate shall be one and three-tenths percent;~~

~~(b) For timber harvested between October 1, 1973 and September 30, 1974 inclusive, the rate shall be two and nine-tenths percent and between))~~ October 1, 1974 and June 30, ~~((1981))~~ 1983, inclusive, six and one-half percent.

(2) For purposes of this section:

(a) "Harvester" means every person who from his own privately owned land or from the privately owned land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services fells, cuts or takes timber for sale or for commercial or industrial use. It does not include persons performing under contract the necessary labor or mechanical services for a harvester.

(b) "Timber" means forest trees, standing or down on privately owned land, and except as provided in RCW 84.33.170 includes Christmas trees.

(c) "Stumpage value of timber" means the appropriate stumpage value shown on tables to be prepared by the department of revenue pursuant to subsection (3) of this section.

(d) Timber shall be considered harvested at the time when in the ordinary course of business the quantity thereof by species is first definitely determined. The amount harvested shall be determined by the Scribner Decimal C Scale or other prevalent measuring practice adjusted to arrive at substantially equivalent measurements, as approved by the department of revenue.

(3) The department of revenue shall designate areas containing timber having similar growing, harvesting and marketing conditions to be used as units for the preparation and application of stumpage values. Each year on

or before December 31 for use the following January through June 30, and on or before June 30 for use the following July through December 31, the department shall prepare tables of stumpage values of each species or subclassification of timber within such units, which values shall be the amount that each such species or subclassification would sell for at a voluntary sale made in the ordinary course of business for purposes of immediate harvest. Such stumpage values, expressed in terms of a dollar amount per thousand board feet or other unit measure, shall be determined from (a) gross proceeds from sales on the stump of similar timber of like quality and character at similar locations, and in similar quantities, or from (b) gross proceeds from sales of logs adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest, or from a combination of (a) and (b), and shall be determined in a manner which makes reasonable and adequate allowances for age, size, quality, costs of removal, accessibility to point of conversion, market conditions and all other relevant factors. Upon application from any person who plans to harvest damaged timber, the stumpage values for which have been materially reduced from the values shown in the applicable tables due to damage resulting from fire, blow down, ice storm, flood or other sudden unforeseen cause, the department shall revise such tables for any area in which such timber is located and shall specify any additional accounting or other requirements to be complied with in reporting and paying such tax. The preliminary area designations and stumpage value tables and any revisions thereof shall be subject to review by the ways and means committees of the house and senate prior to finalization. Tables of stumpage values shall be signed by the director or his designee and authenticated by the official seal of the department. A copy thereof shall be mailed to anyone who has submitted to the department a written request therefor.

(4) On or before the sixtieth day after the date of final adoption of any stumpage value tables, any harvester may appeal to the board of tax appeals for a revision of stumpage values for an area determined pursuant to subsection (3) of this section.

(5) There are hereby created in the state treasury a state timber tax account A and a state timber tax reserve account in the state general fund and any interest earned on the investment of cash balances shall be deposited in these accounts. The revenues from the tax imposed by subsection (1) of this section shall be deposited in state timber tax account A and state timber tax reserve account as follows:

YEAR OF COLLECTION	ACCOUNT A	RESERVE ACCOUNT
1973 (through 1982) and thereafter	100%	0%
((1983 and thereafter	0%	100%)

~~(6) ((In addition to the rates specified in subsection (1) of this section, there shall be imposed upon such persons a surtax at a rate of .5% of the stumpage value of timber as specified in such subsection (1) upon timber harvested between October 1, 1972 and September 30, 1974 inclusive. The revenues from such surtax shall be deposited in the state timber tax reserve account. Such surtax shall be reimposed for one year upon timber harvested in any calendar year following any fourth quarter during which transfers from such reserve account pursuant to subsection (3) of RCW 84.33.080 reduce the balance in such account to less than five hundred thousand dollars, but in no event shall such surtax be imposed in any year after 1980.~~

~~(7))~~ The tax imposed under this section shall be computed with respect to timber harvested each calendar quarter and shall be due and payable in quarterly installments and remittance therefor shall be made on or before the last day of the month next succeeding the end of the quarterly period in which the tax accrued. The taxpayer on or before such date shall make out a return, upon such forms and setting forth such information as the department of revenue may require, showing the amount of the tax for which he is liable for the preceding quarterly period, and shall sign and transmit the same to the department of revenue, together with a remittance for such amount.

~~((8))~~ (7) The taxes imposed by this section shall be in addition to any taxes imposed upon the same persons pursuant to one or more of sections RCW 82.04.230 to 82.04.290, inclusive, and RCW 82.04.440, and none of such sections shall be construed to modify or interact with this section in any way, except RCW 82.04.450 and 82.04.490 shall not apply to the taxes imposed by this section.

~~((9))~~ (8) Any harvester incurring less than ten dollars tax liability under this section in any calendar quarter shall be excused from the payment of such tax, but may be required by the department of revenue to file a return even though no tax may be due.

Sec. 2. Section 5, chapter 294, Laws of 1971 ex. sess. as last amended by section 3, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.050 are each amended to read as follows:

(1) In preparing the assessment roll as of January 1, 1971 for taxes payable in 1972, the assessor of each timber county shall list all timber within such county on January 1, 1971 at the 1970 timber value. For each year commencing with 1972, the assessor of each timber county shall prepare a timber roll, which shall be separate and apart from the assessment roll, listing all timber within such county on January 1, 1972 at values determined as follows:

(a) For the five years commencing with 1972, the value shall be the 1970 timber value;

(b) ~~((For each succeeding five year period, the first of which commences))~~ Commencing on January 1, 1977, the value shall be such 1970

timber value increased or decreased in proportion to the percentage change, if any, which has occurred between the last year of the preceding five year period and 1973 in the average stumpage value per unit of measure of all timber harvested in such county. Such percentage change shall be determined by the department of revenue on the basis of information contained in the excise tax returns filed pursuant to RCW 84.33.071.

(2) As used in subsection (1) of this section, "1970 timber value" means the value for timber calculated in the same manner and using the same values and valuation factors actually used by such assessor in determining the value of timber for the January 1, 1970 assessment roll, except that if a revised schedule of such values and valuation factors was applied to some but not all timber in a county for the January 1, 1970 assessment roll, such revised schedule shall be used by the assessor for any timber revalued for the 1971 or 1972 assessment rolls, and except that if the value of timber in any county on January 1, 1970 was not separately determined and shown on such assessment roll, 1970 timber value shall mean the value reconstructed from available records and information in accordance with rules to be prescribed by the department of revenue.

(3) The assessor of each timber county shall add to the assessment roll showing values of property as of January 1 of the years listed below, an "assessed valuation" of the portion, indicated below opposite each such year, of the value of timber as shown on the timber roll for such year. Such assessed valuation shall be calculated by multiplying such portion of the timber roll by the assessment ratio applied generally by such assessor in computing the assessed valuation of other property in his county. The dollar rates, calculated pursuant to RCW 84.33.060 for each taxing district within which there was timber on January 1 of such year, shall be extended against such "assessed valuation" of timber within such district as well as against the assessed value of all other property within such district as shown on such assessment roll.

YEAR	PORTION OF TIMBER ROLL
1972	75%
1973	45%
1974 and thereafter	None

(4) Timber may be added to the timber roll, at the value specified in subsection (1) of this section, commencing as of January 1 following the designation of the land upon which such timber stands pursuant to (~~subsection (3) of~~) RCW 84.33.120(4) or 84.33.130, but only if the value of such timber was not separately determined and shown on the assessment roll as of either January 1, 1970 or January 1, 1972.

(5) Timber may be added to the timber roll, at the value specified in subsection (1) of this section, commencing as of January 1st following the

sale or transfer of the land upon which such timber stands from an ownership in which such land was exempt from ad valorem taxation to an ownership in which such land is no longer exempt.

(6) The value of timber shall be deleted from the timber roll upon the sale or transfer of the land upon which such timber stands to an ownership in which such land is exempt from ad valorem taxation.

Sec. 3. Section 9, chapter 294, Laws of 1971 ex. sess. as amended by section 3, chapter 148, Laws of 1972 ex. sess. and RCW 84.33.090 are each amended to read as follows:

(1) For the purpose of calculating the limit of indebtedness which may be incurred by any taxing district, the value of the taxable property of any taxing district, as that term is used in chapter 39.36 RCW and any other statutes governing limitation of indebtedness of taxing districts, shall include the value of timber as shown from time to time on the timber roll prepared in accordance with RCW 84.33.050.

(2) For the purposes of calculating the amount to be distributed to a school district pursuant to RCW 28A.48.110, there shall be added to the "assessed valuation of all taxable property" within such district an amount equal to the product of the assessment ratio applied generally by the assessor in computing the assessed value of other property in his county and the appropriate portion listed below of the timber roll prepared in accordance with RCW 84.33.050 for such year.

YEAR	PORTION OF TIMBER ROLL
1972	25%
1973	55%
1974 and thereafter	100%

(3) Any taxing district which has classified or designated forest land and which issues general obligation bonds payable from excess property tax levies for bonds is authorized, after the effective date of this 1981 act, to pledge that proceeds from the forest tax distribution system related to the excess bond levy will be used for the purposes for which the excess bond levy was made. For as long as general obligation bonds with respect to which such a pledge has been made remain outstanding, if the legislature alters the timber tax distributions below the amount to which the taxing districts with such pledged bond levies would have been entitled under chapter 84.33 RCW as it existed prior to such future legislative alteration, forest tax revenues as are then available shall be appropriated and distributed pursuant to chapter 84.33 RCW in a dollar amount substantially equivalent to those distributions which would have been provided to taxing districts with such pledged bond levies by chapter 84.33 RCW as it existed prior to such future legislative alteration.

Sec. 4. Section 11, chapter 294, Laws of 1971 ex. sess. as amended by section 4, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.110 are each amended to read as follows:

(1) ~~((On or before September 1, 1971, the department of revenue shall promulgate rules in accordance with chapter 34.04 RCW setting forth criteria and procedures for grading forest land on the basis of its quality, accessibility and topography. Three general quality classes shall be established which shall be "good", "average" and "poor". Within each of the three general quality classes, four classes of accessibility and topography shall be established which shall be "favorable", "average", "difficult" and "inoperable". On or before March 1, 1972 each assessor shall grade all forest land within his county, in accordance with such rules. Land not initially so graded but later designated as forest land pursuant to subsection (3) of RCW 84.33.120 or 84.33.130, or otherwise determined to be forest land, shall be graded in accordance with such rules))~~ Each assessor shall grade all forest land within the county with respect to general land quality classes of "good", "average", and "poor" and, within each quality class, with respect to accessibility and topography as "favorable", "average", "difficult", and "inoperable", in accordance with the rules promulgated by the department of revenue under chapter 34.04 RCW setting forth criteria and procedures for grading forest land. This subsection and rules promulgated thereunder shall not have any force or effect after ((grading of all forest land in the state has been completed by the department of natural resources or) December 31, ((1980, whichever first occurs)) 1981.

(2) The department of natural resources, in consultation with the department of revenue and other appropriate representatives of government agencies and landowners, shall design and implement a program to determine which privately owned land is forest land as defined by RCW 84.33.100 and as classified under chapter 84.28 RCW and to have such forest land graded by the department of natural resources in conformance with factors that may affect the nurture and continued production of forests at each site, such as but not limited to species variability, characteristics of forest soils, climate variability, topography and access. The program shall include field work to obtain data which are necessary or useful in determining such grades and identifying which land is devoted to or suitable for growing and harvesting timber. The program shall be completed by December 31, 1980.

Sec. 5. Section 14, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.115 are each amended to read as follows:

(1) The department of revenue shall certify to each county assessor the grades established for forest land within each respective county with instructions for application of the land grades to the parcels of forest land within each county. The certification of land grades by the department of revenue shall occur within twelve months after receiving the certificate from

the department of natural resources (~~((pursuant to section 12 of this 1974 amendatory act))~~) under RCW 84.33.114 or by March 31, ((+198+)) 1982, whichever is earlier. Land grades certified to the department of revenue under RCW 84.33.114 for land which is not initially determined to be forest land but is determined to be forest land after 1980 shall be promptly certified to the appropriate county assessors.

(2) Upon receipt of the land grades certified to him by the department of revenue the assessor shall take such actions as are necessary to cause all acres of forest land within the county to be placed within the applicable land grades.

Sec. 6. Section 15, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.116 are each amended to read as follows:

(1) (~~((Within sixty days after))~~) On or before May 31, 1982, and on or before May 31 next succeeding the certification of forest land grades with respect to land determined to be forest land after 1980, the assessor ((has received certification pursuant to RCW 84.33.115 of forest land grades within his county he)) shall mail a notice to each owner of forest land stating the number of acres of each grade of forest land included in any tax parcel to which the notice applies. Any such notice mailed prior to ((+198+)) 1982 shall plainly advise the forest land owner that the grades established for his forest land will not be used as a basis for assessment of such forest land until ((in)) the assessment year ((+198+)) 1982 for taxes payable in ((+1982)) 1983.

(2) In addition to any other remedies provided by law, any owner who feels aggrieved by the forest land grade determined for any forest land owned by him may petition the county board of equalization for correction of such grade. The department of revenue shall appear before the board and defend the determination of such grade. The board shall have jurisdiction to review such petition and may grant or deny the relief requested. ((Such petition must be filed with the board on or before July 1 next succeeding the date of mailing any notice given pursuant to subsection (1) of this section. The filing of such petition shall not jeopardize the owner's right to petition the board pursuant to RCW 84.33.118:)) The decision of the board may be appealed to the board of tax appeals under RCW 84.08.130.

Sec. 7. Section 12, chapter 294, Laws of 1971 ex. sess. as last amended by section 2, chapter 134, Laws of 1980 and RCW 84.33.120 are each amended to read as follows:

(1) (~~((On or before March 1, 1972 and January 1 of each year commencing with 1973, subject to review by the ways and means committees of the house and senate and after compliance with the procedures set forth in chapter 34.04 RCW for adoption of rules, the department of revenue shall determine the true and fair value of each grade of bare forest land and shall certify such values to the county assessors. Such values shall be determined on the basis that the only use of the land is for growing and harvesting~~

timber, and other potential uses shall not be considered in fixing such values:

(2) ~~In preparing the assessment rolls as of January 1, 1971 for taxes payable in 1972, the assessor shall list each parcel of forest land at a value not to exceed the value used on the 1970 assessment roll for such land.))~~ In preparing the assessment rolls as of January 1, 1982, for taxes payable in 1983 and each January 1st thereafter, the assessor shall list each parcel of forest land at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (2) of this section and shall compute the assessed value of the land by using the same assessment ratio he applies generally in computing the assessed value of other property in his county. Values for the several grades of bare forest land shall be as follows.

<u>LAND GRADE</u>	<u>OPERABILITY CLASS</u>	<u>VALUES PER ACRE</u>
<u>1</u>	<u>1</u>	<u>\$141</u>
	<u>2</u>	<u>136</u>
	<u>3</u>	<u>131</u>
	<u>4</u>	<u>95</u>
<u>2</u>	<u>1</u>	<u>118</u>
	<u>2</u>	<u>114</u>
	<u>3</u>	<u>110</u>
	<u>4</u>	<u>80</u>
<u>3</u>	<u>1</u>	<u>93</u>
	<u>2</u>	<u>90</u>
	<u>3</u>	<u>87</u>
	<u>4</u>	<u>66</u>
<u>4</u>	<u>1</u>	<u>70</u>
	<u>2</u>	<u>68</u>
	<u>3</u>	<u>66</u>
	<u>4</u>	<u>52</u>

<u>LAND GRADE</u>	<u>OPERABILITY CLASS</u>	<u>VALUES PER ACRE</u>
<u>5</u>	<u>1</u>	<u>51</u>
	<u>2</u>	<u>48</u>
	<u>3</u>	<u>46</u>
	<u>4</u>	<u>31</u>
<u>6</u>	<u>1</u>	<u>26</u>
	<u>2</u>	<u>25</u>
	<u>3</u>	<u>25</u>
	<u>4</u>	<u>23</u>
<u>7</u>	<u>1</u>	<u>12</u>
	<u>2</u>	<u>12</u>
	<u>3</u>	<u>11</u>
	<u>4</u>	<u>11</u>
<u>8</u>		<u>1</u>

(2) On or before December 31, 1981, the department shall adjust, by rule under chapter 34.04 RCW, the forest land values contained in subsection (1) of this section in accordance with this subsection, and shall certify these adjusted values to the county assessor for his use in preparing the assessment rolls as of January 1, 1982. For the adjustment to be made on or before December 31, 1981, for use in the 1982 assessment year, the department shall:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1976, and June 30, 1981, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 82.04.291 and 84.33.071; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1975, and June 30, 1980, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 82.04.291 and 84.33.071; and

(c) Adjust the forest land values contained in subsection (1) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

For the adjustments to be made on or before December 31, 1982, and each succeeding year thereafter, the same procedure shall be followed as described in this subsection utilizing harvester excise tax returns filed under

RCW 82.04.291 and 84.33.071, except that this adjustment shall be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values shall be successively one year more recent.

(3) In preparing the assessment roll for 1972 and each year thereafter, the assessor shall enter as the true and fair value of each parcel of forest land the appropriate grade value certified to him by the department of revenue, and he shall compute the assessed value of such land by using the same assessment ratio he applies generally in computing the assessed value of other property in his county. In preparing the assessment roll for 1975 and each year thereafter, the assessor shall assess and value as classified forest land all forest land that is not then designated pursuant to (~~(subsection (3) of)~~) RCW 84.33.120(4) or 84.33.130 and shall make a notation of such classification upon the assessment and tax rolls. On or before January 15 of the first year in which such notation is made, the assessor shall mail notice by certified mail to the owner that such land has been classified as forest land and is subject to the compensating tax imposed by this section. If the owner desires not to have such land assessed and valued as classified forest land, he shall give the assessor written notice thereof on or before March 31 of such year and the assessor shall remove from the assessment and tax rolls the classification notation entered pursuant to this subsection, and shall thereafter assess and value such land in the manner provided by law other than this chapter 84.33 RCW.

~~((3))~~ (4) In any year commencing with 1972, an owner of land which is assessed and valued by the assessor other than pursuant to the procedures set forth in RCW 84.33.110 and (~~(subsections (1) and (2) of)~~) this section, and which has, in the immediately preceding year, been assessed and valued by the assessor as forest land, may appeal to the county board of equalization by filing an application with the board in the manner prescribed in subsection (2) of RCW 84.33.130. The county board shall afford the applicant an opportunity to be heard if the application so requests and shall act upon the application in the manner prescribed in subsection (3) of RCW 84.33.130.

~~((4))~~ (5) Land that has been assessed and valued as classified forest land as of any year commencing with 1975 assessment year or earlier shall continue to be so assessed and valued until removal of classification by the assessor only upon the occurrence of one of the following events:

(a) Receipt of notice from the owner to remove such land from classification as forest land;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that, because of actions taken by the owner, such land is no longer primarily devoted to and used for growing and harvesting timber;

(d) Determination that a higher and better use exists for such land than growing and harvesting timber after giving the owner written notice and an opportunity to be heard;

(e) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land classification continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 28A.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated pursuant to subsection ~~((6))~~ (7) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of classified forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection ~~((6))~~ (7) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals.

The assessor shall remove classification pursuant to subsections (c) or (d) above prior to September 30 of the year prior to the assessment year for which termination of classification is to be effective. Removal of classification as forest land upon occurrence of subsection (a), (b), (d), or (e) above shall apply only to the land affected, and upon occurrence of subsection (c) shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber: PROVIDED, That any remaining classified forest land meets necessary definitions of forest land pursuant to RCW 84.33.100 as now or hereafter amended.

~~((5))~~ (6) Within thirty days after such removal of classification as forest land, the assessor shall notify the owner in writing setting forth the reasons for such removal. The owner of such land shall thereupon have the right to apply for designation of such land as forest land pursuant to subsection ~~((3))~~ (4) of this section or RCW 84.33.130. The seller, transferor, or owner may appeal such removal to the county board of equalization.

~~((6))~~ (7) Unless the owner successfully applies for designation of such land or unless the removal is reversed on appeal, notation of removal from classification shall immediately be made upon the assessment and tax rolls, and commencing on January 1 of the year following the year in which the assessor made such notation, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsection ~~((8))~~ (5)(e) and (9) of this section and unless the assessor shall not have mailed notice of classification pursuant to subsection ~~((2))~~ (3) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall

compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to:

(a) The difference, if any, between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number, in no event greater than ten, equal to the number of years, commencing with assessment year 1975, for which such land was assessed and valued as (~~classified~~) forest land.

~~((7))~~ (8) Compensating tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from classification as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

~~((8))~~ (9) The compensating tax specified in subsection ~~((6))~~ (7) of this section shall not be imposed if the removal of classification as forest land pursuant to subsection ~~((4))~~ (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(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) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land.

~~((9))~~ (10) With respect to any land that has been designated prior to May 6, 1974, pursuant to ~~((subsection (3) of))~~ RCW 84.33.120(4) or 84.33.130, the assessor may, prior to January 1, 1975, on his own motion or pursuant to petition by the owner, change, without imposition of the compensating tax provided under RCW 84.33.140, the status of such designated land to classified forest land.

Sec. 8. Section 13, chapter 294, Laws of 1971 ex. sess. as amended by section 6, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.130 are each amended to read as follows:

(1) An owner of land desiring that it be designated as forest land and valued pursuant to RCW 84.33.120 as of January 1 of any year commencing with 1972 shall make application to the county assessor before such January 1.

(2) The application shall be made upon forms prepared by the department of revenue and supplied by the county assessor, and shall include the following:

(a) A legal description of or assessor's tax lot numbers for all land the applicant desires to be designated as forest land;

(b) The date or dates of acquisition of such land;

(c) A brief description of the timber on such land, or if the timber has been harvested, the owner's plan for restocking;

(d) Whether there is a forest management plan for such land;

(e) If so, the nature and extent of implementation of such plan;

(f) Whether such land is used for grazing;

(g) Whether such land has been subdivided or a plat filed with respect thereto;

(h) Whether such land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder;

(i) Whether such land is subject to fire patrol assessments pursuant to RCW 76.04.360;

(j) Whether such land is subject to a lease, option or other right which permits it to be used for any purpose other than growing and harvesting timber;

(k) A summary of the past experience and activity of the applicant in growing and harvesting timber;

(l) A summary of current and continuing activity of the applicant in growing and harvesting timber;

(m) A statement that the applicant is aware of the potential tax liability involved when such land ceases to be designated as forest land;

(n) An affirmation that the statements contained in the application are true and that the land described in the application is, by itself or with other forest land not included in the application, in contiguous ownership of twenty or more acres which is primarily devoted to and used for growing and harvesting timber.

The assessor shall afford the applicant an opportunity to be heard if the application so requests.

(3) The assessor shall act upon the application with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative, except that the application may be denied for one of the following reasons, without regard to other items:

(a) The land does not contain either a "merchantable stand of timber" or an "adequate stocking" as defined in RCW 76.08.010, or any laws or regulations adopted to replace such minimum standards, except this reason (a) shall not alone be sufficient for denial of the application (i) if such land has been recently harvested or supports a growth of brush or noncommercial type timber, and the application includes a plan for restocking within three years or such longer period necessitated by unavailability of seed or seedlings, or (ii) if only isolated areas within such land do not meet such minimum standards due to rock outcroppings, swamps, unproductive soil or other natural conditions;

(b) The applicant, with respect to such land, has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder;

(c) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling such ordinary high tide line and two hundred feet horizontally landward therefrom, except that if the higher and better use determined by the assessor to exist for such land would not be permitted or economically feasible by virtue of any federal, state or local law or regulation such land shall be assessed and valued pursuant to the procedures set forth in RCW 84.33.110 and ~~((subsections (1) and (2) of))~~ RCW 84.33.120 without being designated. The application shall be deemed to have been approved unless, prior to May 1, of the year after such application was mailed or delivered to the assessor, he shall notify the applicant in writing of the extent to which the application is denied.

(4) An owner who receives notice pursuant to subsection (3) of this section that his application has been denied may appeal such denial to the county board of equalization.

Sec. 9. Section 14, chapter 294, Laws of 1971 ex. sess. as last amended by section 3, chapter 134, Laws of 1980 and RCW 84.33.140 are each amended to read as follows:

(1) When land has been designated as forest land pursuant to ~~((subsec-~~
~~tion (3) of))~~ RCW 84.33.120(4) or 84.33.130, a notation of such designation shall be made each year upon the assessment and tax rolls, a copy of the notice of approval together with the legal description or assessor's tax lot numbers for such land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and such land shall be graded and valued pursuant to RCW 84.33.110 and 84.33.120 until removal of such designation by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove such designation;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land designation continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 28A.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated pursuant to subsection (3) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of designated forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (3) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that (i) such land is no longer primarily devoted to and used for growing and harvesting timber, (ii) such owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder, or (iii) restocking has not occurred to the extent or within the time specified in the application for designation of such land.

Removal of designation upon occurrence of any of subsections (a) through (c) above shall apply only to the land affected, and upon occurrence of subsection (d) shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber, without regard to other land that may have been included in the same application and approval for designation: **PROVIDED**, That any remaining designated forest land meets necessary definitions of forest land pursuant to RCW 84.33.100 as now or hereafter amended.

(2) Within thirty days after such removal of designation of forest land, the assessor shall notify the owner in writing, setting forth the reasons for such removal. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(3) Unless the removal is reversed on appeal a copy of the notice of removal with notation of the action, if any, upon appeal, together with the legal description or assessor's tax lot numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and commencing on January 1 of the year following the year in which the assessor mailed such notice, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsection (5) of this section, a

compensating tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to:

(a) The difference between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number, in no event greater than ten, equal to the number of years for which such land was designated as forest land.

(4) Compensating tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from designation as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(5) The compensating tax specified in subsection (3) of this section shall not be imposed if the removal of designation pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(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) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land.

Sec. 10. Section 6, chapter 87, Laws of 1970 ex. sess. as amended by section 7, chapter 212, Laws of 1973 1st ex. sess. and RCW 84.34.060 are each amended to read as follows:

In determining the true and fair value of open space land and timber land, which has been classified as such under the provisions of this chapter, the assessor shall consider only the use to which such property and improvements is currently applied and shall not consider potential uses of such property. The assessor shall compute the assessed value of such property by using the same assessment ratio which he applies generally in computing the assessed value of other property: PROVIDED, That the assessed valuation

of open space land with no current use shall not be less than that which would result if it were to be assessed for agricultural uses; PROVIDED FURTHER, That timber land shall be valued according to chapter 84.33 RCW.

NEW SECTION. Sec. 11. (1) One of the purposes of this act is to establish the values for ad valorem tax purposes of bare forest land which is primarily devoted to and used for growing and harvesting timber without consideration of other potential uses of the land and to provide a procedure for adjusting the values in future years to reflect economic changes which may affect the value established in this act.

(2) Chapter 294, Laws of 1971 ex. sess., as originally enacted, required the department of revenue annually to analyze forest land transactions to ascertain the market value of bare forest land purchased and used exclusively for growing and harvesting timber. Most transactions involving forest land include mature and immature timber with no segregation by the parties between the amounts paid for timber and bare land. The examination of these transactions by the department to ascertain the prices being paid for only the bare land has proven to be very difficult, time consuming, and subject to recurring legal challenge. Samples are small in relation to the total acreage of forest land involved and the administrative time and costs required for the annual analyses are excessive in relation to the changes from year to year which have been observed in the value of bare forest land. This act eliminates most of these administrative costs by establishing the current bare forest land values and by providing a procedure for periodic adjustment of the values which does not require continuing and costly analysis of the numerous forest land transactions throughout the state.

Sec. 12. Section 82.32.010, chapter 15, Laws of 1961 and RCW 82.32-.010 are each amended to read as follows:

The provisions of this chapter shall apply with respect to the taxes imposed under chapters 82.04 through 82.28 RCW of this title and under RCW 84.33.071 in such manner and to such extent as indicated in each such chapter.

Sec. 13. Section 14, chapter 154, Laws of 1980 (uncodified) is amended to read as follows:

Chapter 28A.45 RCW, as amended, repealed, and added to by (~~this 1980 act~~) chapter 134, Laws of 1980 and chapter 154, Laws of 1980 and as amended, repealed, and added to by any other enactment during a regular or extraordinary session of this (~~forty-sixth~~) forty-seventh legislature, is hereby added to and shall be recodified as (~~a new~~) chapter (~~in Title~~) 82.45 RCW.

References to chapter 28A.45 RCW and its sections shall be considered references to chapter 82.45 RCW and its sections, and the code reviser shall

change references to chapter 28A.45 RCW and its sections to refer to chapter 82.45 RCW and its sections.

NEW SECTION. Sec. 14. The following acts or parts of acts are each repealed:

(1) Section 10, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.111;

(2) Section 16, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.117; and

(3) Section 15, chapter 294, Laws of 1971 ex. sess. and RCW 84.33.150.

NEW SECTION. Sec. 15. 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. 16. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except for section 13 of this act which shall take effect September 1, 1981.

Passed the House April 16, 1981.

Passed the Senate April 23, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 149

[Substitute House Bill No. 184]

BANKRUPTCY—FEDERAL, STATE EXEMPTIONS

AN ACT Relating to bankruptcy; amending section 5, chapter 64, Laws of 1895 as amended by section 1, chapter 44, Laws of 1909 and RCW 6.12.100; and amending section 344, page 88, Laws of 1869 as last amended by section 1, chapter 136, Laws of 1927 and RCW 6.16.080.

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

Section 1. Section 5, chapter 64, Laws of 1895 as amended by section 1, chapter 44, Laws of 1909 and RCW 6.12.100 are each amended to read as follows:

The homestead is subject to execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, materialmen's or vendor's liens upon the premises.

(2) On debts secured by mortgages on the premises executed and acknowledged by the husband and wife or by any unmarried claimant.

(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, including as a joint case under 11 U.S.C. Sec. 302, and (b) the other spouse exempts property from property of the estate under the federal exemption provisions of 11 U.S.C. Sec. 522(b)(1).

Sec. 2. Section 344, page 88, Laws of 1869 as last amended by section 1, chapter 136, Laws of 1927 and RCW 6.16.080 are each amended to read as follows:

Nothing in this chapter shall be so construed as to prevent the mortgaging of personal property which might be claimed as exempt, or the enforcement of such mortgage, nor to prevent the waiver of the right of exemption by failure to claim the same prior to sale under execution, and nothing in this chapter shall be construed to exempt from attachment or execution the personal property of a nonresident of this state, or a person who has left or is about to leave the state with the intention to defraud his creditors, or one spouse in a bankruptcy proceeding where (1) bankruptcy is filed by both spouses within a six-month period, including as a joint case under 11 U.S.C. Sec. 302, and (2) the other spouse exempts property from property of the estate under the federal exemption provisions of 11 U.S.C. Sec. 522(b)(1).

Passed the House April 2, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 150

[House Bill No. 254]

AUTOMOBILE INSURANCE—UNDERINSURED COVERAGE

AN ACT Relating to casualty insurance; amending section 27, chapter 150, Laws of 1967 as amended by section 1, chapter 117, Laws of 1980 and RCW 48.22.030; adding a new section to chapter 48.18 RCW; and providing an effective date.

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

Section 1. Section 27, chapter 150, Laws of 1967 as amended by section 1, chapter 117, Laws of 1980 and RCW 48.22.030 are each amended to read as follows:

(1) "Underinsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance, or use of which either no bodily injury or property damage liability bond or insurance policy applies at the time of an accident, or with respect to which the sum of the limits of liability under all bodily injury or property damage liability bonds and insurance policies applicable to a covered person after an accident is less than the applicable damages which the covered person is legally entitled to recover.

(2) No new policy or renewal of an existing policy insuring against loss resulting from liability imposed by law for bodily injury or death or property damage suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be issued with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of underinsured motor vehicles and hit-and-run motor vehicles because of bodily injury or death or property damage, resulting therefrom, except while operating or occupying a motorcycle or motor-driven cycle, and except while operating or occupying a motor vehicle owned or available for the regular use by the named insured or any family member, and which is not insured under the liability coverage of the policy: PROVIDED, HOWEVER, That the coverage for property damage need only be offered as an optional supplemental coverage with the issuance of the coverage for bodily injury or death.

(3) Coverage required under subsection (2) of this section shall be in the same amount as the insured's third party liability coverage unless the insured rejects all or part of the coverage as provided in subsection (4) of this section.

(4) The insured may reject underinsured coverage for either bodily injury or death or property damage and the requirements of subsections (2) and (3) of this section shall not apply. If the insured has rejected underinsured coverage, such coverage shall not be included in any supplemental or renewal policy unless the insured subsequently requests such coverage in writing.

(5) The limit of liability under the policy coverage may be defined as the maximum limits of liability for all damages resulting from any one accident regardless of the number of covered persons, claims made, or vehicles or premiums shown on the policy, or premiums paid, or vehicles involved in an accident.

(6) The policy may provide that if an injured person has other similar insurance available to him under other policies, the total limits of liability of all coverages shall not exceed the higher of the applicable limits of the respective coverages.

(7) (a) The policy may provide for a deductible of not more than three hundred dollars for payment for property damage when the damage is caused by a hit-and-run driver or a phantom vehicle.

(b) In all other cases of underinsured property damage coverage, the policy may provide for a deductible of not more than one hundred dollars.

(8) For the purposes of this chapter, a "phantom vehicle" shall mean a vehicle which causes bodily injury or property damage to an insured arising out of a motor vehicle accident which is caused by an automobile which has

no physical contact with the insured or the vehicle which the insured is occupying at the time of the accident,

(a) The facts of which accident can be corroborated by competent evidence other than the testimony of the insured or any person having an uninsured motorist claim resulting from the accident, and

(b) The insured or someone on his behalf shall have reported the accident to the appropriate law enforcement agency within seventy-two hours of the accident.

****NEW SECTION. Sec. 2. There is added to chapter 48.18 RCW a new section to read as follows:***

Any automobile insurance policy written or renewed after the effective date of this act, which provides comprehensive or collision coverage shall also provide coverage against loss resulting from liability in at least the minimum amounts set forth in RCW 46.29.090. The liability coverage is not required during any month in which the vehicle is not used upon the highways of this state.

****Sec. 2. was vetoed, see message at end of chapter.***

NEW SECTION. Sec. 3. This act shall take effect on September 1, 1981.

Passed the House April 23, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 14, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section of House Bill No. 254 entitled:

"AN ACT Relating to casualty insurance."

Section 2 of this bill would require that auto insurance policies providing comprehensive or collision coverage would also have to provide liability coverage.

Since this bill passed the legislature, information has come to light that calls into question the potential effectiveness of this bill in preventing driving by underinsured motorists and also raises the question of unintended economic impacts on both the auto industry and financial institutions. I feel that the most prudent course of action at this time would be to veto Section 2 so that the legislature can more thoroughly study this issue.

With the exception of Section 2, which I have vetoed, the remainder of House Bill No. 254 is approved."

CHAPTER 151

[Substitute House Bill No. 266]
STATE COUNCIL ON AGING

AN ACT Relating to social and health services; amending section 2, chapter 189, Laws of 1971 ex. sess. as last amended by section 45, chapter 75, Laws of 1977 and RCW 43-20A.360; adding new sections to chapter 43.20A RCW; and providing an effective date.

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

NEW SECTION. Section 1. The state council on aging is hereby established as an advisory council to the governor, the secretary of social and health services, and the office of aging or any other office solely designated as the state unit on aging. The state council on aging may be designated by the governor to serve as the state advisory council to the state unit on aging with respect to federally funded programs as required by federal regulation. The director of the state unit on aging shall provide appropriate staff support.

NEW SECTION. Sec. 2. (1) The initial members of the council shall be appointed by the governor to staggered terms such that approximately one-third of the members serve terms of one year, one-third serve terms of two years, and one-third serve terms of three years. Thereafter, members of the council shall be appointed by the governor to terms of three years, except in the case of a vacancy, in which event appointment shall be for the remainder of the unexpired term for which the vacancy occurs. No member of the council may serve more than two consecutive three-year terms. One member shall be appointed from each state-designated planning and service area from a list of names transmitted by each area agency on aging advisory council, such list including the names of all persons nominated within the planning and service area together with the area agency on aging advisory council's recommendations. The governor shall appoint one additional member from names submitted by the association of Washington cities and one additional member from names submitted by the Washington state association of counties. In addition, the governor may appoint not more than five at large members, in order to ensure that rural areas (those areas outside of a standard metropolitan statistical area), minority populations, and those individuals with special skills which could assist the state council are represented. The members of the state council on aging shall elect, at the council's initial meeting and at the council's first meeting each year, one member to serve as chairperson of the council and another member to serve as secretary of the council.

(2) The speaker of the house of representatives and the president of the senate shall each appoint two nonvoting members to the council; one from each of the two largest caucuses in each house. The terms of the members so appointed shall be for approximately two years and the terms shall expire

before the first day of the legislative session in odd-numbered years. They shall be compensated by their respective houses as provided under RCW 44.04.120, as now or hereafter amended.

(3) With the exception of the members from the Washington state association of cities, the Washington state association of counties, and the nonvoting legislative members, all members of the council shall be at least fifty-five years old.

NEW SECTION. Sec. 3. The state council on aging shall meet monthly unless determined otherwise by a majority vote of the members, which vote shall be taken at a regular meeting of the council. Nonlegislative members shall serve without compensation but shall be reimbursed for travel expenses and per diem in the performance of their duties as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

NEW SECTION. Sec. 4. (1) The state council on aging has the following powers and duties:

(a) To serve in an advisory capacity to the governor, the secretary of social and health services, and the state unit on aging on all matters pertaining to policies, programs, and services affecting older persons;

(b) To create public awareness of the special needs and potentialities of older persons; and

(c) To provide for self-advocacy by older citizens of the state through sponsorship of training, legislative and other conferences, workshops, and such other methods as may be deemed appropriate.

(2) The council shall establish bylaws to aid in the performance of its powers and duties.

NEW SECTION. Sec. 5. There is added to chapter 43.20A RCW a new section to read as follows:

When federal funds provided under the Older Americans Act, P.L. 89-73, or its successor, become unavailable to the state, state funds shall not be used to fund the state council on aging created under section 1 of this act.

Sec. 6. Section 2, chapter 189, Laws of 1971 ex. sess. as last amended by section 45, chapter 75, Laws of 1977 and RCW 43.20A.360 are each amended to read as follows:

The secretary is hereby authorized to appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The secretary may appoint state-wide committees or councils in the following subject areas: (1) Health facilities; (2) radiation control; (3) children and youth services; (4) blind services; (5) ~~((services to the aging, (6)))~~ medical and health care; ~~((7))~~ (6) drug abuse and alcoholism; ~~((8))~~ (7) social services; ~~((9))~~ (8) economic services; ~~((10))~~ (9) vocational services; ~~((11))~~ (10) rehabilitative services; ~~((12))~~ (11) public health services; and on such other subject

matters as are or come within the department's responsibilities. The secretary shall appoint committees or councils advisory to the department in each service delivery region to be designated by the secretary. The state-wide and the regional councils shall have representation from both major political parties and shall have substantial consumer representation. Such committees or councils shall be constituted as required by federal law or as the secretary in his discretion may determine. The members of the committees or councils shall hold office as follows: one-third to serve one year; one-third to serve two years; and one-third to serve three years. Upon expiration of said original terms, subsequent appointments shall be for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms.

Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Members of regional advisory committees may, in the discretion of the secretary, be paid the same travel expenses as set forth above.

NEW SECTION. Sec. 7. Sections 1 through 4 of this act are each added to chapter 43.20A RCW.

NEW SECTION. Sec. 8. This act shall take effect September 1, 1981.

Passed the House April 23, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 152

[House Bill No. 276]

MOTOR VEHICLE DEALERS, SALESMEN, MANUFACTURERS—LICENSURE

AN ACT Relating to motor vehicle dealers; amending section 46.70.070, chapter 12, Laws of 1961 as last amended by section 8, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.070; amending section 9, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.075; amending section 46.70.090, chapter 12, Laws of 1961 as last amended by section 13, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.090; amending section 11, chapter 74, Laws of 1967 ex. sess. as last amended by section 3, chapter 125, Laws of 1977 ex. sess. and RCW 46.70.101; amending section 16, chapter 74, Laws of 1967 ex. sess. as last amended by section 4, chapter 125, Laws of 1977 ex. sess. and RCW 46.70.180; and adding new sections to chapter 46.70 RCW.

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

Section 1. Section 46.70.070, chapter 12, Laws of 1961 as last amended by section 8, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.070 are each amended to read as follows:

(1) Before issuing a vehicle dealer's license, the department shall require the applicant to file with ~~((said))~~ the department a surety bond in the amount of:

(a) ~~((Ten))~~ Fifteen thousand dollars for motor vehicle dealers;

(b) ~~((Twenty))~~ Thirty thousand dollars for mobile home and travel trailer dealers: PROVIDED, That if such dealer does not deal in mobile homes such bond shall be ~~((ten))~~ fifteen thousand dollars;

(c) Five thousand dollars for miscellaneous dealers, running to the state, and executed by a surety company authorized to do business in the state. Such bond shall be approved by the attorney general as to form and conditioned that the dealer shall conduct his business in conformity with the provisions of this chapter. Any retail purchaser who shall have suffered any loss or damage by reason of breach of warranty or by any act by a dealer which constitutes a violation of this chapter shall have the right to institute an action for recovery against such dealer and the surety upon such bond. Successive recoveries against said bond shall be permitted, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. Upon exhaustion of the penalty of said bond or cancellation of the bond by the surety the vehicle dealer license shall automatically be deemed canceled.

(2) The bond for any vehicle dealer licensed or to be licensed under more than one classification shall be the highest bond required for any such classification.

NEW SECTION. Sec. 2. There is added to chapter 46.70 RCW a new section to read as follows:

(1) The provisions of this chapter relating to the licensing and regulation of vehicle dealers, salesmen, and manufacturers shall be exclusive and no county, city, or other political subdivision of this state shall enact any laws, rules, or regulations licensing or regulating vehicle dealers, salesmen, or manufacturers.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business and occupation tax upon vehicle dealers or manufacturers maintaining an office within that political subdivision if a business and occupation tax is levied by such a political subdivision upon other types of businesses within its boundaries.

Sec. 3. Section 9, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.075 are each amended to read as follows:

Before issuing a manufacturer license to a manufacturer of mobile homes or travel trailers, the department shall require the applicant to file with ~~((said))~~ the department a surety bond in the amount of ~~((twenty))~~ forty thousand dollars in the case of a mobile home manufacturer and ~~((ten))~~ twenty thousand dollars in the case of a travel trailer manufacturer, running to the state(;) and executed by a surety company authorized to do business in the state. Such bond shall be approved by the attorney general

as to form and conditioned that the manufacturer shall conduct his business in conformity with the provisions of this chapter and with all standards set by the state of Washington or the federal government pertaining to the construction or safety of such vehicles. Any retail purchaser or vehicle dealer who ~~((shall have))~~ has suffered any loss or damage by reason of breach of warranty or by any act by a manufacturer which constitutes a violation of this chapter or a violation of any standards set by the state of Washington or the federal government pertaining to construction or safety of such vehicles ~~((shall have))~~ has the right to institute an action for recovery against such manufacturer and the surety upon such bond. Successive recoveries against ~~((said))~~ the bond shall be permitted, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. Upon exhaustion of the penalty of ~~((said))~~ the bond or cancellation of the bond by the surety the manufacturer license ~~((shall))~~ is automatically ~~((be))~~ deemed canceled.

Sec. 4. Section 46.70.090, chapter 12, Laws of 1961 as last amended by section 13, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.090 are each amended to read as follows:

(1) The department shall issue a vehicle dealer license plate~~((s;))~~ which shall be attached to the rear of the vehicle only and which ~~((are))~~ is capable of distinguishing the classification of the dealer, to vehicle dealers properly licensed pursuant to this chapter and shall, upon application, issue manufacturer's license plates to manufacturers properly licensed pursuant to this chapter.

(2) Motor vehicle dealer license plates may be used:

(a) To demonstrate motor vehicles held for sale when operated by an individual holding a valid operator's license, ~~((provided that))~~ if a dated demonstration permit, valid for no more than seventy-two hours, is carried in the vehicle at all times it is operated by any such individual.

(b) On motor vehicles owned, held for sale, and which are in fact available for sale by the firm when operated by an officer of the corporation, partnership, or proprietorship or by their spouses, or by a bona fide full-time employee of the firm, ~~((provided that))~~ if a card so identifying any such individual is carried in the vehicle at all times it is operated by ~~((him))~~ such individual. Any such vehicle so operated may be used to transport the dealer's own tools, parts, and equipment ~~((to))~~ of a total weight not to exceed five hundred pounds.

(c) On motor vehicles being tested for repair.

(d) On motor vehicles being moved to or from a motor vehicle dealer's place of business for sale.

(e) On motor vehicles being moved to or from motor vehicle service and repair facilities before sale.

(f) On motor vehicles being moved to or from motor vehicle exhibitions within the state of Washington, (~~provided that~~) if any such exhibition does not exceed a period of twenty days.

(3) Mobile home and travel trailer dealer license plates may be used:

(a) On units hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer.

(b) On mobile homes hauled to a customer's location for set-up after sale.

(c) On travel trailers held for sale to demonstrate the towing capability of the vehicle (~~provided that~~) if a dated demonstration permit, valid for not more than seventy-two hours, is carried with the vehicle at all times.

(d) On mobile homes being hauled from a customer's location (~~provided that~~) if the requirements of RCW 46.16.105 and 46.16.106 are met.

(e) On any motor vehicle owned by the dealer which is used only to move vehicles legally bearing mobile home and travel trailer dealer license plates of the dealer so owning any such motor vehicle.

(f) On vehicles being moved to or from vehicle exhibitions within the state of Washington, (~~provided that~~) if any such exhibition does not exceed a period of twenty days.

(4) Miscellaneous vehicle dealer license plates may be used:

(a) To demonstrate any miscellaneous vehicle: **PROVIDED, That:**

(i) No such vehicle (~~shall~~) may be demonstrated on a public highway unless the customer has an appropriate endorsement on his driver's license, if such endorsement is required to operate such vehicle; and

(ii) A dated demonstration permit, valid for no more than seventy-two hours, is carried with the vehicle at all times it is operated by any such individual.

(b) On vehicles owned, held for sale, and which are(;) in fact(;) available for sale, by the firm when operated by an officer of the corporation, partnership, or proprietorship or by a bona fide full-time employee of the firm, (~~provided that~~) if a card so identifying such individual is carried in the vehicle at all times it is operated by him.

(c) On vehicles being tested for repair.

(d) On vehicles being transported to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer.

(e) On vehicles on which any other item sold or to be sold by the dealer is transported from the place of business of the manufacturer to the place of business of the dealer or to and from places of business of the dealer(~~PROVIDED, That~~) if such vehicle and such item are purchased or sold as one package.

(5) Manufacturers properly licensed pursuant to this chapter may apply for and obtain manufacturer license plates and may be used:

(a) ~~((To transport))~~ On vehicles being moved to or from the place of business of a manufacturer to a vehicle dealer within this state who is properly licensed pursuant to this chapter.

(b) To test vehicles for repair.

(6) Vehicle dealer license plates and manufacturer license plates shall not be used for any purpose other than set forth in this section and specifically shall not be:

(a) Used on any vehicle not within the class for which the vehicle dealer or manufacturer license plates are issued unless specifically provided for in this section.

(b) Loaned to any person for any reason not specifically provided for in this section.

(c) Used on any vehicles for the transportation of any person, produce, freight, or commodities unless specifically provided for in this section, except there shall be permitted the use of such vehicle dealer license plates on a vehicle transporting commodities in the course of a demonstration over a period not to exceed seventy-two consecutive hours from the commencement of such demonstration, if a representative of the dealer is present and accompanies such vehicle during the course of the demonstration.

(d) Used on any vehicle sold to a resident of another state to transport such vehicle to that other state in lieu of a trip permit or in lieu of vehicle license plates obtained from that other state.

(7) In addition to or in lieu of any sanction imposed by the director pursuant to RCW 46.70.101 for unauthorized use of vehicle dealer license plates or manufacturer license plates, the director may order that any or all vehicle dealer license plates or manufacturer license plates issued pursuant to this chapter be confiscated for such period as he deems appropriate.

Sec. 5. Section 11, chapter 74, Laws of 1967 ex. sess. as last amended by section 3, chapter 125, Laws of 1977 ex. sess. and RCW 46.70.101 are each amended to read as follows:

The director may by order deny, suspend, or revoke the license of any vehicle dealer, vehicle manufacturer, or vehicle salesman or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if he finds that the order is in the public interest and that the applicant(;) or licensee:

(1) In the case of a vehicle dealer:

(a) The applicant or licensee, or any partner, officer, director, owner of ten percent or more of the assets of the firm, or managing employee:

(i) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(ii) Has been adjudged guilty of a crime which directly relates to the business of a vehicle dealer and the time elapsed since the adjudication is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purposes of this section, adjudged guilty shall mean in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended;

(iii) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department;

(iv) Does not have an established place of business as defined in this chapter;

(v) Employs an unlicensed salesman or one whose license has been denied, revoked within the last year, or is currently suspended, the terms of which have not been fulfilled;

(vi) Refuses to allow representatives or agents of the department to inspect during normal business hours all books, records, and files maintained within this state;

(vii) Sells, exchanges, offers, brokers, auctions, solicits, or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same;

(viii) Is insolvent, either in the sense that his liabilities exceed his assets, or in the sense that he cannot meet his obligations as they mature;

(ix) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;

(x) Fails to notify the department of bankruptcy proceedings in the manner required by section 7 of this 1981 act.

(b) The applicant or licensee, or any partner, officer, director, owner of ten percent of the assets of the firm, or any employee or agent:

(i) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(ii) Has defrauded or attempted to defraud the state, or a political subdivision thereof of any taxes or fees in connection with the sale or transfer of a vehicle;

(iii) Has forged the signature of the registered or legal owner on a certificate of title;

(iv) Has purchased, sold, disposed of, or has in his possession any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;

(v) Has wilfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;

(vi) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates and manufacturer license plates;

(vii) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices; or

(viii) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles;

(c) The licensee or any partner, officer, director, or owner of ten percent or more of the assets of the firm holds or has held any such position in any other vehicle dealership licensed pursuant to this chapter which is subject to final proceedings under this section.

(2) In the case of a vehicle salesman:

(a) Was the holder ((of)), or was a partner in a partnership(;) or was an officer, director, or owner involved in the management of a corporation which was the holder, of a license issued pursuant to this chapter which was revoked for cause and never reissued, or was suspended and the terms of the suspension had not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(b) Has been adjudged guilty of a crime which directly relates to the business of a vehicle salesman and the time elapsed since the conviction is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purpose of this section, the term adjudged guilty ((shall)) means, in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the imposition of sentence is deferred or the penalty is suspended;

(c) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto or in any matter under investigation by the department;

(d) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(e) Has defrauded or attempted to defraud the state(;) or a political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;

(f) Has forged the signature of the registered or legal owner on a certificate of title;

(g) Has purchased, sold, ((or)) disposed of, or has in his possession, any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;

(h) Has wilfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;

(i) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(j) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;

(k) Converts or appropriates, whether temporarily or permanently, property or funds belonging to a customer, dealer, or manufacturer, without the consent of the owner of such property or funds.

(3) In the case of a manufacturer, or any partner, officer, director, or majority shareholder:

(a) Was or is the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(b) Has knowingly or with reason to know, made a false statement of a material fact in his application for license, or any data attached thereto, or in any matter under investigation by the department;

(c) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(d) Has defrauded or attempted to defraud the state((;)) or a political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;

(e) Has purchased, sold, ((or)) disposed of, or has in his possession, any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;

(f) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates and manufacturer license plates;

(g) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(h) Sells or distributes in this state or transfers into this state for resale, any new or unused vehicle to which a warranty attaches or has attached and refuses to honor the terms of such warranty within a reasonable time or repudiates the same;

(i) Fails to maintain one or more resident employees or agents to provide service or repairs to vehicles located within the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured and which are or have been sold or distributed in this state or

transferred into this state for resale unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(j) Fails to reimburse within a reasonable time any vehicle dealer within the state of Washington who in good faith incurs reasonable obligations in giving effect to warranties that attach or have attached to any new or unused vehicle sold or distributed in this state or transferred into this state for resale by any such manufacturer;

(k) Engaged in practices inimical to the health and safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles;

(l) Is insolvent either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature;

(m) Fails to notify the department of bankruptcy proceedings in the manner required by section 7 of this 1981 act.

Sec. 6. Section 16, chapter 74, Laws of 1967 ex. sess. as last amended by section 4, chapter 125, Laws of 1977 ex. sess. and RCW 46.70.180 are each amended to read as follows:

Each of the following acts or practices is hereby declared 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 ~~((tess))~~ 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 authorized representative's future acceptance, and the dealer fails or refuses within forty-eight hours, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer, to deliver to the buyer either the dealer's signed acceptance or all copies of the order, offer, or contract document together with 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, ~~((because of depreciation, obsolescence, or any other))~~ for any reason except substantial ((and)) physical damage or latent mechanical defect ((that)) occurring before the dealer took possession of the vehicle and which could not have been reasonably ((discovered)) discoverable at the time of the taking of ((said)) the order, offer, or contract((: PROVIDED, That said physical damage or mechanical defect shall have occurred before the dealer took possession of 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.

(6) For any vehicle dealer or vehicle salesman 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.

(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.

(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 said "on deposit" funds with assets of the dealer, salesman, or mobile home manufacturer instead of holding said "on deposit" funds as trustee in a separate trust account until the purchaser has taken delivery of the bargained-for vehicle. 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 customary total customer deposits for vehicles for future delivery.

(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) Being a manufacturer 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 ~~((shall not))~~ have not been voluntarily ordered by the ~~((said))~~ vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument ~~((shall))~~ are not ~~((be))~~ 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 capital investment which shall include but not be limited to tools, equipment, and parts inventory~~((;))~~ possessed by the dealer on the day he 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 ~~((shall have))~~ has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and ~~((+))~~ (ii) said cancellation or nonrenewal was not done in good faith. Good faith ~~((shall be))~~ 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 ~~((shall))~~ are not ~~((be))~~ 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 ~~((shall have))~~ has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or ~~((to))~~ by any labor or production difficulty, or ~~((to))~~ 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 ~~((that))~~ may only make any warranty claim on any item included as an integral part of the vehicle ~~((may only be made))~~ against the manufacturer of that item.

~~((8) {(11)})~~ Nothing in this section ~~((shall))~~ 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 ~~((shall))~~ does the requirement of such performance constitute a violation of any of the provisions of this section~~((: PROVIDED, HOWEVER,;))~~ if any such contract~~((:))~~ or the terms thereof~~((:))~~ requiring performance, ~~((shall))~~ have been ~~((theretofore))~~ freely entered into and executed between the contracting parties.

NEW SECTION. Sec. 7. There is added to chapter 46.70 RCW a new section to read as follows:

Any vehicle dealer or manufacturer, by or against whom a petition in bankruptcy has been filed, 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.

Passed the House April 23, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 153

[Substitute House Bill No. 297]

THE MEDICARE SUPPLEMENTAL HEALTH INSURANCE ACT

AN ACT Relating to medicare supplemental insurance; adding a new chapter to Title 48 RCW; and providing an effective date.

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

NEW SECTION. Section 1. This chapter shall be known and may be cited as "The Medicare Supplemental Health Insurance Act" and is intended to govern the content and sale of medicare supplemental insurance as defined in this chapter. The provisions of this chapter shall apply in addition to, rather than in place of, other requirements of Title 48 RCW.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Medicare supplemental insurance" or "medicare supplement insurance policy" refers to a group or individual policy of disability insurance or a subscriber contract of a health care service contractor, a health maintenance organization, or a fraternal benefit society, which relates its benefits to medicare, or which is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare by reason of age. Such term does not include:

(a) A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(b) A policy or contract of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if such association:

(i) Is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;

(ii) Has been maintained in good faith for purposes other than obtaining insurance; and

(iii) Has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members; or

(c) Individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when such group or individual policy or contract includes provisions which are inconsistent with the requirements of this chapter; or policies issued to employees or members as additions to franchise plans in existence on the effective date of this act.

(2) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(3) "Medicare eligible expenses" means health care expenses of the kinds covered by medicare, to the extent recognized as reasonable by medicare. Payment of benefits by insurers for medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity, as are applicable to medicare claims.

(4) "Applicant" means:

(a) In the case of an individual medicare supplement insurance policy or subscriber contract, the person who seeks to contract for insurance benefits; and

(b) In the case of a group medicare supplement insurance policy or subscriber contract, the proposed certificate holder.

(5) "Certificate" means any certificate issued under a group medicare supplement insurance policy, which policy has been delivered or issued for delivery in this state.

(6) "Loss ratio" means the incurred claims as a percentage of the earned premium computed under rules adopted by the insurance commissioner.

(7) "Preexisting condition" means a covered person's medical condition that caused that person to have received medical advice or treatment during a specified time period immediately prior to the effective date of coverage.

(8) "Disclosure form" means the form designated by the insurance commissioner which discloses medicare benefits, the supplemental benefits offered by the insurer, and the remaining amount for which the insured will be responsible.

NEW SECTION. Sec. 3. (1) Medicare supplement insurance policies must include a renewal, continuation, or nonrenewal provision. The language or specifications of such provision must be consistent with the type of contract to be issued. Such provision must be appropriately captioned, appear on the first page of the policy, and clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.

(2) A medicare supplement insurance policy which provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import must include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

(3) Limitations on benefits, such as policy exclusions or waiting periods, shall be labeled in a separate section of the policy or placed with the benefit provisions to which they apply, rather than being included in other sections of the policy, rider, or endorsement.

NEW SECTION. Sec. 4. A medicare supplement insurance policy must provide at least the following:

(1) Coverage of Part A medicare eligible expenses for hospitalization to the extent not covered by medicare from the 61st day through 90th day in any medicare benefit period;

(2) Coverage of Part A medicare eligible expenses incurred as daily hospital charges to the extent not covered by medicare during use of medicare's lifetime hospital inpatient reserve days;

(3) Upon exhaustion of all medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent of all medicare Part A eligible expenses for hospitalization not covered by medicare subject to a lifetime maximum benefit of an additional 365 days;

(4) Coverage of twenty percent of the amount of medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket deductible of two hundred dollars of such expenses and to a maximum benefit of at least five thousand dollars per calendar year.

NEW SECTION. Sec. 5. (1) The insurance commissioner may issue reasonable rules that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unfair, unjust, or unfairly discriminatory to any person insured or proposed for coverage under a medicare supplement insurance policy.

(2) No medicare supplement insurance policy may use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

NEW SECTION. Sec. 6. A medicare supplement insurance policy may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

NEW SECTION. Sec. 7. A medicare supplement insurance policy must provide that benefits designed to cover cost-sharing amounts under medicare will be changed automatically to coincide with any changes in the applicable medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

NEW SECTION. Sec. 8. "Benefit period" or "medicare benefit period" may not be defined more restrictively than as defined in the medicare program.

NEW SECTION. Sec. 9. A medicare supplement insurance policy may not provide that the policy may be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health.

NEW SECTION. Sec. 10. (1) Commencing with reports for the accounting periods beginning on or after January 1, 1982, medicare supplement insurance policies shall be expected to return to policyholders in the form of aggregate loss ratio under the policy:

(a) At least seventy-five percent of the earned premiums in the case of group policies; and

(b) At least sixty percent of the earned premiums in the case of individual policies.

(2) For the purpose of this section, medicare supplement insurance policies issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(3) By January 1, 1982, the insurance commissioner shall adopt rules sufficient to accomplish the provisions of this section and may, by such rules, impose more stringent or appropriate loss ratio requirements when it is found that sales practices exist which warrant those requirements.

NEW SECTION. Sec. 11. (1) An agent, insurer, health care service contractor or health maintenance organization initiating a sale of an individual or group medicare supplement insurance policy in this state shall complete and sign a disclosure form, in a form prescribed by the insurance commissioner, and deliver the completed form to the potential policyholder not later than the time of application for the policy.

(2) If a medicare supplement insurance policy or certificate is issued on a basis which would require revision of the outline of coverage delivered at the time of application, a substitute outline of coverage properly describing the policy or certificate actually issued must accompany the policy or certificate when it is delivered and contain the following statement, in no less than twelve-point type, immediately above the company name: "NOTICE. Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

NEW SECTION. Sec. 12. Every individual medicare supplement insurance policy issued after January 1, 1982, and every certificate issued pursuant to a group medicare supplement policy after January 1, 1982, shall have prominently displayed on the first page of the policy form a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within thirty days of its delivery to the purchaser and to have the premium refunded if, after examination of the policy, the purchaser is not satisfied with it for any reason. If a policyholder or purchaser, pursuant to such notice, returns the policy to the insurer at its home or branch office or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued.

NEW SECTION. Sec. 13. (1) Effective January 1, 1982, no medicare supplement insurance policy which excludes coverage for preexisting conditions which appeared more than one hundred eighty days prior to the effective date of the policy may be sold or offered for sale in this state.

(2) Effective January 1, 1982, no medicare supplement insurance policy may be sold or offered for sale in this state which excludes coverage for preexisting conditions for a period of more than one hundred eighty days into the term of the policy.

(3) If a medicare supplement insurance policy contains any limitations with respect to preexisting conditions, such limitations must appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

NEW SECTION. Sec. 14. Any time that completion of a medical history of a patient is required in order for an application for a medicare supplement insurance policy to be accepted, that medical history must be completed by the applicant, a relative of the applicant, a legal guardian of the applicant, or a physician.

NEW SECTION. Sec. 15. Commencing with reports for accounting periods beginning on or after January 1, 1982, insurers, health care service contractors, health maintenance organizations, and fraternal benefit societies shall, for reporting and recordkeeping purposes, separate data concerning medicare supplement insurance policies and contracts from data concerning other disability insurance policies and contracts.

NEW SECTION. Sec. 16. In any case where the provisions of this chapter conflict with provisions of the "Health Insurance For The Aged Act," Title XVIII of the Social Security Amendments of 1965, or any amendments thereto or regulations promulgated thereunder, regarding any contract between the secretary of health and human services and a health maintenance organization, the provisions of the "Health Insurance For The Aged Act" shall supersede and be paramount.

NEW SECTION. Sec. 17. 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. 18. Sections 1 through 17 of this act shall constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 19. This act shall take effect January 1, 1982.

Passed the House April 2, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 154

[Substitute House Bill No. 314]

COURT EXHIBITS, DISPOSAL—UNCLAIMED PERSONAL PROPERTY,
DISPOSAL, LAW ENFORCEMENT AGENCIES, BAILEES

AN ACT Relating to personal property; amending section 36.23.070, chapter 4, Laws of 1963 as last amended by section 2, chapter 14, Laws of 1973 and RCW 36.23.070; amending section 1, chapter 100, Laws of 1925 ex. sess. as last amended by section 1, chapter 44, Laws of 1973 1st ex. sess. and RCW 63.32.010; amending section 1, chapter 104, Laws of 1961 as amended by section 4, chapter 44, Laws of 1973 1st ex. sess. and RCW 63.40.010; adding new sections to chapter 63.24 RCW; repealing section 3252, Code of 1881 and RCW 63.24.010; repealing section 3253, Code of 1881 and RCW 63.24.020; repealing section 3254, Code of 1881 and RCW 63.24.030; repealing section 3255, Code of 1881 and RCW 63.24.040; repealing section 3256, Code of 1881 and RCW 63.24.050; repealing section 3257, Code of 1881 and RCW 63.24.060; repealing section 3258, Code of 1881 and RCW 63.24.070; repealing section 3259, Code of 1881 and RCW 63.24.080; repealing section 3260, Code of 1881 and RCW 63.24.090; repealing section 3261, Code of 1881 and RCW 63.24.100; repealing section 3262, Code of 1881 and RCW 63.24.110; repealing section 3263, Code of 1881 and RCW 63.24.120; repealing section 3264, Code of 1881 and RCW 63.24.130; and repealing section 3265, Code of 1881 and RCW 63.24.140.

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

Section 1. Section 36.23.070, chapter 4, Laws of 1963 as last amended by section 2, chapter 14, Laws of 1973 and RCW 36.23.070 are each amended to read as follows:

A county clerk may at any time more than six years after the entry of final judgment in any action apply to the superior court for an authorizing order and, upon such order being signed and entered, turn such exhibits of possible value over to the sheriff for disposal in accordance with the provisions of chapter 63.40 RCW, and destroy any other exhibits, unopened depositions, and reporters' notes which have theretofore been filed in such case: PROVIDED, That reporters' notes in criminal cases must be preserved for at least fifteen years: PROVIDED FURTHER, That any exhibits which are deemed to possess historical value may be directed to be delivered by the clerk to libraries or historical societies.

Sec. 2. Section 1, chapter 100, Laws of 1925 ex. sess. as last amended by section 1, chapter 44, Laws of 1973 1st ex. sess. and RCW 63.32.010 are each amended to read as follows:

Whenever any personal property shall come into the possession of the police authorities of any city in connection with the official performance of their duties and said personal property shall remain unclaimed or not taken away for a period of sixty days from date of written notice to the owner thereof, if known, and in all other cases for a period of sixty days from the time said property came into the possession of the police department, unless said property has been held as evidence in any court, then, in that event, after sixty days from date when said case has been finally disposed of and said property released as evidence by order of the court, said city may:

(1) At any time thereafter sell said personal property at public auction to the highest and best bidder for cash in the manner hereinafter provided;

(2) Retain the property for the use of the police department subject to giving notice in the manner prescribed in RCW 63.32.020 and the right of the owner, or the owner's legal representative, to reclaim the property within one year after receipt of notice, without compensation for ordinary wear and tear if, in the opinion of the chief of police, the property consists of firearms or other items specifically usable in law enforcement work: PROVIDED, That at the end of each calendar year during which there has been such a retention, the police department shall provide the city's mayor or council and retain for public inspection a list of such retained items and an estimation of each item's replacement value;

(3) Destroy an item of personal property at the discretion of the chief of police if the following circumstances have occurred:

(a) The item has been in the possession of the police department for a period of at least one year from the time of first possession by the department;

(b) The item has been unclaimed by any person after notice procedures have been met, as prescribed in RCW 63.32.020; and

(c) The chief of police has determined that the item is unsafe and unable to be made safe for use by any member of the general public; or

(4) If the item is not unsafe or illegal to possess or sell, such item, after satisfying the notice requirements as prescribed in RCW 63.32.020, may be offered by the chief of police to bona fide dealers, in trade for law enforcement equipment, which equipment shall be treated as retained property for purpose of annual listing requirements of subsection (2) of this section.

Sec. 3. Section 1, chapter 104, Laws of 1961 as amended by section 4, chapter 44, Laws of 1973 1st ex. sess. and RCW 63.40.010 are each amended to read as follows:

Whenever any personal property, other than vehicles governed by chapter 46.52 RCW, shall come into the possession of the sheriff of any county in connection with the official performance of his duties and said personal property shall remain unclaimed or not taken away for a period of sixty days from date of written notice to the owner thereof, if known, and in all other cases for a period of sixty days from the time said property came into the possession of the sheriff's office, unless said property has been held as evidence in any court, then, in that event, after sixty days from date when said case has been finally disposed of and said property released as evidence by order of the court, said county sheriff may:

(1) At any time thereafter sell said personal property at public auction to the highest and best bidder for cash in the manner hereinafter provided;

(2) Retain the property for the use of the sheriff's office subject to giving notice in the manner prescribed in RCW 63.40.020 and the right of the owner, or his or her legal representative, to reclaim the property within one

year after the receipt of notice, without compensation for ordinary wear and tear if, in the opinion of the county sheriff, the property consists of firearms or other items specifically usable in law enforcement work: PROVIDED, That at the end of each calendar year during which there has been such a retention, the sheriff shall provide the county's executive or legislative authority and retain for public inspection a list of such retained items and an estimation of each item's replacement value;

(3) Destroy an item of personal property at the discretion of the county sheriff if the following circumstances have occurred:

(a) The item has been in the possession of the sheriff's office for a period of at least one year from the time of first possession by the office;

(b) The item has been unclaimed by any person after notice procedures have been met, as prescribed in RCW 63.40.020; and

(c) The county sheriff has determined that the item is unsafe and unable to be made safe for use by any member of the general public; or

(4) If the item is not unsafe or illegal to possess or sell, such item, after satisfying the notice requirements as prescribed in RCW 63.40.020, may be offered by the county sheriff to bona fide dealers, in trade for law enforcement equipment, which equipment shall be treated as retained property for purpose of annual listing requirements of subsection (2) of this section.

NEW SECTION. Sec. 4. Unless otherwise provided between the parties, if personal property deposited with a bailee is unclaimed for a period of thirty days, the bailee shall notify the owner, if known, either personally or by mail that the property is subject to disposition under section 5 of this act.

NEW SECTION. Sec. 5. If property remains unclaimed sixty days after notice is given, or, if the owner's identity or address is unknown, sixty days from when notice was attempted, the bailee shall:

(1) If the reasonable aggregate value of the unclaimed property is less than one hundred dollars, donate the property, or proceeds thereof, to a charitable organization exempt from federal income tax under the federal internal revenue code; or

(2) If the reasonable aggregate value of the unclaimed property is one hundred dollars or more, forward the property to the chief of police or sheriff for disposition as unclaimed property under chapter 63.32 or 63.40 RCW.

NEW SECTION. Sec. 6. A bailee is not liable to the owner for unclaimed property disposed of in good faith in accordance with the requirements of this chapter.

NEW SECTION. Sec. 7. Sections 4 through 6 of this act are added to chapter 63.24 RCW.

NEW SECTION. Sec. 8. The following acts or parts of acts are each repealed:

(1) Section 3252, Code of 1881 and RCW 63.24.010;

- (2) Section 3253, Code of 1881 and RCW 63.24.020;
- (3) Section 3254, Code of 1881 and RCW 63.24.030;
- (4) Section 3255, Code of 1881 and RCW 63.24.040;
- (5) Section 3256, Code of 1881 and RCW 63.24.050;
- (6) Section 3257, Code of 1881 and RCW 63.24.060;
- (7) Section 3258, Code of 1881 and RCW 63.24.070;
- (8) Section 3259, Code of 1881 and RCW 63.24.080;
- (9) Section 3260, Code of 1881 and RCW 63.24.090;
- (10) Section 3261, Code of 1881 and RCW 63.24.100;
- (11) Section 3262, Code of 1881 and RCW 63.24.110;
- (12) Section 3263, Code of 1881 and RCW 63.24.120;
- (13) Section 3264, Code of 1881 and RCW 63.24.130; and
- (14) Section 3265, Code of 1881 and RCW 63.24.140.

Passed the House April 23, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 155

[House Bill No. 341]

BUSINESS OPPORTUNITY FRAUD ACT

AN ACT Relating to business opportunities fraud; creating a new chapter in Title 19 RCW; defining crimes; prescribing penalties; making an appropriation; providing an effective date; and declaring an emergency.

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

NEW SECTION. Section 1. The legislature finds and declares that the widespread and unregulated sale of business opportunities has become a common area of investment problems and deceptive practices in the state of Washington. As a result, the provisions of this chapter are necessary to counteract the potential negative impact of the sale of business opportunities upon the economy of the state.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Business opportunity" means the sale or lease of any product, equipment, supply, or service which is sold or leased to enable the purchaser to start a business; and:

(a) The seller represents that the seller will provide locations or assist the purchaser in finding locations, on premises neither owned nor leased by the purchaser or seller, for the use or operation of vending machines, display racks, cases, or similar devices or coin-operated amusement machines or similar devices; or

(b) The seller represents that the seller will purchase any product made, produced, fabricated, assembled, modified, grown, or bred by the purchaser using, in whole or part, any product, equipment, supply, or service sold or leased to the purchaser by the seller; or

(c) The seller guarantees that the purchaser will earn an income greater than or equal to the price paid for the business opportunity; or

(d) The seller represents that if the purchaser pays a fee exceeding three hundred dollars directly or indirectly for the purpose of the seller providing a sales or marketing program, the seller will provide such a program which will enable the purchaser to derive income from the business opportunity which exceeds the price paid for the business opportunity.

(2) "Person" includes an individual, corporation, partnership, joint venture, or any business entity.

(3) "Seller" means a person who sells or leases a business opportunity.

(4) "Purchaser" means a person who buys or leases a business opportunity.

(5) "Director" means the director of the department of licensing.

(6) "Guarantee" means an undertaking by the seller to refund all or a portion of the purchase price paid for the business opportunity.

NEW SECTION. Sec. 3. (1) An offer to sell or offer to lease a business opportunity occurs in Washington when:

(a) The offer is made in Washington; or

(b) The purchaser resides in Washington at the time of the offer and the business opportunity is or will be located, in whole or in part, in the state of Washington; or

(c) The offer originates from Washington; or

(d) The business opportunity is or will be, in whole or in part, located in Washington.

(2) An offer does not occur in Washington if a seller advertises only in a newspaper having more than two-thirds of its circulation outside the state of Washington, or on a radio or television program originating outside the state and does not sell or lease business opportunities in Washington.

(3) A sale or lease of a business opportunity occurs in Washington when:

(a) The sale or lease is made in Washington; or

(b) The purchaser resides in Washington at the time of the sale or lease, and the business opportunity is or will be located, in whole or in part, in Washington; or

(c) The business opportunity is or will be located in Washington.

NEW SECTION. Sec. 4. Nothing in this chapter applies to:

(1) A radio station, television station, publisher, printer, or distributor of a newspaper, magazine, billboard, or other advertising medium which accepts advertising in good faith without knowledge of its violation of any provision of this chapter;

- (2) A franchise subject to the provisions of chapter 19.100 RCW;
- (3) A security subject to the provisions of chapter 21.20 RCW;
- (4) A newspaper distribution system;
- (5) The sale, lease, or transfer of a business opportunity by a purchaser if the purchaser sells only one business opportunity in any twelve-month period;
- (6) The not-for-profit sale of sales demonstration equipment, materials, or samples where the total cost does not exceed five hundred dollars;
- (7) A marketing program made in conjunction with licensing of a registered trademark or service mark for which no consideration is paid. Any consideration paid in conjunction with the purchase of goods at a bona fide wholesale price does not constitute consideration under this subsection; or
- (8) A transaction regulated pursuant to chapter 18.85 RCW.

NEW SECTION. Sec. 5. (1) Any person who proposes to sell or lease a business opportunity must register prior to advertising, soliciting, or making any offer, sale, or lease in this state.

(2) Any person proposing to sell or lease a business opportunity must apply for registration by filing with the director:

- (a) A copy of the disclosure document required by section 7 of this act;
- (b) An irrevocable consent to service of process;
- (c) The prescribed registration fee; and
- (d) Copies of all advertisements intended to be used in connection with the offer and sale of the business opportunity.

(3) If the application meets the requirements for registration, the director shall issue a registration number to the applicant. The applicant must include the number in every advertisement in this state.

(4) Registration is effective for one year. An applicant must renew registration annually unless the director extends the duration of registration in order to stagger renewal periods. The renewal application must contain:

- (a) Any new information necessary to comply with the disclosure requirements of section 7 of this act;
- (b) The prescribed renewal fee; and
- (c) Copies of any and all advertisements intended to be used in connection with the offer and sale of the business opportunity.

(5) The applicant must amend the registration whenever there is any material change in the required information.

(6) The applicant must file copies of all advertisements offering business opportunities seven days before their intended use.

(7) The director may issue an order denying, suspending, or revoking any applicant's registration if the director finds that the order is in the public interest and that:

- (a) The registration application is incomplete or contains any statement which is false or misleading with respect to any material fact; or

(b) Any provision of this chapter or any rule or order lawfully imposed under this chapter has been violated; or

(c) The business opportunity includes or would include activities which are illegal; or

(d) The business opportunity has worked or tended to work a fraud on purchasers or would so operate.

(8) The director shall promptly notify the applicant of any order denying, suspending, or revoking registration. The applicant may request a hearing within fifteen days of notification. If the applicant does not request a hearing, the order remains in effect until the director modifies or vacates it. The applicant shall be notified of the right to request a hearing within fifteen days.

NEW SECTION. Sec. 6. The director shall charge and collect the fees specified by this section. All fees are nonrefundable and shall be deposited in the state treasury.

(1) The registration fee is two hundred dollars.

(2) The renewal fee is one hundred twenty-five dollars.

(3) The amendment fee is thirty dollars.

NEW SECTION. Sec. 7. The seller shall provide the purchaser a written disclosure document at least forty-eight hours before the purchaser signs a business opportunity contract. The cover sheet of the disclosure document shall be entitled: "DISCLOSURES REQUIRED BY THE STATE OF WASHINGTON." The following statement shall appear under the title: "The state of Washington has not reviewed and does not approve, recommend, endorse, or sponsor any business opportunity. The information contained in this disclosure has not been verified by the state. If you have any questions about this investment, see an attorney before you sign a contract." The cover sheet shall contain only the required title and statement, and both shall be in at least ten point type. The disclosure document shall include at least the following information:

(1) The official name, address, and principal place of business of the seller and of any parent or affiliated company, or any predecessors;

(2) The names, addresses, and titles of the seller's officers, directors, trustees, general partners, general managers, principal executives, and any other persons responsible for the seller's business opportunity activities;

(3) A statement disclosing which, if any, of the persons listed in subsections (1) or (2) of this section:

(a) Has, at any time during the previous ten years, been convicted of a felony or pleaded nolo contendere to a felony charge if the felony involved fraud (including violation of any franchise or business opportunity law or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade;

(b) Has, at any time during the previous ten years, been held liable in a civil action resulting in a final judgment or has settled out of court any civil

action or is a party to any civil action involving allegations of fraud (including violation of any franchise or business opportunity law or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade, or any civil action which was brought by a present or former purchaser or purchasers and which involves or involved the business opportunity;

(c) Is subject to any currently effective state or federal agency or court injunctive or restrictive order, or is a party to a proceeding currently pending in which such order is sought, relating to or affecting business opportunities activities or the business opportunity seller-purchaser relationship, or involving fraud (including violation of any franchise or business opportunity law or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade.

The statement shall include the identity and location of the court or agency, the date of conviction, judgment, or decision, the penalty imposed, the damages assessed, the terms of settlement or the terms of the order, and the date, nature, terms, and conditions of each such order or ruling;

(4) A statement disclosing which, if any, of the persons listed in subsections (1) and (2) of this section has, at any time during the previous ten years:

(a) Filed in bankruptcy; or

(b) Been adjudged bankrupt; or

(c) Been reorganized due to insolvency; or

(d) Been a principal, director, executive officer, or partner of any other person who has filed in bankruptcy, been adjudged bankrupt, or been reorganized due to insolvency;

(5) A statement of when, where, and how long the seller has:

(a) Offered, sold, or leased business opportunity plans; and

(b) Offered, sold, or leased the specific business opportunity plan offered to the purchaser; and

(c) Operated a business of the type offered to the purchaser;

(6) A statement disclosing:

(a) The total number of business opportunities which the seller has sold or leased; and

(b) The number of failures of business opportunities which the seller has sold or leased;

(7) The terms and conditions of payment, including the initial payment, downpayment, and any additional or recurring payments;

(8) A copy of any statement concerning estimated or projected sales or earnings, the data on which the estimations or projections are based, and an explanation of the extent to which the data relates to the actual operations of the business opportunity offered to the purchaser;

(9) A copy of the bond or written notice of the depository, the name of the trustee, and account number of the trust account, if the seller is required by section 10 of this act to establish either a bond or trust account;

(10) A copy of the seller's current (not more than three months old) financial statement and any amendments necessary to reflect material changes in the seller's financial condition;

(11) An unexecuted copy of any business opportunity contract or agreement which the purchaser may be required to sign;

(12) Any additional information which the director requires by rule or order.

NEW SECTION. Sec. 8. The director may, by rule or order:

(1) Accept any disclosure document filed with agencies of the United States or any other state; or

(2) Accept any disclosure document compiled in accordance with any rule or regulation of any agency of the United States or any other state; or

(3) Waive disclosure of information which is inapplicable or unnecessary for protection of purchasers.

NEW SECTION. Sec. 9. Every person who proposes to sell or lease a business opportunity in this state through any person acting on an agency basis in the common law sense shall file with the director, in such form as the director by rule prescribes, an irrevocable consent appointing the director or the director's successor in office to be the attorney of the applicant to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or the applicant's successor, executor, or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the director, but it is not effective unless (1) the plaintiff, who may be the director in a suit, action, or proceeding instituted by him or her, forthwith 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, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

NEW SECTION. Sec. 10. (1) If the seller makes any guarantee described in section 2(1)(c) of this act, the seller shall have a surety bond issued by a surety company authorized to do business in Washington or a trust account with a licensed and insured bank or savings institution located in the state of Washington. The trustee shall be acceptable to the director. The bond or the trust account shall be at least fifty thousand dollars. The

director may, by rule or order, establish procedures for the initiation, operation, or termination of any bond or trust account required under this section.

(2) The bond or trust account shall be in the name of the state of Washington. It shall be for the benefit of the state and any person injured by any violation of this chapter, or by the seller's breach of any business opportunity contract or obligation arising from a business opportunity contract. The state may bring an action against the bond or trust account to recover penalties. The state or an injured person may bring an action against the bond or trust account for damages to the injured person. The liability of the surety or trustee shall be only for actual damages and shall not exceed the amount of the bond or trust account.

NEW SECTION. Sec. 11. (1) Every business opportunity contract shall be in writing and shall be dated and signed by the purchaser.

(2) The seller shall provide the purchaser with a copy of the completed contract at the time the purchaser signs the contract.

(3) The seller may not receive any consideration before the purchaser signs a business opportunity contract.

(4) The contract shall include the following notifications, in ten point type, immediately above the space for the purchaser's signature:

(a) "Do not sign this contract if any of the spaces for agreed terms are blank."

(b) "Do not sign this contract unless you received a written disclosure document from the seller at least forty-eight hours before signing."

(c) "You are entitled to a copy of this contract at the time you sign it."

(d) "You have seven days exclusive of Saturday, Sunday, and holidays to cancel this contract for any reason by sending written notice to the seller by certified mail, return receipt requested. Notice of cancellation should be mailed to:

.....
(seller's name and business street address)

The notice must be postmarked before midnight of the seventh day exclusive of Saturday, Sunday, and holidays after you sign the contract.

The seller shall return all deposits and payments within ten days after receipt of your cancellation notice.

You must make available to the seller all equipment, products, and supplies provided by the seller within ten days after receipt of all refunded deposits and payments."

NEW SECTION. Sec. 12. It is unlawful for any person:

(1) To make any untrue or misleading statement of a material fact or to omit to state a material fact in connection with the offer, sale, or lease of any business opportunity in the state; or

(2) To employ any device, scheme, or artifice to defraud; or

(3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; or

(4) To knowingly file or cause to be filed with the director any document which contains any untrue or misleading information; or

(5) To knowingly violate any rule or order of the director.

NEW SECTION. Sec. 13. Any seller who violates any provision of this chapter is liable to the purchaser. The purchaser may sue for actual damages, or an injunction, or rescission, or other relief.

In addition, the purchaser may sue for costs of suit, including a reasonable attorney's fee. The court may increase the amount of damages awarded up to three times the amount of actual damages.

NEW SECTION. Sec. 14. The director may make public or private investigations within or outside the state of Washington to determine whether any person has violated or is about to violate any provision of this chapter or any rule or order issued under this chapter. The director, or any officer designated by the director, may administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant to the inquiry.

If any person fails to comply with a lawful subpoena, or refuses to testify under lawful interrogation, or refuses to produce documents and records, the director may apply to the superior court of any county for relief. After satisfactory evidence of wilful disobedience, the court may compel obedience by proceedings for contempt.

NEW SECTION. Sec. 15. (1) The director may order any person to cease and desist from an act or practice if it appears that the person is violating or is about to violate any provision of this chapter or any rule or order issued under this chapter.

(2) Reasonable notice of and opportunity for a hearing shall be given. The director may issue a temporary order to cease and desist pending the hearing. The temporary order shall remain in effect until ten days after the hearing. If a person does not request a hearing within fifteen days of receiving an order to cease and desist, the order becomes final. Any person who is named in the order to cease and desist shall be notified of the right to request a hearing within fifteen days.

NEW SECTION. Sec. 16. (1)(a) The attorney general, in the name of the state or the director, or the proper prosecuting attorney may bring an action to enjoin any person from violating any provision of this chapter. Upon proper showing, the superior court shall grant a permanent or temporary injunction, restraining order, or writ of mandamus.

The court may make such additional orders or judgments as may be necessary to restore to any person in interest and money or property, real or

personal, which may have been acquired by means of an act prohibited or declared unlawful by this chapter.

The prevailing party may recover costs of the action, including a reasonable attorney's fee.

(b) The superior court issuing an injunction shall retain jurisdiction. Any person who violates the terms of an injunction shall pay a civil penalty of not more than twenty-five thousand dollars.

(2) The attorney general, in the name of the state or the director, or the proper prosecuting attorney may apply to the superior court to appoint a receiver or conservator for any person, or the assets of any person, who is subject to a cease and desist order, permanent or temporary injunction, restraining order, or writ of mandamus.

(3) Any person who violates any provision of this chapter except as provided in subsection (1)(b) of this section, is subject to a civil penalty not to exceed two thousand dollars for each violation. Civil penalties authorized by this subsection may be imposed in any civil action brought by the attorney general or proper prosecuting attorney under this chapter and shall be deposited in the state treasury. Any action for recovery of such civil penalty shall be commenced within five years.

(4) Any person who violates section 5 or 7 of this act is guilty of a gross misdemeanor. Any person who knowingly violates section 5 or 7 of this act is guilty of a class B felony. Any violation of section 12 of this act is a class B felony. No indictment or information for a felony may be returned under this chapter more than five years after the alleged violation.

(5) The director may refer evidence concerning violations of this chapter to the attorney general or proper prosecuting attorney. The prosecuting attorney, or the attorney general pursuant to authority granted by chapter ... (Substitute Senate Bill No. 3640), Laws of 1981 may, with or without such reference, institute appropriate criminal proceedings.

NEW SECTION. Sec. 17. The director may make, amend, and repeal rules, forms, and orders as necessary to carry out the provisions of this chapter. The director may honor requests for interpretive opinions.

NEW SECTION. Sec. 18. The director shall appoint a competent person to administer this chapter. The director shall delegate to an administrator such powers, subject to the authority of the director, as may be necessary to carry out the provisions of this chapter. The administrator will hold office at the pleasure of the director.

NEW SECTION. Sec. 19. The provisions of this chapter are cumulative and nonexclusive and do not affect any other remedy available at law.

NEW SECTION. Sec. 20. Any violation of this chapter is declared to be an unfair act or practice or unfair method of competition in the conduct of trade or commerce for the purpose of application of the Consumer Protection Act, chapter 19.86 RCW.

NEW SECTION. Sec. 21. 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. 22. This chapter may be known and cited as the Business Opportunity Fraud Act.

NEW SECTION. Sec. 23. Sections 1 through 22 of this act shall constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 24. There is appropriated to the department of licensing from the general fund, the sum of one hundred thirty-seven thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

NEW SECTION. Sec. 25. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981.

Passed the House April 26, 1981.

Passed the Senate April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 156

[Substitute House Bill No. 324]

INTEREST RATES FOR GOVERNMENT FINANCES

AN ACT Relating to interest rates concerning government finances; amending section 16, chapter 153, Laws of 1957 and RCW 17.28.160; reenacting section 35.45.150, chapter 7, Laws of 1965 as amended by section 37, chapter 56, Laws of 1970 ex. sess. and by section 2, chapter 93, Laws of 1970 ex. sess. and RCW 35.45.150; amending section 35.55.100, chapter 7, Laws of 1965 and RCW 35.55.100; amending section 35.55.110, chapter 7, Laws of 1965 and RCW 35.55.110; amending section 35.55.120, chapter 7, Laws of 1965 and RCW 35.55.120; amending section 35.56.110, chapter 7, Laws of 1965 and RCW 35.56.110; amending section 35.56.120, chapter 7, Laws of 1965 and RCW 35.56.120; amending section 35.56.130, chapter 7, Laws of 1965 and RCW 35.56.130; amending section 35.73.060, chapter 7, Laws of 1965 as amended by section 1, chapter 30, Laws of 1979 ex. sess. and RCW 35.73.060; amending section 36.67.040, chapter 4, Laws of 1963 as last amended by section 1, chapter 145, Laws of 1980 and RCW 36.67.040; amending section 36.88.140, chapter 4, Laws of 1963 as amended by section 3, chapter 66, Laws of 1970 ex. sess. and RCW 36.88.140; amending section 36.88.230, chapter 4, Laws of 1963 and RCW 36.88.230; amending section 7, chapter 194, Laws of 1967 and RCW 36.88.470; amending section 3, chapter 151, Laws of 1923 as last amended by section 58, chapter 56, Laws of 1970 ex. sess. and RCW 39.44.030; amending section 3, chapter 80, Laws of 1899 as amended by section 1, chapter 88, Laws of 1971 ex. sess. and RCW 39.56.010; amending section 5, chapter 80, Laws of 1899 and RCW 39.56.030; amending section 4, chapter 7, Laws of 1941 and RCW 53.43.040; amending section 9, chapter 390, Laws of 1955 as amended by section 60, chapter 195, Laws of 1973 1st ex. sess. and RCW 54.16.080; amending section 3, chapter 150, Laws of 1957 and RCW 54.24.220; amending section 1, chapter 82, Laws of 1935 as amended by section 1, chapter 102, Laws of 1937 and RCW 57.20.030; amending section 2, chapter 69, Laws of 1925 ex.

sess. and RCW 85.05.520; amending section 1, chapter 174, Laws of 1927 and RCW 85.06.324; amending section 23, chapter 176, Laws of 1913 as amended by section 28, chapter 130, Laws of 1917 and RCW 85.08.320; amending section 30, chapter 176, Laws of 1913 as last amended by section 9, chapter 46, Laws of 1923 and RCW 85.08.430; amending section 17, chapter 26, Laws of 1949 and RCW 85.16.220; amending section 5, chapter 225, Laws of 1909 as amended by section 4, chapter 140, Laws of 1923 and RCW 85.24.070; amending section 16, chapter 225, Laws of 1909 as amended by section 5, chapter 140, Laws of 1923 and RCW 85.24.230; amending section 41, page 692, Laws of 1889-90 as last amended by section 24, chapter 129, Laws of 1921 and RCW 87.03.470; amending section 42, page 693, Laws of 1889-90 as last amended by section 1, chapter 108, Laws of 1953 and RCW 87.03.475; amending section 12, chapter 162, Laws of 1917 as last amended by section 2, chapter 119, Laws of 1977 ex. sess. and RCW 87.03.490; amending section 2, chapter 128, Laws of 1935 as amended by section 6, chapter 70, Laws of 1970 ex. sess. and RCW 87.03.510; amending section 4, chapter 34, Laws of 1925 ex. sess. and RCW 87.48.040; amending section 145, chapter 254, Laws of 1927 as amended by section 16, chapter 149, Laws of 1933 and RCW 89.30.433; amending section 39, chapter 23, Laws of 1911 and RCW 91.08.410; amending section 41, chapter 23, Laws of 1911 and RCW 91.08.430; amending section 42, chapter 23, Laws of 1911 and RCW 91.08.440; amending section 43, chapter 23, Laws of 1911 and RCW 91.08.450; and adding a new section to chapter 39.58 RCW.

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

Section 1. Section 16, chapter 153, Laws of 1957 and RCW 17.28.160 are each amended to read as follows:

A mosquito control district organized under this chapter may:

(1) Take all necessary or proper steps for the extermination of mosquitoes.

(2) Subject to the paramount control of the county or city in which they exist, abate as nuisances all stagnant pools of water and other breeding places for mosquitoes.

(3) If necessary or proper, in the furtherance of the objects of this chapter, build, construct, repair, and maintain necessary dikes, levees, cuts, canals, or ditches upon any land, and acquire by purchase, condemnation, or by other lawful means, in the name of the district, any lands, rights of way, easements, property, or material necessary for any of those purposes.

(4) Make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the use or taking of property for dikes, levees, cuts, canals, or ditches.

(5) Enter upon without hindrance any lands within the district for the purpose of inspection to ascertain whether breeding places of mosquitoes exist upon such lands; or to abate public nuisances in accordance with this chapter; or to ascertain if notices to abate the breeding of mosquitoes upon such lands have been complied with; or to treat with oil or other larvicidal material any breeding places of mosquitoes upon such lands.

(6) Sell or lease any land, rights of way, easements, property or material acquired by the district.

(7) Issue warrants payable at the time stated therein to evidence the obligation to repay money borrowed or any other obligation incurred by the district, warrants so issued to draw interest at a rate fixed by the board

~~((not to exceed five percent per year))~~ payable annually or semiannually as the board may prescribe.

(8) Make contracts with the United States, or any state, municipality, or any department of those entities for carrying out the general purpose for which the district is formed.

(9) Acquire by gift, devise, bequest, lease, or purchase, real and personal property necessary or convenient for its purposes.

(10) Make contracts, employ engineers, health officers, sanitarians, physicians, laboratory personnel, attorneys, and other technical or professional assistants; and publish information or literature and do any and all other things necessary or incident to the powers granted by, and to carry out the projects specified in this chapter.

Sec. 2. Section 35.45.150, chapter 7, Laws of 1965 as amended by section 37, chapter 56, Laws of 1970 ex. sess. and by section 2, chapter 93, Laws of 1970 ex. sess. and RCW 35.45.150 are each reenacted to read as follows:

In addition to the issuance of bonds and warrants in payment of the cost and expense of any local improvement, any city or town may also issue and sell installment notes payable out of the local improvement district fund. Such installment notes may be issued any time after the thirty day period allowed by law for the payment of assessments of any district without penalty or interest, and may bear any denomination or denominations, the aggregate of which shall represent the balance of the cost and expense of the local improvement district which is to be borne by the property owners therein.

Application of local improvement district funds for the reduction of the principal and interest amounts due on any notes herein provided to finance said improvement shall be made not less than once each year beginning with the issue date thereof. Appropriate notification of such application of funds shall be made by the city treasurer to the registered payees of said notes, except those notes owned by funds of the issuing municipality. If more than one local improvement installment note is issued for a single district, said notes shall be numbered consecutively. All notes issued shall bear on the face thereof: (1) The name of the payee; (2) the number of the local improvement district from whose funds the notes are payable; (3) the date of issue of each note; (4) the date on which the note, or the final installment thereon shall become due; (5) the rate of interest to be paid on the unpaid balance thereof, and; (6) such manual or facsimile signatures and attestations as are required by state statute or city charter to appear on the warrants of each issuing municipality.

The reverse side of each installment note issued pursuant to this section shall bear a tabular payment record which shall indicate at prescribed installment dates, the receipt of any local improvement district funds for the purpose of servicing the debt evidenced by said notes. Such receipts shall

first be applied toward the interest due on the unpaid balance of the note, and any additional moneys shall thereafter apply as a reduction of the principal amount thereof. The tabular payment record shall, in addition to the above, show the unpaid principal balance due on each installment note, together with sufficient space opposite each transaction affecting said note for the manual signature of the city's clerk, treasurer or other properly designated receiving officer of the municipality, or of any other registered payee presenting said note for such installment payments.

Whenever there are insufficient funds in a local improvement district to meet any payment of installment interest due on any note herein authorized, a noninterest-bearing defaulted installment interest certificate shall be issued by the city treasurer which shall consist of a written statement certifying the amount of such defaulted interest installment; the name of the payee of the note to whom the interest is due and the number of the local improvement district from whose funds the note and interest thereon is payable. The certificate herein provided shall bear the manual signature of the city treasurer or his authorized agent. The defaulted installment interest certificate so issued shall be redeemed for the face amount thereof with any available funds in the local improvement guaranty fund.

Whenever at the date of maturity of any installment note issued pursuant to this section, there are insufficient funds in a local improvement district, due to delinquencies in the collection of assessments, to pay the final installment of the principal due thereon, the note shall be redeemed with any available funds in the local improvement guaranty fund for the amount of said final installment.

All certificates and notes issued pursuant to this section are to become subject to the same redemption privileges as apply to any local improvement district bonds and warrants now accorded the protection of the local improvement guaranty fund as provided in chapter 35.54 RCW, and whenever the certificates or notes issued as herein provided are redeemed by said local improvement guaranty fund, they shall be held therein as investments thereof in the same manner as prescribed for other defaulted local improvement district obligations.

Notwithstanding any other statutory provisions, local improvement installment notes authorized by this section which are within the protection of the local improvement guaranty fund law shall be considered legal investments for any available surplus funds of the issuing municipality which now or hereafter may be authorized to be invested in the city's local improvement districts' bonds or warrants and shall be considered legal investments for all national and state banks, savings and loan institutions, and any and all other commercial banking or financial institutions to the same extent that the local improvement district bonds and coupons issued pursuant to the provisions of this chapter have been and are legal investments for such

institutions. Any such local improvement installment notes may be transferred or sold by said city or town upon such terms or conditions and in such manner as the local governing body of said city or town may determine, pursuant to a call for public bid: PROVIDED, HOWEVER, That the same shall not be sold at less than par plus accrued interest.

Sec. 3. Section 35.55.100, chapter 7, Laws of 1965 and RCW 35.55.100 are each amended to read as follows:

The local assessments shall bear interest at such rate as may be fixed by the council(~~(, not exceeding the rate of eight percent per annum from and)~~) after the expiration of thirty days after the equalization of the assessment roll and shall bear such interest after delinquency as may be provided by general ordinance of the city.

Sec. 4. Section 35.55.110, chapter 7, Laws of 1965 and RCW 35.55.110 are each amended to read as follows:

If the improvement contemplated by this chapter is ordered to be made upon the immediate payment plan, the city council shall provide for the payment thereof by the issuance of local improvement fund warrants against the local improvement district, which warrants shall be paid only out of the funds derived from the local assessments in the district and shall bear interest at ((the)) a rate ((of eight percent per annum)) determined by the city council from date of issuance. If the improvement is ordered to be made upon the bond installment plan, the city council shall provide for the issuance of bonds against the improvement district.

Sec. 5. Section 35.55.120, chapter 7, Laws of 1965 and RCW 35.55.120 are each amended to read as follows:

The city council shall have full authority to provide for the issuance of bonds against the improvement district fund in such denominations as the city council may provide which shall bear such rate of interest as the city council may fix(~~(, not exceeding, however, eight percent per annum)~~). Interest shall be paid annually and the bonds shall become due and payable at such time, not exceeding ten years from the date thereof, as may be fixed by the council and shall be payable out of the local assessment district fund.

If so ordered by the council, the bonds may be issued in such a way that different numbers of the bonds may become due and payable at different intervals of time, or they may be so issued that all of the bonds against said district mature together.

Sec. 6. Section 35.56.110, chapter 7, Laws of 1965 and RCW 35.56.110 are each amended to read as follows:

The local assessments shall bear interest at such rate as may be fixed by the council or commission(~~(, not exceeding the rate of eight percent per annum)~~) from and after the expiration of thirty days after the equalization of the assessment roll and shall bear such interest after delinquency as may be provided by general ordinance of the city.

Sec. 7. Section 35.56.120, chapter 7, Laws of 1965 and RCW 35.56.120 are each amended to read as follows:

If the improvement contemplated by this chapter is ordered to be made upon the immediate payment plan, the city council or commission shall provide for the payment thereof by the issuance of local improvement fund warrants against the local improvement district, which warrants shall be paid only out of the funds derived from the local assessments in the district and shall bear interest at ~~((the))~~ a rate ~~((of eight percent per annum))~~ determined by the city council or commission from date of issuance. If the improvement is ordered to be made upon the bond installment plan, the city council or commission shall provide for the issuance of bonds against the improvement district.

Sec. 8. Section 35.56.130, chapter 7, Laws of 1965 and RCW 35.56.130 are each amended to read as follows:

The city council or commission shall have full authority to provide for the issuance of such bonds against the improvement district fund in such denominations as the city council or commission may provide, which shall bear such rate of interest as the city council or commission may fix ~~((; not exceeding, however, eight percent per annum))~~. Interest shall be paid annually and the bonds shall become due and payable at such time, not exceeding fifteen years from the date thereof, as may be fixed by the said council or commission and shall be payable out of the assessment district funds.

If so ordered by the council or commission, the bonds may be issued in such a way that different numbers of the bonds may become due and payable at different intervals of time, or they may be so issued that all of the bonds against said district mature together. The city may reserve the right to call or mature any bond on any interest paying date when sufficient funds are on hand for its redemption; but bonds shall be called in numerical order.

Sec. 9. Section 35.73.060, chapter 7, Laws of 1965 as amended by section 1, chapter 30, Laws of 1979 ex. sess. and RCW 35.73.060 are each amended to read as follows:

The city may, in its discretion, by general or special ordinance, or both, instead of requiring immediate payment for the said work to be made by the owners of property included in the assessment roll, authorize the issuance of interest bearing bonds or warrants of the local improvement district, payable on or before a date not to exceed twelve years from and after their date. The bonds may be issued subject to call, the amount of the said assessment to be payable in installments or otherwise, and the bonds to be of such terms as may be provided in the ordinances and to bear interest at such rate as may be prescribed in the ordinances ~~((; not exceeding eight percent per annum))~~.

Sec. 10. Section 36.67.040, chapter 4, Laws of 1963 as last amended by section 1, chapter 145, Laws of 1980 and RCW 36.67.040 are each amended to read as follows:

The bonds shall bear the date of issue, shall be made payable to the bearer and bear interest at a rate ~~((of not exceeding twelve percent per year))~~ determined by the county legislative authority, payable semiannually, with coupons attached for each interest payment. Except as otherwise provided in RCW 39.44.100, the bonds and each coupon shall be signed by the chairman of the ~~((board of county commissioners))~~ county legislative authority, or in counties having an elected executive, the elected executive officer, and shall be attested by the clerk of the ~~((board))~~ county legislative authority, and the seal of ~~((such board))~~ the county legislative authority shall be affixed to each bond, but not to the coupon. Each bond shall be printed, engraved, or lithographed on good bond paper.

Sec. 11. Section 36.88.140, chapter 4, Laws of 1963 as amended by section 3, chapter 66, Laws of 1970 ex. sess. and RCW 36.88.140 are each amended to read as follows:

The ~~((board))~~ county legislative authority shall prescribe by resolution within what time such assessment or installments thereof shall be paid, and shall provide for the payment and collection of interest ~~((at a rate not to exceed eight percent per annum))~~ and the rate of interest to be charged on that portion of any assessment which remains unpaid over thirty days after such date. Assessments or installments thereof which are delinquent, shall bear, in addition to such interest, such penalty not less than five percent as shall be prescribed by resolution. Interest and penalty shall be included in and shall be a part of the assessment lien. All liens acquired by the county hereunder shall be foreclosed by the appropriate county officers in the same manner and subject to the same rights of redemption provided by law for the foreclosure of liens held by cities or towns against property in local improvement districts.

Sec. 12. Section 36.88.230, chapter 4, Laws of 1963 and RCW 36.88-.230 are each amended to read as follows:

Whenever there shall be paid out of a guaranty fund any sum on account of principal or interest of a road improvement district bond or warrant, the county, as trustee for the fund, shall be subrogated to all the rights of the holder of the bond or interest coupon or warrant so paid, and the proceeds thereof, or of the assessment underlying the same, shall become part of the guaranty fund. There shall also be paid into each guaranty fund the interest received from bank deposits or government securities of the fund, as well as any surplus remaining in any local improvement fund guaranteed hereunder after the payment of all outstanding bonds or warrants payable primarily out of such road improvement fund. Warrants drawing interest at a rate not to exceed ~~((six percent))~~ the rate determined

by the county legislative authority shall be issued, as other warrants are issued by the county, against a guaranty fund to meet any liability accruing against it, and at the time of making its annual budget and tax levy the county shall provide from funds available for road purposes for the deposit in the guaranty fund of a sum sufficient with other resources of such fund to pay warrants so issued during the preceding fiscal year. As among the several issues of bonds or warrants guaranteed by the fund no preference shall exist, but defaulted interest coupons, bonds and warrants shall be purchased out of the fund in the order of their presentation.

Every county establishing a guaranty fund for road improvement district bonds or warrants shall prescribe by resolution appropriate rules and regulations for the maintenance and operation of the guaranty fund not inconsistent herewith. So much of the money of a guaranty fund as is necessary may be used to purchase underlying bonds or warrants guaranteed by the fund, or to purchase certificates of delinquency for general taxes on property subject to local improvement assessments, or to purchase such property at tax foreclosures, for the purpose of protecting the guaranty fund. Said fund shall be subrogated to the rights of the county, and the county, acting on behalf of said fund, may foreclose the lien of general tax certificates of delinquency and purchase the property at the foreclosure sale for the account of said fund. Whenever the governing authority of any county shall so cause a lien of general tax certificates of delinquency to be foreclosed and the property to be so purchased at a foreclosure sale, the court costs and costs of publication and expenses for clerical work and/or other expense incidental thereto, shall be chargeable to and payable from the guaranty fund. After so acquiring title to real property, a county may lease or sell and convey the same at public or private sale for such price and on such terms as may be determined by resolution of the board of commissioners or other legislative body, and all proceeds resulting from such sales shall belong to and be paid into the guaranty fund.

Sec. 13. Section 7, chapter 194, Laws of 1967 and RCW 36.88.470 are each amended to read as follows:

Whenever there shall be paid out of the guaranty fund any sum on account of principal or interest of a county road improvement district bond or warrant, the county, as trustee for the fund, shall be subrogated to all the rights of the holder of the bond or interest coupon or warrant so paid, and the proceeds thereof, or of the assessment underlying the same, shall become part of the guaranty fund. There shall also be paid into each guaranty fund the interest received from investments of the fund, as well as any surplus remaining in any county road improvement fund guaranteed hereunder after the payment of all outstanding bonds or warrants payable primarily out of such utility conversion county road improvement district fund. Warrants drawing interest at a rate not to exceed (~~six percent~~) the rate determined by the county legislative authority shall be issued, as other warrants

are issued by the county, against the guaranty fund to meet any liability accruing against it, and at the time of making its annual budget and tax levy the county shall provide from funds available for the deposit in the guaranty fund of a sum sufficient with other resources of such fund to pay warrants so issued during the preceding fiscal year. As among the several issues of bonds or warrants guaranteed by the fund no preference shall exist, but defaulted interest coupons, bonds and warrants shall be purchased out of the fund in the order of their presentation.

Every county establishing a guaranty fund for utility conversion road improvement district bonds or warrants shall prescribe by resolution appropriate rules and regulations for the maintenance and operation of such guaranty fund not inconsistent herewith. So much of the money of a guaranty fund as is necessary may be used to purchase underlying bonds or warrants guaranteed by the fund, or to purchase certificates of delinquency for general taxes on property subject to local improvement assessments, or to purchase such property at tax foreclosures, for the purpose of protecting the guaranty fund. The fund shall be subrogated to the rights of the county and the county, acting on behalf of the fund, may foreclose the lien of general tax certificates of delinquency and purchase the property at the foreclosure sale for the account of said fund. Whenever the governing authority of any county shall so cause a lien of general tax certificates of delinquency to be foreclosed and the property to be so purchased at a foreclosure sale, the court costs and costs of publication and expenses for clerical work and/or other expense incidental thereto, shall be chargeable to and payable from the guaranty fund. After so acquiring title to real property, a county may lease or sell and convey the same at public or private sale for such price and on such terms as may be determined by resolution of the board of county commissioners or other legislative body, and all proceeds resulting from such sales shall belong to and be paid into the guaranty fund.

Sec. 14. Section 3, chapter 151, Laws of 1923 as last amended by section 58, chapter 56, Laws of 1970 ex. sess. and RCW 39.44.030 are each amended to read as follows:

Before any general obligation bonds issued by any county, city, town, school district, port district, or metropolitan park district shall be offered for sale the governing body issuing such bonds shall designate the maximum effective rate of interest said bonds shall bear, which shall not be in excess of that allowed by law. Except as provided in section 94, chapter 232, Laws of 1969 ex. sess., (~~and section 107 of this amendatory act~~) when a vote of the electors shall have been taken on the question of the issuance of such bonds and the proposition submitted to the electors shall have specified the maximum effective rate of interest to be borne by said bonds, no increase of such maximum effective rate of interest shall be made by the governing body. All such bonds, including refunding bonds, shall be sold at public sale,

and a notice calling for bids for the purchase of said bonds shall be published once a week for ~~((four))~~ two consecutive weeks in the official newspaper of the issuer, and such other notice shall be given as the governing body may direct; or, if there be no official newspaper of the issuer, the publication shall be made in a newspaper of general circulation in the county in which the issuer is located. Such notice shall specify a place, and designate a day and hour, subsequent to the date of the last publication and at least ~~((twenty-three))~~ ten days subsequent to the date of the first publication thereof when sealed bids will be received and publicly opened for the purchase of said bonds. ~~((A copy of such notice shall, at least three weeks prior to the date fixed for the sale, be mailed to the state finance committee, Olympia, Washington.))~~ The notice shall specify the maturity schedule and the maximum effective rate of interest such bonds shall bear, and shall require bidders to submit a bid specifying (1) the lowest rate or rates of interest and premium, if any, above par, at which such bidder will purchase said bonds; or (2) the lowest rate or rates of interest at which the bidder will purchase said bonds at par. The bonds shall be sold to the bidder offering to purchase the same at the lowest net interest cost to the issuer over the life thereof, subject to the right of the governing body to reject any and all bids. None of such bonds shall be sold at less than par and accrued interest, nor shall any discount or commission be allowed or paid to the purchaser or purchasers of such bonds. All bids shall be sealed and, except the bid of the state of Washington, if one is received, shall be accompanied by a good faith deposit of five percent, either in cash or by cashier's or certified check made payable to the treasurer of the issuer, of the amount of the principal par value of such bonds which shall be promptly returned if the bid is not accepted; and if the successful bidder shall fail or neglect to complete the purchase of said bonds by the time specified in the notice of sale for the delivery of said bonds, the amount of his deposit shall be forfeited to the issuer, and in that event the governing body may accept the bid of the one making the next best bid if such bidder agrees to purchase said bonds under the terms provided in his bid, or if all bids be rejected such governing body, if it decides to reoffer such bonds for sale, shall readvertise said bonds for sale in the same manner as herein provided for the original advertisement. If there be two or more equal bids and such bids are the best bids received, the governing body shall determine by lot which bid will be accepted.

Sec. 15. Section 3, chapter 80, Laws of 1899 as amended by section 1, chapter 88, Laws of 1971 ex. sess. and RCW 39.56.010 are each amended to read as follows:

All state warrants shall bear interest at a rate ~~((not greater than eight percent per annum unless a less rate be))~~ specified therein, and shall be paid by the treasurer in the order of their registration and shall cease to draw interest at the expiration of five days from and after the date of the first publication of any call made by the treasurer for the payment of warrants.

Sec. 16. Section 5, chapter 80, Laws of 1899 and RCW 39.56.030 are each amended to read as follows:

It shall be the duty of every public officer issuing public warrants to make monthly investigation to ascertain the market value of the current warrants issued by him, and he shall, so far as practicable, fix the rate of interest (~~((not in any event, however, exceeding the maximum rate hereinbefore established therefor)))~~) on the warrants issued by him during the ensuing month so that the par value shall be the market value thereof.

Sec. 17. Section 4, chapter 7, Laws of 1941 and RCW 53.43.040 are each amended to read as follows:

Such funding or refunding bonds shall bear interest at a rate (~~(not in excess of five percent per annum as may be)~~) fixed by the board after the sale of said bonds, or, in the event of the issuance thereof by exchange, prior to such exchange; and the form of said bonds and interest coupons which shall be attached thereto, their execution, and said bonds in all other respects, shall be as permitted by law and as provided by resolution of said board. Funding or refunding bonds may be issued by way of sale, or by exchange of such funding or refunding bonds for the warrants, bonds, or other instruments evidencing the indebtedness thus to be funded or refunded: **PROVIDED**, That such funding or refunding bonds thus issued after sale thereof, or by exchange thereof, shall not exceed, in principal amount, the principal and interest of the indebtedness thereby funded or refunded, and the funding or refunding bonds shall bear a lower rate of interest than the rate of interest borne by the indebtedness funded or refunded thereby (~~(and not in excess of five percent per annum)~~).

Sec. 18. Section 9, chapter 390, Laws of 1955 as amended by section 60, chapter 195, Laws of 1973 1st ex. sess. and RCW 54.16.080 are each amended to read as follows:

A district may raise revenue by the levy of an annual tax on all taxable property within the district, not exceeding forty-five cents per thousand dollars of assessed value in any one year, exclusive of interest and redemption for general obligation bonds. The commission shall prepare a proposed budget of the contemplated financial transactions for the ensuing year and file it in its records, on or before the first Monday in September. Notice of the filing of the proposed budget and the date and place of hearing thereon shall be published for at least two consecutive weeks in a newspaper printed and of general circulation in the county. On the first Monday in October, the commission shall hold a public hearing on the proposed budget at which any taxpayer may appear and be heard against the whole or any part thereof. Upon the conclusion of the 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 officer of the county in which the district is located in the same manner as provided for the certification and

collection of port district taxes. The commission may, prior to the receipt of taxes raised by levy, borrow money or issue warrants of the district in anticipation of the revenue to be derived from the levy or taxes for district purposes, and the warrants shall be redeemed from the first money available from such taxes. The warrants shall not exceed the anticipated revenue of one year, and shall bear interest at a rate (~~(of not to exceed six percent per annum)~~) determined by the commission.

Sec. 19. Section 3, chapter 150, Laws of 1957 and RCW 54.24.220 are each amended to read as follows:

When a coupon, bond and/or warrant guaranteed hereby matures and there are not sufficient funds in the local utility district bond redemption fund to pay it, the county treasurer shall pay it from the local improvement guaranty fund of the public utility district; if there are not sufficient funds in the guaranty fund to pay it, it may be paid by issuance and delivery of a warrant upon the local improvement guaranty fund.

When the cash balance in the local improvement guaranty fund is insufficient for the required purposes, warrants drawing interest at a rate (~~((not to exceed seven percent per year))~~) determined by the commission may be issued by the district auditor, against the fund to meet any liability accrued against it and shall issue them upon demand of the holders of any matured coupons, bonds and/or warrants guaranteed hereby, or to pay for any certificate of delinquency for delinquent installments of assessments as provided hereinafter. Guaranty fund warrants shall be a first lien in their order of issuance upon the guaranty fund.

Sec. 20. Section 1, chapter 82, Laws of 1935 as amended by section 1, chapter 102, Laws of 1937 and RCW 57.20.030 are each amended to read as follows:

Every water district in the state is hereby authorized to create a fund for the purpose of guaranteeing, to the extent of such fund, and in the manner hereinafter provided, the payment of all of its local improvement bonds issued, subsequent to the effective date of this act, to pay for any local improvement within its confines. Such fund shall be designated "Local Improvement Guaranty Fund, Water District No.," and shall be established by resolution of the board of water commissioners. For the purpose of maintaining such fund, every water district, after the establishment thereof, shall at all times set aside and pay into such a fund such proportion of the monthly gross revenues of the water supply system of such water district as the commissioners thereof may direct by resolution. This proportion may be varied from time to time as the commissioners deem expedient or necessary: PROVIDED, HOWEVER, That under the existence of the conditions set forth in subsections (1) and (2) next hereunder, then the proportion must be as therein specified, to wit:

(1) Whenever any bonds of any local improvement district have been guaranteed under this act and the guaranty fund does not have a cash balance equal to twenty percent of all bonds originally guaranteed under this act, (excluding issues which have been retired in full) then twenty percent of the gross monthly revenues derived from all water users in the territory included in said local improvement district (but not necessarily from users in other parts of the water district as a whole) shall be set aside and paid into the guaranty fund: PROVIDED, HOWEVER, That whenever, under the requirements of this subsection, said cash balance accumulates so that it is equal to twenty percent of all bonds guaranteed, or to the full amount of all bonds guaranteed, outstanding and unpaid (which amount might be less than twenty percent of the original total guaranteed), then no further monies need be set aside and paid into said guaranty fund so long as said condition shall continue.

(2) Whenever any warrants issued against the guaranty fund, as hereinbelow provided, remain outstanding and uncalled for lack of funds for six months from date of issuance thereof; or whenever any coupons or bonds guaranteed under this act have been matured for six months and have not been redeemed either in cash or by issuance and delivery of warrants upon the guaranty fund, then twenty percent of the gross monthly revenues (or such portion thereof as the commissioners of the water district determine will be sufficient to retire said warrants or redeem said coupons or bonds in the ensuing six months) derived from all water users in the water district shall be set aside and paid into the guaranty fund: PROVIDED, HOWEVER, That whenever under the requirements of this subsection all warrants, coupons, or bonds specified in this subsection above have been redeemed, no further income need be set aside and paid into said guaranty fund under the requirements of this subsection until and unless other warrants remain outstanding and unpaid for six months or other coupons or bonds default.

(3) For the purpose of complying with the requirements of setting aside and paying into the local improvement guaranty fund a proportion of the monthly gross revenues of the water supply system of any water district, as hereinabove provided, said water district shall bind and obligate itself to maintain and operate said system and further bind and obligate itself to establish, maintain and collect such rates for water as will produce gross revenues sufficient to maintain and operate said water supply system and to make necessary provision for the local improvement guaranty fund as specified by this ((~~amendment {1937 c 102}~~)) section and RCW 57.20.080 and 57.20.090. And said water district shall alter its rates for water from time to time and shall vary the same in different portions of its territory to comply with the said requirements.

(4) Whenever any coupon or bond guaranteed by this act shall mature and there shall not be sufficient funds in the appropriate local improvement district bond redemption fund to pay same, then the county treasurer shall

pay same from the local improvement guaranty fund of the water district; if there shall not be sufficient funds in the said guaranty fund to pay same, then the same may be paid by issuance and delivery of a warrant upon the local improvement guaranty fund.

(5) Whenever the cash balance in the local improvement guaranty fund is insufficient for the required purposes, warrants drawing interest at a rate ~~((not to exceed seven percent per annum))~~ determined by the commissioners may be issued by the county auditor of the county in which the water district is located, against the said fund to meet any liability accrued against it and must be issued upon demand of the holders of any maturing coupons and/or bonds guaranteed by this act, or to pay for any certificates of delinquency for delinquent installments of assessments as provided in subsection (6) hereunder. Guaranty fund warrants shall be a first lien in their order of issuance upon the gross revenues set aside and paid into said fund.

(6) Within twenty days after the date of delinquency of any annual installment of assessments levied for the purpose of paying the local improvement bonds of any water district guaranteed under the provisions of this act, it shall be mandatory for the county treasurer of the county in which said water district is located to compile a statement of all installments delinquent, together with the amount of accrued interest and penalty appurtenant to each of said installments. Thereupon the county treasurer shall forthwith purchase (for the water district) certificates of delinquency for all such delinquent installments. Payment for all such certificates of delinquency shall be made from the local improvement guaranty fund and if there shall not be sufficient moneys in said fund to pay for such certificates of delinquency, the county treasurer shall accept said local improvement guaranty fund warrants in payment therefor. All such certificates of delinquency shall be issued in the name of the local improvement guaranty fund and all guaranty fund warrants issued in payment therefor shall be issued in the name of the appropriate local improvement district fund. Whenever any market is available and the commissioners of the water district so direct, the county treasurer shall sell any certificates of delinquency belonging to the local improvement guaranty fund: PROVIDED, That any such sale must not be for less than face value thereof plus accrued interest from date of issuance to date of sale.

Such certificates of delinquency, as above provided, shall be issued by the county treasurer of the county in which the water district is located, shall bear interest at the rate of ten percent per annum, shall be in each instance for the face value of the delinquent installment, plus accrued interest to date of issuance of certificate of delinquency, plus a penalty of five percent of such face value, and shall set forth:

- (a) Description of property assessed;
- (b) Date installment of assessment became delinquent;
- (c) Name of owner or reputed owner, if known.

Such certificates of delinquency may be redeemed by the owner of the property assessed at any time up to two years from the date of foreclosure of such certificate of delinquency.

If any such certificate of delinquency be not redeemed on the second occurring first day of January subsequent to its issuance, the county treasurer shall then proceed to foreclose such certificate of delinquency in the manner specified for the foreclosure of the lien of local improvement assessments, pursuant to chapter 9 of the Session Laws of 1933 and amendments thereto; and if no redemption be made within the succeeding two years shall execute and deliver a deed conveying fee simple title to the property described in the foreclosed certificate of delinquency.

Sec. 21. Section 2, chapter 69, Laws of 1925 ex. sess. and RCW 85.05-.520 are each amended to read as follows:

Said bonds shall be numbered from one upwards consecutively and shall be in denominations of not less than one hundred dollars nor more than one thousand dollars. They shall bear the date of issue and an interest rate (~~not exceeding seven percent~~) determined by the commission, payable annually or semiannually, as the commissioners shall direct, with coupons attached for each interest payment, and shall be made payable to bearer. Said bonds and coupons shall be signed by the chairman of the board and attested by the secretary, and the seal of such district shall be affixed to each bond, but not to said coupons. Bonds shall be paid in the order of their numbers, and each bond shall specify its due date.

Sec. 22. Section 1, chapter 174, Laws of 1927 and RCW 85.06.324 are each amended to read as follows:

The whole or any part of a refunding assessment so levied upon any tract of land may be paid without interest at any time within thirty days after the date of the levy. Every such assessment or part thereof not so paid, plus the amount of unpaid prior levies on the same land with interest to the date of the refunding levy, shall thereafter be payable in equal annual installments, either ten or fifteen according as the refunding bonds are to run twelve or seventeen years, with interest on unpaid balances at (~~the~~) a rate (~~of seven percent per annum~~) determined by the board of drainage commissioners from the date of the levy. The first installment shall include interest on the whole unpaid amount from the date of the levy to the thirty-first day of May of the next year, and each subsequent installment shall include interest for another year on the last deferred balance. The first installment shall become due with the general taxes for the year in which the levy was made, and the other installments annually thereafter: PROVIDED, That the unpaid amount or balance against any tract of land, with interest thereon to the next interest payment date of the refunding bonds which is not less than thirty days off, may be paid at any time. Installments shall be collected with and as if a part of the general taxes falling due at the same time, but no rebate shall be allowed for early payment.

Sec. 23. Section 23, chapter 176, Laws of 1913 as amended by section 28, chapter 130, Laws of 1917 and RCW 85.08.320 are each amended to read as follows:

The compensation of the board of supervisors, superintendent of construction, the board of appraisers hereinafter provided for, and any special engineer, attorney or agent employed by the (~~board of county commissioners~~) county legislative authority in connection with the improvement, the maximum wages to be paid, and the maximum price of materials to be used, shall be fixed by the (~~board of county commissioners~~) county legislative authority. Each (~~county commissioner~~) member of the county legislative authority, except in counties of the first class, shall receive pay at the rate of four dollars per day for the number of days he is engaged in the performance of any duty under this chapter, which sum shall be additional to his salary in case he receive an annual salary; and none of the statutory provisions limiting the number of days that a (~~county commissioner~~) member of the county legislative authority shall draw pay for or limiting the number of sessions for attendance upon which he shall be entitled to mileage shall apply to any proceedings under this chapter. All officers and members of boards performing duties under this chapter shall receive in addition to their fees or salaries their actual necessary expenses incurred in the performance of their duties hereinunder. All costs of construction or maintenance done under the direction of the board of supervisors shall be paid upon vouchers or payrolls verified by two of the said supervisors. All costs of construction and all other expenses, fees and charges on account of such improvement shall be paid by warrants drawn by the county auditor upon the county treasurer upon the proper fund, and shall draw interest at (~~such rate not to exceed eight percent per annum as the board of county commissioners shall fix;~~) a rate determined by the county legislative authority until paid or called by the county treasurer as warrants of the county are called.

If at the hearing provided for in RCW 85.08.160 the county (~~commissioners~~) legislative authority shall determine that bonds shall be issued to pay the costs of the improvement or warrants sold to procure funds with which to pay such cost, as therein provided, temporary warrants may be issued for any part or all of such costs, expenses, fees, and charges, and shall be paid in cash upon the issuance and sale of such bonds, or shall be exchanged for an equal amount par value of such bonds. All such temporary warrants shall recite that they are temporary warrants and that they draw interest until called to be paid in cash or to be exchanged for bonds. All warrants issued under the provisions of this chapter and sold by the (~~commissioners~~) county legislative authority, or issued to any contractor and by him sold or hypothecated for a valuable consideration, shall be claims and liens against the fund against which they are drawn, prior and superior to

any right, lien or claim of any surety upon any bond or bonds given to secure the performance of the contract or to secure the payment of persons who have performed work thereon, furnished materials therefor or provisions and supplies for the carrying on of the work.

Sec. 24. Section 30, chapter 176, Laws of 1913 as last amended by section 9, chapter 46, Laws of 1923 and RCW 85.08.430 are each amended to read as follows:

After the expiration of said thirty-day period, payment of assessments in full, with interest to the next coupon date which is more than thirty days from the date of such payment, may be made at any time; PROVIDED, That the aggregate amount of such advance payments in any year, together with the total amount of the assessments due at the beginning of said year, shall not exceed the total amount of the bonds which may be called in that year according to the applicable bond redemption schedule. The treasurer shall accept payments of assessments in advance, in the order tendered, until the limit herein set forth has been reached.

The assessments contained in the assessment roll shall bear interest from the expiration of the thirty-day period at ~~((the))~~ a rate ~~((of eight percent per annum))~~ determined by the county legislative authority and interest upon the entire assessment then unpaid shall be due and payable at the time each of said installments becomes due and payable as a part thereof~~((: PROVIDED, That if the bonds or warrants be sold at a lower rate of interest than eight percent then said assessments shall bear interest at the same rate borne by such bonds or warrants))~~.

The assessments contained in said assessment roll shall be liens upon the property assessed, such lien shall be of equal rank with other liens assessed against the property for local improvements and paramount to all other liens except the lien of general taxes, and shall relate back to and take effect as of the date when the ~~((board of county commissioners))~~ county legislative authority determined to proceed with the construction of the improvement as provided in RCW 85.08.220.

Sec. 25. Section 17, chapter 26, Laws of 1949 and RCW 85.16.220 are each amended to read as follows:

The provisions of RCW 85.08.280, 85.08.310, 85.08.320, 85.08.420, 85.08.430, and 85.08.480 through 85.08.520, shall be deemed and hereby are made a part of this chapter insofar as they may be applicable hereto, except that the unpaid assessments or installments thereof, which may have been levied for extraordinary maintenance costs as provided in RCW 85.16.170, shall bear interest at ~~((the))~~ a rate ~~((of six percent per annum: PROVIDED HOWEVER, That when the bonds or warrants which shall have been issued to meet such extraordinary costs shall bear an interest rate of less than six percent per annum, then the rate of interest on such unpaid assessments or installments thereof shall be reduced on and from the first day of January next following the date of issuance of said bonds or warrants to the rate~~

of interest on said bonds or warrants)) determined by the county legislative authority.

Sec. 26. Section 5, chapter 225, Laws of 1909 as amended by section 4, chapter 140, Laws of 1923 and RCW 85.24.070 are each amended to read as follows:

The members of such board, before entering upon their duties, shall take and subscribe on oath substantially as follows:

State of Washington, }
County of } ss.

I, the undersigned, a member of the board of commissioners of the diking and drainage district No., in and counties, do solemnly swear (or affirm) that I will well and truly discharge my duties as a member of said commission.

The members shall also, before entering upon their duties, give a bond to the state of Washington for the benefit of such diking and drainage district, for the faithful performance of their duties as such board of commissioners, in the penal sum of five thousand dollars with a company or corporation as surety, authorized to make and execute official bonds under the laws of the state, the district to bear the expense of such bond; and upon the oath and bond being filed with the commissioner of public lands, that officer shall enter an order upon his records that the three persons named as aforesaid have qualified as the board of commissioners for diking and drainage district No., in and counties, and that said persons and their successors do and shall constitute a board of commissioners for the aforesaid diking and drainage district; which order when made shall be conclusive of the regularity of the election and qualification of the board of diking and drainage commissioners for the particular district, and the persons named therein shall constitute such board of diking and drainage commissioners.

The said board of diking and drainage commissioners shall thereupon immediately organize and elect one of their number as chairman and another as secretary. The said board shall then proceed to make and cause to be made specifications and details of a system which may be adopted by the board for the improvements to be made, together with an estimate of the total cost thereof; and shall, upon the adoption of a plan of improvement of the district as aforesaid, proceed to acquire the necessary property and property rights for the construction, establishment and maintenance of said system either by purchase or by power of eminent domain as hereinafter provided. Upon such acquisition being had, the board shall then proceed with the construction of said diking and drainage system and in doing so shall have the power to do the work directly or in its discretion to have all or any part of said work done by contract. In case the board shall decide

upon doing the same by contract, it shall advertise for bids for said construction work, or such part thereof as they may determine to have done by contract, and shall have the authority to let a contract to the lowest responsible bidder after advertising for bids.

Any contractor doing work hereunder shall be required to furnish a bond as provided by the laws of the state of Washington relating to contractors of public work.

The board shall have the right, power and authority to issue vouchers or warrants in payment or evidence of payment of any and all expenses incurred under the provisions of this chapter, and shall have the power to issue the same to any contractor as the work progresses, the same to be based upon the partial estimates furnished from time to time by engineers of said district. All warrants issued hereunder shall draw interest at a rate (~~not to exceed eight percent per annum~~) determined by the board.

Upon the completion of the construction of said system, and ascertainment of the total cost thereof including all compensation and damages and costs and expenses incident to the acquiring of the necessary property and property right, the board shall then proceed to levy an assessment upon the taxable real property within the said district which the board may find to be specially benefited by the proposed improvements; and shall make and levy such assessment upon each piece, lot, parcel and separate tract of real estate in proportion to the particular and special benefits thereto. Upon determining the amount of the assessment against each particular tract of real estate as aforesaid, the commissioners shall make or cause to be made an assessment roll, in which shall appear the names of the owners of the property assessed, so far as known, and a general description of each lot, block, parcel or tract of land within such district, and the amount assessed against the same, as separate, special or particular benefits. The board shall thereupon make an order setting and fixing a day for hearing any objections to the assessment roll by any one affected thereby, which day shall be at least twenty days after the mailing of notices thereof, postage prepaid, as herein provided. The board shall send or cause to be sent by mail to each owner of the premises assessed, whose name and place of residence is known, a notice, substantially in the following form, to wit:

To: Your property (here describe the property) is assessed \$. A hearing on the assessment roll will be had before the undersigned at the office of the said board at on the day of at which time you are notified to be and appear and to make any and all objections which you may have as to the amount of the assessment against your property, or as to whether it should be assessed at all; and to make any and all objections which you may have to the said assessment against your lands, or any part or portion thereof.

The failure to send or cause to be sent such notice shall not be fatal to the proceedings herein described. The secretary of the board on the mailing

of said notices shall certify generally that he has mailed such notices to the known address of all owners, and such certificate shall be prima facie evidence of the mailing of all such notices at the date mentioned in the certificate.

The board shall cause at least ten days' notice of the hearing to be given by posting notice in at least ten public places within the boundaries of the district, and by publishing the same at least five successive times in a daily newspaper published in each of the counties affected; and for at least two successive weeks in one or more weekly newspapers within the boundaries of said district, in each county if there be such newspapers published therein, and if there be no such newspaper published, then in one or more weekly newspapers, having a circulation in the district, for two successive weeks, which notice shall be signed by the chairman or secretary of the said board of commissioners, and shall state the date and place of hearing of objections to the assessment roll and levy, and of all other objections; and that all interested parties will be heard as to any objection to said assessment roll and the levies as therein made.

Sec. 27. Section 16, chapter 225, Laws of 1909 as amended by section 5, chapter 140, Laws of 1923 and RCW 85.24.230 are each amended to read as follows:

Any such district by and through its board of commissioners, may, by resolution of such board, cause to be issued in the name of the district, bonds for the whole cost of the improvement, less such amounts as shall have been paid within the thirty days provided for redemption, as herein specified. Such bonds shall be called Local Improvement Bonds, Diking and Drainage District No. in and counties, state of Washington, and shall be payable in not more than ten years after date, and shall be subject to annual call by the board, in such manner and amount as there may be cash on hand to pay, in the respective local improvement fund, from which such bonds are payable, interest to be paid at the office of the treasurer of the fund.

The board shall have the right to fix the beginning of the maturity of said bonds at not later than five years from date thereof. Said bonds shall bear interest at a rate (~~(not exceeding eight percent per annum)~~) determined by the board, and shall be in such denominations as the board may determine, and shall be sold at not less than par and accrued interest, or said bonds may be exchanged at not less than par and accrued interest for outstanding warrants. All warrants and bonds provided for in this chapter shall be retired in their numerical order. In making sale of said bonds the board shall advertise the same for sale to the highest bidder, upon such notice as it may determine. Any bonds issued hereunder shall be subject to annual call by the treasurer of the board at the expiration of any year before maturity, in such manner and amounts as there may be cash on hand with which to pay the same in the said fund from which the same may be

payable. Such call for payment shall be made by publishing notice of such call in a newspaper in each county in which said district is situated for three consecutive issues beginning not more than twenty days before the expiration of any year from the date of such bond, and interest on said bonds shall cease at the date named in such call.

Said bonds shall have attached thereto interest coupons representing the annual or semiannual interest for the term of said bond.

The bonds and interest coupons shall be signed by the chairman and secretary of said board, provided that the interest coupons may be executed by a facsimile of said signatures in lieu thereof.

It shall be the duty of the board to keep a register of all such bonds.

Sec. 28. Section 41, page 692, Laws of 1889-90 as last amended by section 24, chapter 129, Laws of 1921 and RCW 87.03.470 are each amended to read as follows:

The board of directors may, at any time when in their judgment it may be advisable, call a special election and submit to the qualified electors of the district the question whether or not a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this chapter including any purpose for which the bonds of the district or the proceeds thereof might be lawfully used. Such election must be called upon the notice prescribed, and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of RCW 87.03.200. The notice must specify the amount of money proposed to be raised and the purpose for which it is intended to be used and the number of installments in which it is to be paid. At such election the ballot shall contain the words "Assessment Yes" and "Assessment No." If the majority of the votes cast are "Assessment Yes" the board may immediately or at intervals thereafter incur indebtedness to the amount of said special assessment for any of the purposes for which the proceeds of said assessment may be used, and may provide for the payment of said indebtedness by the issue and sale of coupon notes of the district to an amount equal to said authorized indebtedness, which coupon notes shall be payable in such equal installments not exceeding three in number as the board shall direct. Said coupon notes shall be payable by assessments levied at the time of the regular annual levy each year thereafter until fully paid. The amount of the assessments to be levied shall be ascertained by adding fifteen percent for anticipated delinquencies to the whole amount of the indebtedness incurred and interest. Each assessment so levied shall be computed and entered on the assessment roll by the secretary of the board, and collected at the same time and in the same manner as other assessments provided for herein, and when collected shall be paid to the county treasurer of the county to the credit of said district, for the purposes specified in the notice of such special election: **PROVIDED, HOWEVER,** That the board of directors may at their discretion issue said coupon notes in payment for labor

or material, or both, used in connection with the purposes for which such indebtedness was authorized. Coupon notes issued under this section shall bear interest at a rate (~~((not to exceed eight percent per annum))~~) determined by the board, payable semiannually.

Sec. 29. Section 42, page 693, Laws of 1889-90 as last amended by section 1, chapter 108, Laws of 1953 and RCW 87.03.475 are each amended to read as follows:

The board shall incur no debt or liability in excess of the express provisions of this title. It may without an election and levy therefor pay the necessary costs and expenses of organizing and may make surveys, do engineering work, and conduct a general investigation to determine the feasibility of the proposed irrigation project, and may incur an indebtedness therefor prior to levy, which indebtedness on account of surveys, engineering and investigations shall not exceed fifty cents an acre, and shall be assessable against the lands within the district. In cases of emergency, making it necessary to incur indebtedness in order to continue the operation of the irrigation system or any part thereof, the board by resolution may incur such indebtedness not exceeding the amount actually necessary to meet the requirements of the emergency. It may incur indebtedness necessary to carry on the ordinary administrative affairs of the district and if the district acquires an irrigation system before making its first regular annual levy, the board may incur such indebtedness necessary to pay the ordinary expenses of operation and maintenance until the regular annual levy is made.

The board may issue warrants for the payment of any indebtedness incurred under this section, which shall bear interest (~~((not to exceed eight percent per year))~~) at a rate determined by the board, and it shall include in its next annual levy for the payment of the expenses of operation and maintenance; the amount of all warrants issued by virtue hereof.

The board may issue as a general obligation of the district coupon warrants in denominations not in excess of five hundred dollars, bearing interest evidenced by coupons payable semiannually (~~((not to exceed eight percent per year))~~) at a rate determined by the board. Such warrants shall mature in not more than five years and may be used, or the proceeds thereof, in the purchase of grounds and buildings, machinery, vehicles, tools or other equipment for use in operation, maintenance, betterment, reconstruction or local improvement work, and for creating a revolving fund for carrying on such work as in this title provided. The proceeds of the warrants shall be paid to the district treasurer who shall place them in an appropriate fund and pay them out upon warrants of the district. The maximum indebtedness hereby authorized shall not exceed one dollar per acre of the total irrigable area within the district. No warrant shall be sold for less than par. They shall state on their face that they are a general obligation of the district, the purposes for which they are used, and that they are payable on or before

maturity. They shall be retired by assessments levied in accordance with the provisions of this title at the time other assessments are levied.

The board may accumulate by assessment a fund to be designated as the "capital fund" to be used for the purposes for which the above warrants may be used. The total of such fund shall not exceed one dollar per acre of the total irrigable area in the district and shall be accumulated in not less than five annual installments. The fund shall not be permanently depleted or reduced but shall be replaced from year to year by assessments on any lands of the district benefited by the use thereof. The reasonable value of all grounds, buildings, machinery, vehicles, tools or other equipment on hand, purchased with such fund, and the revolving fund, if any, derived from such fund, shall be a part of the capital fund.

Sec. 30. Section 12, chapter 162, Laws of 1917 as last amended by section 2, chapter 119, Laws of 1977 ex. sess. and RCW 87.03.490 are each amended to read as follows:

If decision shall be rendered in favor of the improvement, the board shall enter an order establishing the boundaries of the said improvement district and shall adopt plans for the proposed improvement and determine the number of annual installments not exceeding fifty in which the cost of said improvement shall be paid. The cost of said improvement shall be provided for by the issuance of local improvement district coupon bonds of the district from time to time, therefor, either directly for the payment of the labor and material or for the securing of funds for such purpose, or by the irrigation district entering into a contract with the United States or the state of Washington, or both, to repay the cost of said improvement. Said bonds shall bear interest at a rate (~~not to exceed eight percent per annum~~) determined by the board, payable semiannually, evidenced by coupons, and shall state upon their face that they are issued as bonds of the irrigation district; that all lands within said local improvement district shall be primarily liable to assessment for the principal and interest of said bonds and that said bonds are also a general obligation of the said district. The bonds may be in such denominations as the board of directors may in its discretion determine, except that bonds other than bond number one of any issue shall be in a denomination that is a multiple of one hundred dollars, and no bond shall be sold for less than par. Any contract entered into for said local improvement by the district with the United States or the state of Washington, or both although all the lands within said local improvement district shall be primarily liable to assessment for the principal and interest thereon, shall be a general obligation of the irrigation district.

No election shall be necessary to authorize the issuance of such local improvement bonds or the entering into of such a contract. Such bonds, when issued, shall be signed by the president and secretary of the irrigation district with the seal of said district affixed and shall be registered by the

treasurer of the irrigation district with his seal affixed. The printed, engraved, or lithographed facsimile signatures of the president and secretary of the district's board of directors shall be sufficient signatures on the bonds or coupons: **PROVIDED**, That such facsimile signatures on the bonds may be used only after the filing, by the officer whose facsimile signature is to be used, with the secretary of state of his manual signature certified by him under oath, whereupon that officer's facsimile signature has the same legal effect as his manual signature: **PROVIDED, FURTHER**, That either the president of the board of directors' or the secretary's signature on the bonds shall be manually subscribed: **AND PROVIDED FURTHER**, That whenever such facsimile reproduction of the signature of any officer is used in place of the manual signature of such officer, the district's board of directors shall specify in a written order or requisition to the printer, engraver, or lithographer the number of bonds or coupons upon which such facsimile signature is to be printed, engraved, or lithographed and the manner of numbering the bonds or coupons upon which such signature shall be placed. Within ninety days after the completion of the printing, engraving, or lithographing of such bonds or coupons, the plate or plates used for the purpose of affixing the facsimile signature shall be destroyed, and it shall be the duty of the district's board of directors, within ninety days after receipt of the completed bonds or coupons, to ascertain that such plate or plates have been destroyed. Every printer, engraver, or lithographer who, with the intent to defraud, prints, engraves, or lithographs a facsimile signature upon any bond or coupon without written order of the district's board of directors, or fails to destroy such plate or plates containing the facsimile signature upon direction of such issuing authority, shall be guilty of felony.

The proceeds from the sale of such bonds shall be deposited with the treasurer of the district, who shall place them in a special fund designated "Construction fund of local improvement district number _____."

Whenever such improvement district has been organized, the boundaries thereof may be enlarged to include other lands which can be served or will be benefited by the proposed improvement upon petition of the owners thereof and the consent of the United States or the state of Washington, or both, in the event the irrigation district has contracted with the United States or the state of Washington, or both, to repay the cost of the improvement: **PROVIDED**, That at such time the lands so included shall pay their equitable proportion upon the basis of benefits of the improvement theretofore made by the said local improvement district and shall be liable for the indebtedness of the said local improvement district in the same proportion and same manner and subject to assessment as if said lands had been incorporated in said improvement district at the beginning of its organization.

Sec. 31. Section 2, chapter 128, Laws of 1935 as amended by section 6, chapter 70, Laws of 1970 ex. sess. and RCW 87.03.510 are each amended to read as follows:

There is hereby established for each irrigation district in this state having local improvement districts therein a fund for the purpose of guaranteeing to the extent of such fund and in the manner herein provided, the payment of its local improvement bonds and warrants issued or contract entered into to pay for the improvements provided for in this act. Such fund shall be designated "local improvement guarantee fund" and for the purpose of maintaining the same, every irrigation district shall hereafter levy from time to time, as other assessments are levied, such sums as may be necessary to meet the financial requirements thereof: PROVIDED, That such sums so assessed in any year shall not be more than sufficient to pay the outstanding warrants or contract indebtedness on said fund and to establish therein a balance which shall not exceed five percent of the outstanding obligations thereby guaranteed. Whenever any bond or interest coupon or contract payment of any local improvement district shall become due and there is insufficient funds in the local improvement district fund for the payment thereof, there shall be paid from said local improvement district guarantee fund, by warrant or by such other means as is called for in the contract, a sufficient amount, which together with the balance in the local improvement district fund shall be sufficient to redeem and pay said bond or coupon or contract payment in full. Said warrants against said guarantee fund shall draw interest at a rate (~~(not to exceed six percent)~~) determined by the board and said bonds and coupons shall be paid in their order of presentation. Whenever there shall be paid out of the guarantee fund any sum on account of principal or interest of a local improvement bond or warrant or contract the irrigation district, as trustee for the fund, shall be subrogated to all of the rights of the holder of the bond or interest coupon or contract amount so paid, and the proceeds thereof, or of the assessment underlying the same shall become part of the guarantee fund. There shall also be paid into such guarantee fund any interest received from bank deposits of the fund, as well as any surplus remaining in any local improvement district fund, after the payment of all of its outstanding bonds or warrants or contract indebtedness which are payable primarily out of such local improvement district fund.

Sec. 32. Section 4, chapter 34, Laws of 1925 ex. sess. and RCW 87.48-.040 are each amended to read as follows:

When the state of Washington shall be required to make any payment or expend any money in the performance of any such contract entered into with the United States, an estimate of the amount of expenses likely to be incurred in such performance, together with an estimate of future losses or damages that may occur under such contract shall be made by the director of conservation and development, who shall thereupon return a statement

thereof to such district, and the board of directors of such district shall from time to time as required by the director of conservation and development levy against all the property within said district such assessments as may be necessary to repay to the state of Washington such estimated expenses, losses and damages. PROVIDED, If such district has no money in the "The Indemnity Fund" to repay such expenses when the same shall be incurred or to pay such losses and damages as the same shall accrue it shall be the duty of the board of directors to cause warrants of the district to be issued in payment of such indebtedness, which warrants shall bear interest at ~~((the))~~ a rate ~~((of six percent per annum))~~ determined by the board and be paid from moneys paid into the indemnity fund by assessments levied as hereinbefore provided.

Sec. 33. Section 145, chapter 254, Laws of 1927 as amended by section 16, chapter 149, Laws of 1933 and RCW 89.30.433 are each amended to read as follows:

Said bonds shall mature in series amortized in a definite schedule during a period not to exceed sixty years from the date of their issuance, shall be in such denominations and form and shall be payable, with annual or semiannual interest ~~((not exceeding six percent at such place, as))~~ at a rate the board shall provide.

Sec. 34. Section 39, chapter 23, Laws of 1911 and RCW 91.08.410 are each amended to read as follows:

Immediately after the expiration of the time fixed by his notice for payment of assessments without interest, the treasurer shall divide the several assessments which remain unpaid in whole or in part into ten equal amounts or installments, as near as may be, without fractional cents, and enter said installments upon the roll opposite the several assessments, numbering the same from one to ten successively. And thereafter said treasurer shall annually for ten years, before the time fixed by law for the collection of state and county taxes, add one of the said assessment installments with interest for one year from the expiration of the time for payment without interest, or of the anniversary thereof, at ~~((the))~~ a rate ~~((of seven percent per annum))~~ determined by the board on the entire unpaid assessment, to the tax levied upon the property assessed, where said tax appears upon the county tax roll, and collect said installment and interest, without reduction of percentage for prepayment, at the same time and in the same manner as state and county taxes are collected. And after delinquency said installments and interest shall be subject to the same charges for increased interest and penalties as are other delinquent taxes. But no tax sale of lands assessed under this chapter shall discharge the same from the lien of any unpaid installments of the assessment against it until all installments and interest are fully paid.

Sec. 35. Section 41, chapter 23, Laws of 1911 and RCW 91.08.430 are each amended to read as follows:

The owner of any lands assessed under this chapter may at any time after the time fixed by the treasurer's notice for payment without interest, discharge his lands from the unpaid assessment by paying the principal of all installments unpaid with interest thereon at ~~((the))~~ a rate ~~((of seven percent per annum))~~ determined by the board to the next anniversary of the time fixed as aforesaid; or he may pay one or more installments, with like interest, beginning with installment number ten and continuing in the inverse numerical order of installments. The successor in title to any part of his lands may have the proportionate assessment segregated on the roll and charged to such part upon his producing to the treasurer his recorded deed to such part.

Sec. 36. Section 42, chapter 23, Laws of 1911 and RCW 91.08.440 are each amended to read as follows:

The last installment of any assessment paid shall include interest thereon at ~~((the))~~ a rate ~~((of seven percent per annum))~~ determined by the board to the actual date of payment.

NEW SECTION. Sec. 37. There is added to chapter 39.58 RCW a new section to read as follows:

Any municipal corporation is authorized to establish a line of credit with any qualified public depository to be drawn upon for cashing its warrants, to delegate to a fiscal officer authority to determine the amount of credit extended, and to pay interest and other finance or service charges. The interest rate may be a fixed rate set periodically or a fluctuating rate determined by agreement of the parties. If any warrant of a municipal corporation is presented and not paid for lack of funds, the interest rate set on unpaid warrants shall apply. Nothing in this section affects the priority for payment of warrants established by law.

Sec. 38. Section 43, chapter 23, Laws of 1911 and RCW 91.08.450 are each amended to read as follows:

Should any of the lands assessed under this chapter be taken for or dedicated to public use, for highway or any other public purpose, before the taking or dedication shall be complete or take effect there shall be paid to the county treasurer a sum equal to the principal of the unpaid assessment upon said land at its proportionate rate per square foot, with interest thereon for one year at ~~((seven percent))~~ a rate determined by the board; and the treasurer shall credit the principal sum paid to the unpaid installments upon the tract as originally assessed.

Passed the House April 23, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 157

[House Bill No. 354]

CONSOLIDATION, ANNEXATION ELECTIONS, POPULATION
DETERMINATIONS—LAND RESOURCES INVENTORY

AN ACT Relating to planning and community affairs; amending section 35.10.240, chapter 7, Laws of 1965 as last amended by section 12, chapter 195, Laws of 1973 1st ex. sess. and RCW 35.10.240; amending section 35.10.250, chapter 7, Laws of 1965 as amended by section 9, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.250; amending section 10, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.265; amending section 35.10.320, chapter 7, Laws of 1965 as amended by section 16, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.320; amending section 13, chapter 74, Laws of 1967 and RCW 43.63A.130; adding a new section to chapter 43.41 RCW; repealing section 1, chapter 53, Laws of 1969 ex. sess., section 64, chapter 75, Laws of 1977, section 133, chapter 151, Laws of 1979 and RCW 43.63A.085; repealing section 12, chapter 74, Laws of 1967, section 122, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.63A.120; and repealing section 49, chapter 99, Laws of 1979 and RCW 43.131.162; and declaring an emergency.

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

Section 1. Section 35.10.240, chapter 7, Laws of 1965 as last amended by section 12, chapter 195, Laws of 1973 1st ex. sess. and RCW 35.10.240 are each amended to read as follows:

In all cases of consolidation or annexation, the county canvassing board or boards shall canvass the votes cast thereat.

In an election on the question of consolidation the votes cast in each of such corporations shall be canvassed separately, and a statement shall be prepared showing the whole number of votes cast, the number of votes cast for consolidation and the number of votes cast against consolidation, the number of votes cast for creation of a community municipal corporation and the number of votes cast against creation of a community municipal corporation, or both, as the case may be, in each of such corporations. In case the question of the form of government of the new corporation shall have been submitted at such election, the votes thereon and on the name of the new corporation shall be canvassed, and the result of such canvass shall be included in the statement, showing the total number of votes cast in all of the corporations for each form of government submitted. A certified copy of such statement shall be filed with the legislative body of each of the corporations affected.

If it shall appear upon such statement of canvass that a majority of the votes cast in each of such corporations were in favor of consolidation or consolidation and creation of a community municipal corporation, the legislative bodies of each of such corporations shall meet in joint convention at the usual place of meeting of the legislative body of that one of the corporations having the largest population as shown by the last (~~United States census or the~~) determination of the (~~planning and community affairs agency~~) office of financial management on or before the second Monday

next succeeding the receipt of the statement of canvass to prepare a statement of votes cast and declaring the consolidation adopted or consolidation adopted and a community municipal corporation created, and if such issue were submitted, declaring the form of government to be that form for which a majority of all the votes on that issue were cast and the name of the consolidated city to be that name for which the greatest number of votes were cast.

In an election on the question of the annexation of all or a part of a city or town to another city or town, the votes cast in the city or town or portion thereof to be annexed shall be canvassed, and if a majority of the votes cast be in favor of annexation, the results shall be included in a statement indicating the total number of votes cast.

Both with respect to consolidation and annexation, a proposition for the assumption of indebtedness outside the constitutional and/or statutory limits by the other corporation(s) in which the indebtedness did not originate shall be deemed approved if a majority of at least three-fifths of the electors of the corporation in which the indebtedness did not originate votes in favor thereof, and the number of persons voting on such proposition constitutes not less than forty percent of the total number of votes cast in such corporations in which indebtedness did not originate at the last preceding general election: PROVIDED, HOWEVER, That if general obligation bond indebtedness was incurred by action by the city legislative body, a proposition for the assumption of such indebtedness by the other corporation(s) in which such indebtedness did not originate shall be deemed approved if a majority of the electors of the corporation in which such indebtedness did not originate votes in favor thereof.

A duly certified copy of such statement of either a consolidation or annexation election shall be filed with the legislative body of each of the corporations affected and recorded upon its minutes, and it shall be the duty of the clerk, or other officer performing the duties of clerk, of each of such legislative bodies, to transmit to the secretary of state and the (~~planning and community affairs agency~~) office of financial management a duly certified copy of the record of such statement.

Sec. 2. Section 35.10.250, chapter 7, Laws of 1965 as amended by section 9, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.250 are each amended to read as follows:

Immediately after the filing of the statement of a consolidation election, the mayor of the city or town having the largest population, as shown by the last (~~census~~) determination of the (~~planning and community affairs agency~~) office of financial management, shall call a meeting of the legislative authorities of the cities and/or towns to be consolidated. Such legislative authorities shall cause to be called a special election, to be held in such new corporation, for the election of the officers required by law to be elected

in corporations of the class and form of government to which such new corporation belongs, which election shall be held within six months thereafter: PROVIDED, That if the next regular general election of officers in cities of the class and form of government of such new corporation will be held within one year and not less than two months from the date of such consolidation election, then the officers of such new corporation shall be elected at the said next regular election. Such regular or special election shall be called and conducted and canvassed in all respects in the manner prescribed, or that may be hereafter prescribed, by law for municipal elections in corporations of the class of such new corporation, and the results transmitted by the canvassing authority to the legislative body, who shall immediately declare the result thereof and cause the same to be entered upon its journal, and file certified copies of such result with the legislative body of each of the other corporations affected, who in like manner shall cause the same to be entered upon its journal and a copy thereof shall be filed with the secretary of state.

Sec. 3. Section 10, chapter 89, Laws of 1969 ex. sess. and RCW 35.10-.265 are each amended to read as follows:

Immediately after the filing of the statement of an annexation election, the legislative body of the annexing city may, if it deems it wise or expedient, adopt an ordinance providing for the annexation. Upon the date fixed in the ordinance of annexation, the area annexed shall become a part of the annexing city or town. The clerk of the annexing city shall transmit a certified copy of this ordinance to the secretary of state and the (~~planning and community affairs agency~~) office of financial management.

Sec. 4. Section 35.10.320, chapter 7, Laws of 1965 as amended by section 16, chapter 89, Laws of 1969 ex. sess. and RCW 35.10.320 are each amended to read as follows:

All ordinances in force within any such former corporation, at the time of consolidation or annexation, not in conflict with the laws governing the consolidated corporation, or with the ordinances of the former corporation having the largest population, as shown by the last (~~census~~) determination of the (~~planning and community affairs agency~~) office of financial management shall remain in full force and effect until superseded or repealed by the legislative body of the consolidated corporation, or annexing city or town, and shall be enforced by such corporation or city or town, but all ordinances of such former corporations, in conflict with such laws, charters or ordinances shall be deemed repealed by, and from and after, such consolidation or annexation, but nothing in this section shall be construed to discharge any person from any liability, civil or criminal, for any violation of any ordinance of such former corporation incurred prior to such consolidation or annexation.

NEW SECTION. Sec. 5. There is added to chapter 43.41 RCW a new section to read as follows:

The office of financial management shall provide by administrative regulation for the maintenance of an inventory of all state owned or controlled land resources by all state agencies owning or controlling land. That office shall cooperate with the state departments and agencies charged with administering state owned or controlled land resources to assist them in developing and maintaining land resources inventories that will permit their respective inventories to be summarized into meaningful reports for the purposes of providing executive agencies with information for planning, budgeting, and managing state owned or administered land resources and to provide the legislature, its members, committees, and staff with data needed for formulation of public policy.

Such departments or agencies shall maintain and make available such summary inventory information as may be prescribed by the rules of the office of financial management. That office shall give each affected department or agency specific written notice of hearings for consideration, adoption, or modification of such rules. All information submitted to that office under this section are a matter of public record and shall be available from said agency upon request.

Sec. 6. Section 13, chapter 74, Laws of 1967 and RCW 43.63A.130 are each amended to read as follows:

The director or the governor may establish such additional advisory or coordinating groups with the legislature or legislative council, within state government, with state and other governmental units or in specialized subject areas as may be necessary to carry out the purposes of this chapter. (~~(((Tenure and compensation for expenses shall be the same as for the state planning advisory council.)))~~)

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 53, Laws of 1969 ex. sess., section 64, chapter 75, Laws of 1977, section 133, chapter 151, Laws of 1979 and RCW 43.63A.085;

(2) Section 12, chapter 74, Laws of 1967, section 122, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.63A.120; and

(3) Section 49, chapter 99, Laws of 1979 and RCW 43.131.162.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House April 2, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 158

[Substitute House Bill No. 466]

FEDERAL GEOTHERMAL ACT REVENUES—ALLOCATION

AN ACT Relating to geothermal energy; amending section 28A.40.100, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 4, Laws of 1981 and RCW 28A.40.100; adding a new chapter to Title 43 RCW; and providing an expiration date.

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

NEW SECTION. Section 1. The purpose of this chapter is to provide for the allocation of revenues distributed to the state under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States bureau of land management undertaken pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. Sec. 1001 et. seq.) in order to accomplish the following general objectives:

(1) Reduction of dependence on nonrenewable energy and stimulation of the state's economy through development of geothermal energy.

(2) Mitigation of the social, economic, and environmental impacts of geothermal development.

(3) Financial assistance to counties to offset the costs of providing public services and facilities necessitated by the development of geothermal resources within their jurisdictions.

(4) Maintenance of the productivity of renewable resources through the investment of proceeds from these resources.

NEW SECTION. Sec. 2. As used in this chapter:

(1) "County of origin" means any county in which the United States bureau of land management has leased lands for geothermal development.

(2) "Geothermal energy" means the natural heat of the earth and the medium by which this heat is extracted from the earth, including liquids or gases, as well as any minerals contained in any natural or injected fluids, brines, and associated gas but excluding oil, hydrocarbon gas, and other hydrocarbon substances.

NEW SECTION. Sec. 3. There is created the geothermal account in the general fund of the state treasury. All expenditures from this account are subject to appropriation and chapter 43.88 RCW.

All revenues received by the state treasurer under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with

respect to activities of the United States bureau of land management undertaken pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. Sec. 1001 et. seq.) shall be deposited in the geothermal account of the general fund immediately upon receipt.

NEW SECTION. Sec. 4. Distribution of funds from the geothermal account of the general fund shall be subject to the following limitations:

(1) Thirty percent to the department of natural resources for geothermal exploration and assessment;

(2) Thirty percent to the Washington state energy office or its statutory successor for the purpose of encouraging the development of geothermal energy; and

(3) Forty percent to the county of origin for mitigating impacts caused by geothermal energy exploration, assessment, and development.

NEW SECTION. Sec. 5. The state treasurer shall be responsible for distribution of funds to the county of origin. Each county's share of rentals and royalties from a lease including lands in more than one county shall be computed on the basis of the ratio that the acreage within each county has to the total acreage in the lease. The Washington state energy office or its statutory successor shall obtain the necessary information to make the distribution of funds on such a basis.

Sec. 6. Section 28A.40.100, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 4, Laws of 1981 and RCW 28A.40.100 are each amended to read as follows:

The common school construction fund is to be used exclusively for the purpose of financing the construction of facilities for the common schools. The sources of said fund shall be: (1) Those proceeds derived from sale or appropriation of timber and other crops from school and state land subsequent to June 30, 1965, other than those granted for specific purposes; (2) the interest accruing on the permanent common school fund from and after July 2, 1967, together with all rentals and other revenue derived therefrom and from land and other property devoted to the permanent common school fund from and after July 1, 1967; (3) all moneys received by the state from the United States under the provisions of section 191, Title 30, United States Code, Annotated, and under section 810, chapter 12, Title 16, (Conservation), United States Code, Annotated, except moneys received before June 30, 1991, under the Geothermal Steam Act of 1970 pursuant to section 3 of this 1981 act; and (4) such other sources as the legislature may direct. That portion of the common school construction fund derived from interest on the permanent common school fund may be used to retire such bonds as may be authorized by law for the purpose of financing the construction of facilities for the common schools.

The interest accruing on the permanent common school fund together with all rentals and other revenues accruing thereto pursuant to subsection

(2) of this section prior to July 1, 1967, shall be exclusively applied to the current use of the common schools.

To the extent that the moneys in the common school construction fund are in excess of the amount necessary to allow fulfillment of the purpose of said fund, the excess shall be available for deposit to the credit of the permanent common school fund or available for the current use of the common schools, as the legislature may direct. Any money from the common school construction fund which is made available for the current use of the common schools shall be restored to the fund by appropriation, including interest income foregone, before the end of the next fiscal biennium following such use.

NEW SECTION. Sec. 7. The legislature hereby appropriates one hundred forty-eight thousand dollars from the general fund of the state treasury to the department of natural resources for the purpose of exploration and assessment of geothermal energy within the state of Washington. The department of natural resources shall reimburse the general fund from its share of the revenues credited to the geothermal account up to one hundred forty-eight thousand dollars. Geothermal Steam Act revenues credited to the department's share of the geothermal account in excess of one hundred forty-eight thousand dollars shall be expended by the department of natural resources for the purpose of exploration and assessment of geothermal energy within the state of Washington.

NEW SECTION. Sec. 8. Sections 1 through 5 and 7 and 8 of this act shall terminate on June 30, 1991.

NEW SECTION. Sec. 9. Sections 1 through 5 and 7 and 8 of this act shall constitute a new chapter in Title 43 RCW.

Passed the House April 2, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 159

[House Bill No. 468]

EMPLOYMENT SECURITY DEPARTMENT—VETERANS, EMPLOYERS' AWARENESS SEMINARS—APPROPRIATION

AN ACT Relating to veterans' employment programs; making an appropriation; providing an effective date; and declaring an emergency.

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

NEW SECTION. Section 1. There is appropriated from the general fund for the biennium ending June 30, 1983, to the employment security department, the sum of ten thousand dollars, or so much thereof as may be

necessary, for the veterans service section of the employment security department to conduct employer awareness seminars to insure private employer knowledge and support for veterans' employment programs. These seminars shall be coordinated with the department of veterans affairs. At least one seminar shall have direct impact upon incarcerated veterans.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981.

Passed the House April 2, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 160

[Substitute House Bill No. 484]

COUNTY EMERGENCY SERVICES COMMUNICATION SYSTEMS (911)— TELEPHONE ACCESS LINE EXCISE TAX

AN ACT Relating to the funding of emergency telephone networks; and adding a new chapter to Title 82 RCW.

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

NEW SECTION. Section 1. The legislature finds that counties should be provided with an additional revenue source to fund emergency service communication systems on a county-wide basis. The legislature further finds that the most efficient and appropriate method of deriving additional revenue for this purpose is to vest the legislative authorities of the counties, subject to voter approval, with the power to impose an excise tax on the use of telephone access lines.

NEW SECTION. Sec. 2. As used in this chapter:

(1) "Emergency services communication system" means a county-wide radio or landline communications network, 911 telephone system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for police, fire, medical, or other emergency services.

(2) "Telephone access line" means the telephone service line which connects a subscriber's main telephone(s) or equivalent main telephone(s) to the telephone company's switching office.

(3) "Telephone company" has the meaning ascribed to it in RCW 80.04.010.

NEW SECTION. Sec. 3. The legislative authority of a county may impose an excise tax on the use of telephone access lines in an amount not exceeding fifty cents per month for each telephone access line. The amount of

tax shall be uniform for each telephone access line. This tax must be approved by a favorable vote of at least three-fifths of the electors thereof voting on the proposition, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty per centum of the total votes cast in the county at the last preceding general election when the number of electors voting on the proposition does not exceed forty per centum of the total votes cast in the county in the last preceding general election; or by a majority of at least three-fifths of the electors thereof voting on the proposition when the number of electors voting on the proposition exceeds forty per centum of the total votes cast in the county in the last preceding general election. This tax may be imposed for six years without subsequent voter approval. At any election held under this section, the ballot title of the proposition shall state the maximum monthly rate of the proposed tax which may be imposed by the county legislative authority. The actual rate of tax to be imposed shall be set by ordinance, which rate shall not exceed the maximum monthly rate approved by the electors.

No tax may be imposed under this section for more than one year before the expected implementation date of an emergency services communication system. The power granted under this section is in addition to any other authority which counties have to fund emergency services communication systems.

NEW SECTION. Sec. 4. A county imposing a tax under this chapter shall require collection of the tax from the user by the telephone company providing the access line. The telephone company shall state the amount of the tax separately on the billing statement which is sent to the user.

NEW SECTION. Sec. 5. The proceeds of any tax collected under this chapter shall be used by the county only for the emergency services communication system.

NEW SECTION. Sec. 6. A county legislative authority imposing a tax under this chapter shall establish by ordinance all necessary and appropriate procedures for the administration and collection of the tax, which ordinance shall provide for reimbursement to the telephone companies for actual costs of administration and collection of the tax imposed. The ordinance shall also provide that the due date for remittance of the tax collected shall be thirty days following the collection month.

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. Sections 1 through 6 of this act shall constitute a new chapter in Title 82 RCW.

Passed the House April 25, 1981.

Passed the Senate April 24, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 161

[House Bill No. 493]

DEEDS OF TRUST

AN ACT Relating to real property and deeds of trust; amending section 1, chapter 74, Laws of 1965 as amended by section 1, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.010; amending section 2, chapter 74, Laws of 1965 as amended by section 2, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.020; amending section 4, chapter 74, Laws of 1965 as last amended by section 4, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.040; amending section 7, chapter 74, Laws of 1965 and RCW 61.24.070; amending section 8, chapter 74, Laws of 1965 as amended by section 3, chapter 30, Laws of 1967 and RCW 61.24.080; amending section 9, chapter 74, Laws of 1965 as last amended by section 5, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.090; amending section 11, chapter 74, Laws of 1965 and RCW 61.24.110; and amending section 13, chapter 74, Laws of 1965 as amended by section 6, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.130.

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

Section 1. Section 1, chapter 74, Laws of 1965 as amended by section 1, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.010 are each amended to read as follows:

(1) The terms "record" and "recorded" as used in this chapter, shall include the appropriate registration proceedings, in the instance of registered land.

(2) The trustee of a deed of trust under this chapter shall be:

(a) Any domestic corporation (~~(or association authorized to engage in a trust business in this state)~~) incorporated under Title 23A, 30, 31, 32, or 33 RCW; or

(b) Any title insurance company authorized to insure title to real property under the laws of this state, or its agents; or

(c) Any attorney who is an active member of the Washington state bar association at the time he is named trustee~~((:))~~; or

(d) Any agency or instrumentality of the United States government; or

(e) Any national bank, savings bank, or savings and loan association chartered under the laws of the United States.

(3) (~~In the event of the death, incapacity or disability, or resignation of the trustee, the beneficiary may~~) The trustee shall resign at the request of the beneficiary and may resign at its own election. Upon the resignation, incapacity, disability, or death of the trustee, the beneficiary shall nominate in writing a successor trustee. Upon recording in the mortgage records of

the county or counties in which the trust deed is recorded, of the appointment of a successor trustee, the successor trustee shall be vested with all powers of the original trustee.

*** Sec. 2. Section 2, chapter 74, Laws of 1965 as amended by section 2, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.020 are each amended to read as follows:**

A deed conveying real property to a trustee in trust to secure the performance of an obligation of the grantor or another to the beneficiary may be foreclosed as in this chapter provided. The county auditor shall record such deed as a mortgage and shall index the name of the grantor as mortgagor and the names of the trustee and beneficiary as mortgagee. No person, corporation or association may be both trustee and beneficiary under the same deed of trust: PROVIDED, That any agency of the United States government may be both trustee and beneficiary under the same deed of trust.

*Sec. 2. was vetoed, see message at end of chapter.

Sec. 3. Section 4, chapter 74, Laws of 1965 as last amended by section 4, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.040 are each amended to read as follows:

A deed of trust (~~((may be foreclosed in the following manner))~~) foreclosed under this chapter shall be foreclosed as follows:

(1) At least ninety days before the sale, the trustee shall:

(a) Record a notice in the form hereinafter specified in RCW 61.24.040(1)(f) in the office of the auditor in each county in which the deed of trust is recorded;

(b) Cause a copy of the notice as hereinafter provided in RCW 61.24.040(1)(f)(;) to be transmitted by both first class and certified mail, return receipt requested, to each person who has an interest in or lien or claim of lien against the property or some part thereof, provided such interest, lien or claim is of record at the time the notice is recorded and further provided the address of such person is stated in the recorded instrument recording his interest, lien or claim, or is otherwise known to the trustee;

(c) Cause a copy of the notice as hereinafter provided in RCW 61.24.040(1)(f) to be transmitted by both first class and certified mail, return receipt requested, to the plaintiff or his attorney of record, in any court action to foreclose a lien or other encumbrance on all or any part of the property, provided a court action is pending and a lis pendens in connection therewith is on file on the date the notice is recorded in the office of the auditor;

(d) Cause a copy of the notice as hereinafter provided in RCW 61.24.040(1)(f) to be transmitted by both first class and certified mail, return receipt requested, to any person who shall have previously requested such notice in writing to the trustee, at the address specified by the requesting person;

(e) Cause a copy of the notice as hereinafter provided in RCW 61.24.040(1)(f) to be posted in a conspicuous place on said premises, or in lieu of posting, cause a copy of said notice to be served upon any occupant of said real property;

(f) The notice shall be in substantially the following form:

NOTICE OF TRUSTEE'S SALE

I.

NOTICE IS HEREBY GIVEN that the undersigned trustee will on the day of, 19.., at the hour of o'clock M. at [street address and location if inside a building] in the City of, State of Washington, sell at public auction to the highest and best bidder, payable at the time of sale, the following described real property, situated in the County of, State of Washington, to-wit:

which is subject to that certain deed of trust dated, 19.., recorded, 19.., ((in volume of Mortgages, at Page)) under Auditor's File No., ((mortgage)) records of County, Washington, from, as Grantor, to, as Trustee, to secure an obligation in favor of, as Beneficiary, the beneficial interest in which was assigned by, under an Assignment ((dated, 19.., and)) recorded under Auditor's File No.

II.

No action is now pending to seek satisfaction of the obligation in any Court by reason of the Grantor's default on the obligation secured by said deed of trust.

III.

The default for which this foreclosure is made is as follows:

[If default is for other than payment of money, set forth the particulars]

Failure to pay when due the following amounts which are now in arrears:

IV.

The sum owing on the obligation secured by the deed of trust is: Principal \$....., together with interest as in the note provided from the day of, 19.., and such other costs and fees as are provided by statute.

V.

The above-described real property will be sold to satisfy the expense of sale and the obligation secured by said Deed of Trust as provided by statute. Said sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the day of, 19... The defaults referred to in paragraph III must be cured by the day of, 19.., (((+θ)) 11 days before the sale date) to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time before the day of, 19.., (10 days before the sale) the default as set forth in paragraph III is cured and the Trustee's fees and costs are paid. The sale may be terminated by the grantor anytime after the day of, 19.., (((+θ)) 11 days before the sale date) and before the sale by the grantor or his successor in interest paying the principal and interest, plus costs ((and)), fees, and advances, if any, made pursuant to the terms of the obligation and/or deed of trust.

VI.

A written notice of default was transmitted by the Beneficiary or trustee to the grantor or his successor in interest at the following address:

.....
.....
.....

by both first class and certified mail on the day of, 19.., proof of which is in the possession of the trustee; ((or)) and the grantor or his successor in interest was personally served on the day of, 19.., with said written notice of default ((by the beneficiary or his trustee, and the trustee has in his possession proof of such service)) or the written notice of default was posted in a conspicuous place on the real property described in paragraph I above, and the trustee has in his possession proof of such service or posting.

VII.

The Trustee whose name and address is set forth below will provide in writing to anyone requesting it, a statement of all costs and fees due at any time prior to the sale.

VIII.

The effect of the sale will be to deprive the grantor and all those who hold by, through or under him of all their interest in the above-described property.

IX.

Anyone having any objection to the sale on any grounds whatsoever will be afforded an opportunity to be heard as to those objections if they bring a lawsuit to restrain the sale pursuant to RCW 61.24.130. Failure to bring such a lawsuit may result in a waiver of any proper grounds for invalidating the trustee's sale.

.....
..... } Trustee
..... }
..... } Address
..... }
..... } Phone

STATE OF WASHINGTON }
COUNTY OF } ss.

On this day personally appeared before me, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this day of, 19...

.....
NOTARY PUBLIC in and for the State of
Washington, residing at

[SEAL]

(2) In addition to providing the grantor or his successor in interest the notice as provided in RCW 61.24.040(1)(f), the trustee shall include with the copy of the notice (~~provided in RCW 61.24.040(1)(f))~~ which is mailed to the grantor or the grantor's successor in interest, a statement to the grantor or his successor in interest in substantially the following form:

NOTICE OF FORECLOSURE
Pursuant to the Revised Code of Washington,
Chapter 61.24 RCW, et seq.

The attached Notice of Trustee's Sale is a consequence of your default in your obligation to, the beneficiary of your Deed of Trust and holder of your Note. Unless you cure the default, your property will be sold at auction on the day of, 19...

Currently due to reinstate on.....	Estimated amount that will be due to reinstate on..... (11 days before the date set for sale)
---	--

Delinquent payments

from,

19.., in the

amount of

\$..... /mo.: \$..... \$.....

Late charges in

the total amount of: \$..... \$.....

	Estimated Amounts
--	----------------------

Attorneys' fees:	\$.....	\$.....
------------------	---------	---------

Trustee's fee:	\$.....	\$.....
----------------	---------	---------

Trustee's expenses:

(Itemization)

Title report	\$.....	\$.....
--------------	---------	---------

Recording fees	\$.....	\$.....
----------------	---------	---------

Service/Posting of Notices	\$.....	\$.....
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Postage/Copying expense	\$.....	\$.....
----------------------------	---------	---------

Publication	\$.....	\$.....
-------------	---------	---------

Telephone charges	\$.....	\$.....
-------------------	---------	---------

Inspection fees	\$.....	\$.....
-----------------	---------	---------

.....	\$.....	\$.....
-------	---------	---------

.....	\$.....	\$.....
-------	---------	---------

TOTALS	\$.....	\$.....
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You may reinstate your Note and Deed of Trust at any time up to and including the day of, 19.., ((10)) 11 days before the sale date) by paying the amount as set forth or estimated above. Of course, each month that passes brings another monthly payment due, and such monthly payment and any late charge must be added to your reinstating payment. In addition, because some of the charges can only be estimated at this time, and because the amount necessary to reinstate may include presently unknown expenditures required to preserve the property or to comply

with state or local law, it will be necessary for you to contact the trustee before the time you tender reinstatement so that you may be advised of the exact amount you will be required to pay. AFTER THE DAY OF, 19.., ((THE 80TH DAY));) YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND FEES AS OUTLINED ABOVE. In such a case, you will only be able to stop the sale by paying the total principal balance (\$) plus accrued interest, costs and advances, if any, made pursuant to the terms of the documents.

You may contest this default by initiating court action in the Superior Court of County. In such action, you may raise any legitimate defenses you have to this default. You may also contest this sale in court by initiating court action. A copy of your Note and Deed of Trust are enclosed. You may wish to consult a lawyer. Legal action on your part may prevent or restrain the sale, but only if you persuade the court of the merits of your defense.

If you do not reinstate your Note and Deed of Trust by paying the amount demanded here, or if you do not succeed in restraining the sale by court action, your property will be sold to satisfy your obligations. The effect of such sale will be to deprive you and all those who hold by, through or under you of all interest in the property;

(3) In addition the trustee shall cause a copy of the notice as provided in RCW 61.24.040(1)(f) to be published in a legal newspaper in each county in which the property or any part thereof is situated, once (~~weekly during the four weeks preceding the time of sale~~) between the thirty-second and twenty-eighth day before the date of sale, and once between the eleventh and seventh day before the date of sale;

(4) On the date and at the time designated in the notice of sale, the trustee or its authorized agent shall sell the property at public auction to the highest bidder. The trustee may sell the property in gross or in parcels as the trustee shall deem most advantageous;

(5) The place of sale shall be at any designated public place within the county where the property is located and if the property is in more than one county, the sale may be in either of the counties where the property is located. The sale shall be on (~~the day~~) Friday, or if Friday is a legal holiday on the following Monday, and during the hours set by statute for the conduct of sales of real estate at execution;

(6) The trustee may for any cause he deems advantageous continue the sale for a period or periods not exceeding a total of (~~thirty~~) one hundred twenty days by a public proclamation at the time and place fixed in the notice of sale. No other notice of the postponed sale need be given;

(7) The purchaser shall forthwith pay the price bid and on payment the trustee shall execute to the purchaser its deed; the deed shall recite the facts

showing that the sale was conducted in compliance with all of the requirements of this chapter and of the deed of trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value;

(8) The sale as authorized under this chapter shall not take place less than one hundred ninety days from the date of default in the obligation secured.

***Sec. 4. Section 7, chapter 74, Laws of 1965 and RCW 61.24.070 are each amended to read as follows:**

~~((The trustee may not bid at the trustee's sale.)) Any ((other)) person including the beneficiary under the deed of trust may bid at the trustee's sale.~~

***Sec. 4. was vetoed, see message at end of chapter.**

Sec. 5. Section 8, chapter 74, Laws of 1965 as amended by section 3, chapter 30, Laws of 1967 and RCW 61.24.080 are each amended to read as follows:

The trustee shall apply the proceeds of the sale as follows:

(1) To the expense of sale, including a reasonable charge by the trustee and by his attorney: PROVIDED, That the aggregate of the charges by the trustee and his attorney, for their services in the sale, shall not exceed the amount which would, by the superior court of the county in which the trustee's sale occurred, have been deemed a reasonable attorney fee, had the trust deed been foreclosed as a mortgage in a noncontested action in the said court;

(2) To the obligation secured by the deed of trust; and

(3) The surplus, if any, less the clerk's filing fee (~~((may))~~ shall be deposited together with a copy of the recorded notice of sale with the clerk of the superior court of the county in which the sale took place. The clerk shall index such funds under the name of the grantor as set out in the recorded notice. Upon depositing such surplus, the trustee shall be discharged from all further responsibilities therefor. Interests in, or liens or claims of liens against the property eliminated by sale under this section shall attach to such surplus in the order of priority that it had attached to the property. The clerk shall not disburse such surplus except upon order of the superior court of such county.

Sec. 6. Section 9, chapter 74, Laws of 1965 as last amended by section 5, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.090 are each amended to read as follows:

(1) At any time prior to the (~~((tenth))~~ eleventh) day before the date set by the trustee for the sale in the recorded notice of sale, or in the event the trustee continues the sale pursuant to RCW 61.24.040(6), at any time prior to the (~~((tenth))~~ eleventh) day before the actual sale, the grantor or his successor in interest, any beneficiary under a subordinate deed of trust or any person having a subordinate lien or encumbrance of record on the trust

property or any part thereof, shall be entitled to cause a discontinuance of the sale proceedings by curing the default or defaults set forth in the notice, which in the case of a default by failure to pay, shall be by paying to the trustee:

(a) The entire amount then due under the terms of the deed of trust and the obligation secured thereby, other than such portion of the principal as would not then be due had no default occurred, and

(b) The expenses actually incurred by the trustee enforcing the terms of the note and deed of trust, including a reasonable trustee's fee, (~~which is not to exceed twenty-five dollars at the time the notice of trustee's sale is given and is not to exceed fifty dollars forty days after the date of notice of trustee's sale is given and is not to exceed seventy-five dollars eighty days after the date of notice of trustee's sale is given;~~) together with the trustee's reasonable attorney's fees, together with costs of recording the notice of discontinuance of notice of trustee's sale. (~~In the event the property secured by the deed of trust is a single family dwelling the total of the trustee's fees and the attorney's fees shall not exceed two hundred fifty dollars without court approval.~~)

(2) Upon receipt of such payment the proceedings shall be discontinued, the deed of trust shall be reinstated and the obligation shall remain as though no acceleration had taken place.

(3) In the case of a default which is occasioned by other than failure to make payments, the person or persons causing the said default shall pay the expenses incurred by the trustee and the trustee's fees as set forth in subsection (1)(b) of this section.

(4) Any person having a subordinate lien of record on the trust property and who has cured the default or defaults pursuant to this section shall thereafter have included in his lien all payments made to cure any defaults, including interest thereon at eight percent per annum, payments made for trustees' costs and fees incurred as authorized herein, and his reasonable attorney's fees and costs incurred resulting from any judicial action commenced to enforce his rights to advances under this section.

(5) If the default is cured and the obligation and the deed of trust reinstated in the manner hereinabove provided, the trustee shall properly execute, acknowledge and cause to be recorded a notice of discontinuance of trustee's sale under such deed of trust. A notice of discontinuance of trustee's sale when so executed and acknowledged is entitled to be recorded and shall be sufficient if it sets (~~RCW 61.24.040(6), at any time prior to the tenth~~) forth a record of the deed of trust and the auditor's file number under which the deed of trust is recorded, and a reference to the notice of sale and the (~~book and page on~~) auditor's file number under which the (~~name~~) notice of sale is recorded, and a notice that such sale is discontinued.

Sec. 7. Section 11, chapter 74, Laws of 1965 and RCW 61.24.110 are each amended to read as follows:

The trustee shall reconvey all or any part of the property covered by the deed of trust to the person entitled thereto on written request of ~~((the grantor and))~~ the beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the beneficiary or the person entitled thereto.

Sec. 8. Section 13, chapter 74, Laws of 1965 as amended by section 6, chapter 129, Laws of 1975 1st ex. sess. and RCW 61.24.130 are each amended to read as follows:

(1) Nothing contained in this chapter shall prejudice the right of the grantor ~~((or))~~, his successor in interest, or any person who has an interest in, lien, or claim of lien against the property or some part thereof, to restrain, on any proper ground, a ~~((threatened))~~ trustee's sale ~~((by the trustee under a deed of trust))~~. In the event that the property secured by the deed of trust is a single family dwelling occupied by the grantor or his successor in interest, and the court finds that there is proper ground to restrain a ~~((threatened))~~ trustee's sale ~~((by the trustee under a deed of trust))~~, the court shall require the ~~((grantor or his successor in interest))~~ party seeking to restrain the sale to enter into a bond in at least the amount of two hundred fifty dollars with surety to the satisfaction of the clerk of the superior court to the adverse party affected thereby, conditioned to pay all damages and costs which may accrue by reason of the injunction or restraining order. In addition, the court shall require as a condition of continuing the restraining order that the ~~((grantor or his successors in interest))~~ party seeking to restrain the sale shall pay to the clerk of the court ~~((every thirty days the monthly payment of principal and interest))~~ the sums that would be due on the obligation secured by the deed of trust if the deed of trust was not being foreclosed. In the case of a default in making the monthly payment of principal and interest and reserves, such sums shall be the monthly payment of principal, interest, and reserves paid to the clerk of the court every thirty days.

(2) No court may grant a restraining order or injunction to restrain a trustee's sale unless the person seeking the restraint gives five days notice to the trustee and the beneficiary of the time when, place where, and the judge before whom the application for the restraining order or injunction is to be made. No judge may act upon such application unless it is accompanied by proof, evidenced by return of a sheriff, the sheriff's deputy, or by any person eighteen years of age or over who is competent to be a witness, that the notice has been served on the trustee.

(3) If the restraining order or injunction is dissolved after the date of the trustee's sale set forth in the notice as provided in RCW 61.24.040(1)(f) and after the period for continuing sale as allowed by RCW 61.24.040(6), the court granting such restraining order or injunction, or before whom the

order or injunction is returnable, has the right to set a new sale date which shall be not less than forty-five days from the date of the order dissolving the restraining order. At least thirty days before the new sale date, the trustee shall:

(a) Comply with the requirements of RCW 61.24.040(1)(a) through (f); and

(b) Cause a copy of the notice of trustee's sale as provided in RCW 61.24.040(1)(f) to be published once weekly during the three weeks preceding the time of sale in a legal newspaper in each county in which the property or any part thereof is situated.

Passed the House April 23, 1981.

Passed the Senate April 23, 1981.

Approved by the Governor May 14, 1981, with the exceptions of Sections 2 and 4 which are vetoed.

Filed in Office of Secretary of State May 14, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to Section 2 and Section 4 House Bill No. 493 entitled:

"AN ACT Relating to real property and deeds of trust."

Section 2 restates verbatim the current statute (RCW 61.24.020) and is therefore superfluous.

Section 4 strikes the following sentence from law: "The trustee may not bid at the trustee's sale." Striking this sentence is inconsistent with keeping RCW 61.24.020. I have therefore vetoed Section 4.

With the exceptions of Sections 2 and 4, which I have vetoed, the remainder of House Bill No. 493 is approved."

CHAPTER 162

[House Bill No. 502]

SESSION LAW PUBLICATIONS, BOUND, TEMPORARY VOLUMES—SALES PRICE

AN ACT Relating to the session laws of the state of Washington; amending section 4, chapter 150, Laws of 1941 as last amended by section 94, chapter 169, Laws of 1977 ex. sess. and RCW 40.04.040; amending section 4, chapter 136, Laws of 1907 as last amended by section 3, chapter 6, Laws of 1969 and RCW 44.20.040; making an appropriation; and declaring an emergency.

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

Section 1. Section 4, chapter 150, Laws of 1941 as last amended by section 94, chapter 169, Laws of 1977 ex. sess. and RCW 40.04.040 are each amended to read as follows:

Session laws shall be distributed, sold, and/or exchanged by the state law librarian as follows:

(1) Copies shall be given as follows: One to each United States senator and representative in congress from this state; six to the Library of Congress; one to each United States executive department as defined by section 1, title 5, of the United States Code; three to the United States supreme court library; three to the library of the circuit court of appeals of the ninth circuit; one to each United States district court room within this state; one to each office and branch office of the United States district attorneys in this state; one to each state official whose office is created by the Constitution; one to the judge advocate's office at Fort Lewis; one to each member of the legislature, session law indexer, secretary and assistant secretary of the senate, chief clerk and the assistant chief clerk of the house of representatives, the minute clerk and sergeant-at-arms of the two branches of the legislature of the sessions of which they occupied the offices and positions mentioned; one copy each to the Olympia representatives of the Associated Press and the United Press; two copies to the law library of the University of Puget Sound law school; two copies to the law library of Gonzaga University law school; and two copies to the law libraries of any accredited law schools as are hereafter established in this state.

(2) Copies, for official use only, shall be distributed as follows: One to each state department and to each division thereof; one to each state official whose office is created by the Constitution, except the governor who shall receive three copies; one each to the adjutant general, the state historical society, the state bar association, and to each state institution; one copy for each assistant attorney general who maintains his office in the attorney general's suite, and one additional copy for his stenographer's room; one copy to each prosecuting attorney and one for each of his deputies.

Sufficient copies shall be furnished for the use of the supreme court and the state law library as from time to time are needed. Eight copies shall be distributed to the University of Washington law library; one copy each to the offices of the president and the board of regents of the University of Washington, the dean of the University of Washington school of law, and to the University of Washington library; one copy to the library of each of the regional universities and to The Evergreen State College; one copy each to the president of the Washington State University and to the Washington State University library. Six copies shall be sent to the King county law library, and one copy to each of the county law libraries organized pursuant to law in the counties of the first, second, and third class; one copy to each public library in cities of the first class, and one copy to the municipal reference branch of the Seattle public library.

At the convening of each session of the legislature the state law librarian shall deliver to the chief clerk of the house of representatives twenty copies, and to the secretary of the senate, ten copies, of the laws of the preceding general session and of any intervening session for the use of the legislators

during the ensuing session but which shall be returned to the state law library at the expiration of the legislative session.

It shall be the duty of each county auditor biennially to submit to the state law librarian a list of county officers, including the prosecuting attorney and his regular full-time deputies and the justices of the peace and superior court rooms regularly used by a justice of the peace or superior court judge, and the correct number of bound copies of the session laws necessary for the official use only of such officers and court rooms will be sent, transportation collect, to said county auditor who shall be responsible for the distribution thereof to the county officials entitled to receive them.

(3) Surplus copies of the session laws shall be sold and delivered by the state law librarian, in which case the price of the bound volumes shall be (~~four~~) twenty dollars each. All moneys received from the sale of such bound volumes of session laws shall be paid into the state treasury for the general fund.

(4) The state law librarian is authorized to exchange bound copies of the session laws for similar laws or legal materials of other states, territories, and governments, and to make such other and further distribution of the bound volumes as in his judgment seems proper.

Sec. 2. Section 4, chapter 136, Laws of 1907 as last amended by section 3, chapter 6, Laws of 1969 and RCW 44.20.040 are each amended to read as follows:

The statute law committee, after each and every legislative session, whether regular or extraordinary, shall furnish one copy of each act as published to each member of the legislature at which such law was enacted, to each state officer, and to each state institution; five copies to each of the state educational institutions; and to each county auditor for the use of his county; twenty-five copies to the state law library; and such further distribution as may be necessary: PROVIDED, That there shall be a charge of (~~one~~) five dollars for each of the complete sets of such temporary publications when delivered to any person, firm, corporation, or institution excepting the persons and institutions named in this section, and all moneys received from the sale of such temporary sets shall be transmitted to the state treasurer who shall deposit the same in the state treasury to the credit of the general fund.

NEW SECTION. Sec. 3. There is hereby appropriated from the general fund to the statute law committee the sum of one hundred forty-four thousand two hundred and one dollars (\$144,201), or so much thereof as may be necessary, for the preparation, reproduction, printing, and mailing of the session laws of the Washington state legislature.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House March 30, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 163

[Substitute House Bill No. 525]

PUBLIC ASSISTANCE OVERPAYMENTS OBTAINED BY FRAUD—RECOVERY
AN ACT Relating to public assistance; and adding new sections to chapter 74.04 RCW.

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

NEW SECTION. Section 1. There is added to chapter 74.04 RCW a new section to read as follows:

(1) Any person who owes a debt to the state for an overpayment of public assistance obtained as a result of a wilfully false statement, or representation, or impersonation, or other fraudulent device, or wilful failure to reveal resources or income shall be notified of that debt by either personal service or certified mail, return receipt requested. Personal service, return of the requested receipt, or refusal by the debtor of such notice is proof of notice to the debtor of the debt owed. Service of the notice shall be in the manner prescribed for the service of a summons in a civil action. The notice shall include a statement of the debt owed; a statement that the property of the debtor will be subject to collection action after the debtor terminates from public assistance; a statement that the property will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a statement that the net proceeds will be applied to the satisfaction of the overpayment debt. Action to collect the debt by lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver, is lawful after ninety days from the debtor's termination from public assistance or the receipt of the notice of debt, whichever is later. This does not preclude the department from recovering fraudulent overpayments by deduction from subsequent assistance payments, not exceeding ten percent of each subsequent assistance payment.

(2) Any debtor who alleges defenses to the debt or disputes the stated amount of the debt has the right to request in writing a hearing pursuant to RCW 74.08.070. If no such request is made, the debt will be subject to collection action as authorized under this chapter. If a timely request is made, the execution of collection action on the debt shall be stayed pending the decision of the hearing or termination of the debtor from public assistance, whichever occurs later. The right to an appeal shall be governed by

RCW 74.08.070, 74.08.080, and the Administrative Procedure Act, chapter 34.04 RCW.

NEW SECTION. Sec. 2. There is added to chapter 74.04 RCW a new section to read as follows:

After service of a notice of debt for an overpayment as defined in RCW 74.04.300 as provided for in this chapter, stating the debt accrued, the secretary may issue to any person, firm, corporation, association, political subdivision, or department of the state, an order to withhold and deliver property of any kind including, but not restricted to, earnings which are 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, or department of the state property which is due, owing, or belonging to the debtor. The order to withhold and deliver shall state the amount of the debt, and shall state in summary the terms of this section, RCW 7.33.280, chapters 6.12 and 6.16 RCW, 15 U.S.C. 1673, and other state or federal exemption laws applicable generally to debtors. The order to withhold and deliver shall be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made shall answer the 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. The secretary may require further and additional answers to be completed by the person, firm, corporation, association, political subdivision, or department of the state. If any such person, firm, corporation, association, political subdivision, or department of the state possesses any property which may be subject to the claim of the department of social and health services, such property shall be withheld immediately upon receipt of the order to withhold and deliver and shall, after the twenty-day period, upon demand, be delivered forthwith to the secretary. The secretary shall hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be furnished to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability. Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, association, political subdivision, or department of the state subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary. Delivery to the secretary, subject to the exemptions under RCW 7.33.280, chapters 6.12 and 6.16 RCW, 15 U.S.C. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the secretary serves as full acquittance, and the state warrants and

represents that it shall defend and hold harmless for such actions persons delivering money or property to the secretary pursuant to this chapter. The state also warrants and represents that it shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter.

The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by certified mail 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 a hearing on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the mailing or service, the superior court, on 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.

NEW SECTION. Sec. 3. There is added to chapter 74.04 RCW a new section to read as follows:

If any person, firm, corporation, association, political subdivision, or department of the state fails to answer an order to withhold and deliver within the time prescribed in section 2 of this act, or fails or refuses to deliver property pursuant to the order, or after actual notice of filing of a lien as provided for in this chapter, pays over, releases, sells, transfers, or conveys real or personal property subject to such lien to or for the benefit of the debtor or any other person, or fails or refuses to surrender upon demand property distrained under section 2 of this act, or fails or refuses to honor an assignment of wages presented by the secretary, such person, firm, corporation, association, political subdivision, or department of the state is liable to the department 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 wages, together with costs, interest, and reasonable attorney fees.

NEW SECTION. Sec. 4. There is added to chapter 74.04 RCW a new section to read as follows:

Any person, firm, corporation, association, political subdivision, or department employing a person owing a debt for overpayment of public assistance received as defined in RCW 74.04.300, shall honor, according to its terms, a duly executed assignment of earnings presented to the employer by

the secretary as a plan to satisfy or retire an overpayment debt. This requirement to honor the assignment of earnings is applicable whether the earnings are to be paid presently or in the future and continues in force and effect until released in writing by the secretary. Payment of moneys pursuant to an assignment of earnings presented to the employer by the secretary serves as full acquittance under any contract of employment, and the state warrants and represents it shall defend and hold harmless such action taken pursuant to the assignment of earnings. The secretary is released from liability for improper receipt of moneys under assignment of earnings upon return of any moneys so received.

Passed the House April 2, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 164

[Substitute House Bill No. 532]

CHILD ABUSE—ENFORCEMENT—RECORDS AVAILABILITY

AN ACT Relating to social and health services; amending section 2, chapter 13, Laws of 1965 as last amended by section 25, chapter 80, Laws of 1977 ex. sess. and RCW 26.44.020; amending section 3, chapter 13, Laws of 1965 as last amended by section 26, chapter 80, Laws of 1977 ex. sess. and RCW 26.44.030; amending section 5, chapter 13, Laws of 1965 as last amended by section 51, chapter 291, Laws of 1977 ex. sess. and RCW 26.44.050; and amending section 6, chapter 35, Laws of 1969 ex. sess. as last amended by section 29, chapter 80, Laws of 1977 ex. sess. and RCW 26.44.070.

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

Section 1. Section 2, chapter 13, Laws of 1965 as last amended by section 25, chapter 80, Laws of 1977 ex. sess. and RCW 26.44.020 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 podiatry, optometry, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a child who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected child 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 worker" 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, 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) "Clergyman" shall mean any regularly licensed or ordained minister or any priest 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) "Child abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child by a person who is legally responsible for the child's welfare under circumstances which indicate that the child's health, welfare and safety is harmed thereby. An abused child is a child who has been subjected to child abuse or neglect as defined herein(~~("Negligent treatment or maltreatment" shall mean an act or omission which evinces a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare and safety)~~): PROVIDED, That this subsection shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare and safety.

(13) "Child protective services section" shall mean the child protective services section of the department.

(14) "Adult developmentally disabled persons not able to provide for their own protection through the criminal justice system" shall be defined as those persons over the age of eighteen years with developmental disabilities who have been found legally incompetent pursuant to chapter 11.88 RCW or found disabled to such a degree pursuant to said chapter, that such protection is indicated: PROVIDED, That no persons reporting injury, abuse

or neglect to an adult developmentally disabled person as defined herein shall suffer negative consequences if such a judicial determination of incompetency or disability has not taken place and the person reporting believes in good faith that the adult developmentally disabled person needs the protection offered by this chapter.

(15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by a person responsible for the child's welfare; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes as those acts are defined by state law by a person responsible for the child's welfare.

(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.

Sec. 2. Section 3, chapter 13, Laws of 1965 as last amended by section 26, chapter 80, Laws of 1977 ex. sess. and RCW 26.44.030 are each amended to read as follows:

(1) When any practitioner, professional school personnel, registered or licensed nurse, social worker, psychologist, pharmacist, or employee of the department of social and health services has reasonable cause to believe that a child or adult developmentally disabled person has suffered abuse or neglect, he shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(2) Any other person who has reasonable cause to believe that a child or adult developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040 as now or hereafter amended.

(3) The department (~~((or any law enforcement agency))~~) upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult developmentally disabled person who has died or has had physical injury or injuries inflicted upon him other than by accidental means or who has been subjected to sexual abuse shall report such incident to the proper (~~((county prosecutor for appropriate action))~~) law enforcement agency.

(4) Any law enforcement agency receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult developmentally disabled person who has died or has had physical injury or injuries inflicted upon him other than by accidental means, or who has been subjected to sexual abuse, shall report such incident to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime has been committed.

Sec. 3. Section 5, chapter 13, Laws of 1965 as last amended by section 51, chapter 291, Laws of 1977 ex. sess. and RCW 26.44.050 are each amended to read as follows:

Upon the receipt of a report concerning the possible occurrence of abuse or neglect, it shall be the duty of the law enforcement agency or the department of social and health services to investigate and provide the protective services section with a report in accordance with the provision of chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. Notwithstanding the provisions of RCW 13.04.130 as now or hereafter amended, the law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child or adult developmentally disabled person for the purpose of providing documentary evidence of the physical condition of the child or disabled person ~~((at the time the child or disabled person was taken into custody))~~.

Sec. 4. Section 6, chapter 35, Laws of 1969 ex. sess. as last amended by section 29, chapter 80, Laws of 1977 ex. sess. and RCW 26.44.070 are each amended to read as follows:

The department shall maintain a central registry of reported cases of child abuse or abuse of an adult developmentally disabled person and shall adopt such rules and regulations as necessary in carrying out the provisions of this section. Records in the central registry shall be considered confidential and privileged and will not be available except upon court order to any person or agency except (1) law enforcement agencies as defined in this chapter in the course of an investigation of alleged abuse or neglect; (2) ~~((to))~~ protective services workers or juvenile court personnel who are investigating reported ~~((incidences))~~ incidents of abuse or neglect; (3) department of social and health services personnel who are investigating the character and/or suitability of an agency and other persons who are applicants for licensure, registration, or certification, or applicants for employment with such an agency or persons, or under contract to or employed by an agency or persons directly responsible for the care and treatment of children, expectant mothers, or adult developmentally disabled persons pursuant to chapter 74.15 RCW; (4) department of social and health services personnel who are investigating the character or suitability of any persons with whom children may be placed under the interstate compact on the placement of children, chapter 26.34 RCW; (5) physicians who are treating the child or adult developmentally disabled person or family; ~~((4))~~ (6) any child or adult developmentally disabled person named in the registry who is alleged to be abused or neglected, or his or her guardian ad litem and/or

attorney; ~~((5))~~ (7) a parent, guardian, or other person legally responsible for the welfare and safety of the child or adult developmentally disabled person named in the registry; ~~((6))~~ (8) any person engaged in a bona fide research purpose, as determined by the department, according to rules and regulations, provided that information identifying the persons of the registry shall remain privileged; and ~~((7))~~ (9) any individual whose name appears on the registry shall have access to his own records. Those persons or agencies exempted by this section from the confidentiality of the records of the registry shall not further disseminate or release such information so provided to them and shall respect the confidentiality of such information, and any violation of this section shall constitute a misdemeanor.

Passed the House March 27, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 165

[House Bill No. 620]

STATE PATROL—DISABILITY, LINE DUTY

AN ACT Relating to the state patrol; amending section 43.43.040, chapter 8, Laws of 1965 as amended by section 1, chapter 20, Laws of 1973 2nd ex. sess. and RCW 43.43.040; providing an effective date; and declaring an emergency.

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

Section 1. Section 43.43.040, chapter 8, Laws of 1965 as amended by section 1, chapter 20, Laws of 1973 2nd ex. sess. and RCW 43.43.040 are each amended to read as follows:

(1) The chief of the Washington state patrol shall relieve from active duty Washington state patrol officers who, while in the performance of their official duties, or while on standby or available for duty, have been or hereafter may be injured or incapacitated to such an extent as to be mentally or physically incapable of active service: PROVIDED, That: ~~((+))~~

(a) Any officer disabled while performing line duty who is found by the chief to be physically incapacitated shall be placed on disability leave for a period not to exceed six months from the date of injury or the date incapacitated. During this period, the officer shall be entitled to all pay, benefits, insurance, leave, and retirement contributions awarded to an officer on active status, less any compensation received through the department of labor and industries. No such disability leave shall be approved until an officer has been unavailable for duty for more than five consecutive work days. Prior to the end of the six-month period, the chief shall either place the officer on disability status or return the officer to active status.

For the purposes of this section, "line duty" is active service which encompasses the traffic law enforcement duties and/or other law enforcement

responsibilities of the state patrol. These activities encompass all enforcement practices of the laws, accident and criminal investigations, or actions requiring physical exertion or exposure to hazardous elements.

The chief shall define by rule the situations where a disability has occurred during line duty;

(b) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the officer receives or is entitled to receive from workmen's compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability(~~(: AND PROVIDED FURTHER, That)~~);

(c) An officer injured while engaged in wilfully tortious or criminal conduct shall not be entitled to disability benefits under this section(~~(:)~~); and

~~((2))~~ (d) Should a disability beneficiary whose disability was not incurred in line of duty, prior to attaining age fifty, engage in a gainful occupation, the chief shall reduce the amount of his retirement allowance to an amount which when added to the compensation earned by him in such occupation shall not exceed the basic salary currently being paid for the rank the retired officer held at the time he was disabled. All such disability beneficiaries under age fifty shall file with the chief every six months a signed and sworn statement of earnings and any person who shall knowingly swear falsely on such statement shall be subject to prosecution for perjury. Should the earning capacity of such beneficiary be further altered, the chief may further alter his disability retirement allowance as indicated above. The failure of any officer to file the required statement of earnings shall be cause for cancellation of retirement benefits.

~~((Such))~~ (2) Officers on disability status shall receive one-half of their compensation at the existing wage, during the time the disability continues in effect, less any compensation received through the department of labor and industries. They shall be subject to mental or physical examination at any state institution or otherwise under the direction of the chief of the patrol at any time during such relief from duty to ascertain whether or not they are able to resume active duty.

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.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect January 1, 1981.

Passed the House April 24, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 166

[Second Substitute House Bill No. 628]

STATE RESIDENTIAL SCHOOLS—COMMUNITY PLACEMENT, RESIDENTS

AN ACT Relating to residential schools; amending section 72.33.160, chapter 28, Laws of 1959 as last amended by section 6, chapter 246, Laws of 1975 1st ex. sess. and RCW 72.33.160; adding a new section to chapter 72.33 RCW; providing an effective date; and providing an expiration date.

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

*Section 1. Section 72.33.160, chapter 28, Laws of 1959 as last amended by section 6, chapter 246, Laws of 1975 1st ex. sess. and RCW 72.33.160 are each amended to read as follows:

(1) Whenever in the judgment of the secretary, the treatment and training of any resident of a state residential school listed in RCW 72.33.030 has progressed to the point that it is deemed advisable to return such resident to the community, the secretary may, subject to this section, grant placement on such terms and conditions as ((he)) the secretary may deem advisable after ((reasonable)) at least thirty-day notice to and consultation with the resident and the available parents, guardian, or other court-appointed personal representative of such person, and with ((any)) the consent of the available parents, guardian, or other court-appointed personal representative of such person. If the available parent, guardian, or other court-appointed personal representative of the resident refuses to consent within twenty-five days after being provided notice, the secretary may petition the court to waive the requirement for consent. The court, after a hearing, may waive the requirement for consent if the secretary proves that it is in the best interests of the resident to be returned to the community and that the department has complied with subsection (2) of this section. If the secretary does not prevail, the department shall pay any attorney fees and costs. The parties, by agreement, may submit to arbitration instead of a court hearing.

(2) The secretary shall not make a placement unless:

(a) An assessment of the resident's physical, psychological, and emotional condition, the resident's daily living skills, and the precise services which the resident will need in the community to continue progress in habilitation is made;

(b) A determination is made that the services that the resident would need in the community placement to continue progress in habilitation would be available to the resident upon placement;

(c) A habilitation plan for the resident is prepared within ninety days before placement; and

(d) The placement conforms to the standards prescribed under 42 U.S.C. 1396 d (c) for institutions for the mentally retarded, as such standards exist on the effective date of this 1981 act but only as long as they remain unchanged.

(3) The department of social and health services shall periodically evaluate at reasonable intervals the adjustment of the resident to the placement to determine whether the resident should be continued in the placement or returned to the institution or given a different placement. A copy of the evaluation shall be provided to the resident's parents, if their location is known, or to the guardian or other court-appointed personal representative of the resident.

This section shall expire on June 30, 1983.

*Section 1. was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 2. There is added to chapter 72.33 RCW a new section to read as follows:

Whenever in the judgment of the secretary, the treatment and training of any resident of a state residential school has progressed to the point that it is deemed advisable to return such resident to the community, the secretary may grant placement on such terms and conditions as the secretary may deem advisable after reasonable notice to and consultation with the resident, and with any available parent, guardian, or other court-appointed personal representative of such person.

The department of social and health services shall periodically evaluate at reasonable intervals the adjustment of the resident to the placement to determine whether the resident should be continued in the placement or returned to the institution or given a different placement.

****NEW SECTION. Sec. 3. It is the intent of the legislature that parental consent will not adversely affect the populations of institutions because the department will limit admission accordingly.***

*Sec. 3. was vetoed, see message at end of chapter.

NEW SECTION. Sec. 4. Section 2 of this act shall take effect July 1, 1983.

Passed the House April 24, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981, with the exceptions of Section 1 (1) and Section 3, which are vetoed.

Filed in Office of Secretary of State May 14, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to Section 1 (1), and Section 3 Second Substitute House Bill No. 628 entitled:

"AN ACT Relating to residential schools."

This bill would establish a special procedure for deinstitutionalizing mentally retarded residents of the state residential schools for the next two years.

I am very sensitive to the concerns of the parents who advocated the passage of this bill. The changes that have come about in recent years in the treatment of the mentally retarded have been controversial and often upsetting to those most closely involved, both lay and professional.

I am not convinced, however, that the procedure for decision-making and appeal outlined in Section 1 (1) is going to solve the problem — and it may raise other problems. I am willing, though, to ask for a "trial run." I have therefore directed Alan J. Gibbs, Secretary of the Department of Social and Health Services, to freeze disputed placements for a period of six months. I have also directed him to examine placement practices during this period and report to me prior to the next legislative session.

For the reasons outlined above, I have vetoed Section 1 (1) and Section 3. The remainder of Second Substitute House Bill No. 628 is approved."

CHAPTER 167

[Substitute House Bill No. 648]

REAL ESTATE EXCISE TAX—ADMINISTRATION—DELINQUENT PAYMENTS, INTEREST, PENALTIES—AFFIDAVIT FORM

AN ACT Relating to real estate excise taxes; amending section 28A.45.120, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 134, Laws of 1980 and RCW 28A.45.120; amending section 5, chapter 154, Laws of 1980 and RCW 82.45.150; amending section 6, chapter 154, Laws of 1980 and RCW 82.45.180; adding a new section to chapter 82.45 RCW; and providing an effective date.

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

Section 1. Section 5, chapter 154, Laws of 1980 and RCW 82.45.150 are each amended to read as follows:

All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.040, 82.32.050, 82.32.140, and 82.32.270 and except for the penalties and the limitations thereon imposed by RCW 82.32.090, applies to the tax imposed by this chapter, in addition to any other provisions of law for the payment and enforcement of the tax imposed by this chapter. The department of revenue shall by rule provide for the effective administration of this chapter. (~~The rules shall specify the form and content of an affidavit to be filed with the county treasurer by the seller.~~) The rules shall also include a manual which defines transactions which are taxable under this chapter. The department of revenue shall annually conduct (~~a random~~) audits of (~~taxable~~) transactions and affidavits filed under this chapter.

NEW SECTION. Sec. 2. There is added to chapter 82.45 RCW a new section to read as follows:

(1) The tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within thirty days thereafter shall bear

interest at the rate of one percent per month from the time of sale until the date of payment.

(2) 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 as provided in subsection (1) of this section. If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable under this chapter, a penalty of fifty percent of the additional tax found to be due shall be added.

Sec. 3. Section 6, chapter 154, Laws of 1980 and RCW 82.45.180 are each amended to read as follows:

The county treasurer shall place one percent of the proceeds of the tax imposed by this chapter in the county current expense fund to defray costs of collection and shall pay over to the state treasurer and account to the department of revenue for the remainder of the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. The state treasurer shall deposit the proceeds in ~~((a special account in))~~ the general fund ~~((, hereby created. All funds in said special account shall be used exclusively))~~ for the support of the common schools.

NEW SECTION. Sec. 4. This act shall take effect September 1, 1981.

Sec. 5. Section 28A.45.120, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 134, Laws of 1980 and RCW 28A.45.120 are each amended to read as follows:

The department of revenue is authorized and shall prescribe minimum standards for uniformity in reporting, application, and collection of the real estate excise tax imposed by this chapter.

The department of revenue shall also prescribe a real estate excise tax affidavit form which shall ~~((contain, at least;))~~ require the following:

- (1) Identification of the seller and purchaser;
- (2) Description of the property involved including the tax parcel or account number(s);
- (3) Date of sale, type of instrument of sale, nature of transfer;
- (4) Gross sales price;
- (5) Whether or not the land is classified or designated as forest land under chapter 84.33 RCW; or classified as open space land, farm and agricultural land, or timberland under chapter 84.34 RCW; ~~((and))~~ or at the time of sale exempt from property tax under chapter 84.36 RCW;
- (6) ~~((Signatures of both the buyer and seller, under oath))~~ Whether or not the property is land only, land with new building (new construction), or land with a previously used building; and
- (7) The following questions, the responses to which are not required:
 - (a) Is this property at the time of sale subject to an elderly, disability, or physical improvement exemption?

(b) Does any building have a heat pump or solar heating or cooling system?

(c) Does this transaction divide a current parcel of land?

(d) Does this transaction include current crops or merchantable timber?

(e) Does this transaction involve a trade, a partial interest, corporate affiliates, related parties, a trust, a receivership, or an estate?

(f) Is the grantee acting as a nominee for a third party?

(g) Is the principal use of the land agricultural, apartments (four or more units), commercial, condominium, industrial, mobile home site, recreational, residential, or growing timber?

The affidavit form shall contain a statement of the potential compensating and additional tax liability under chapters 84.33 and 84.34 RCW, a statement of the collection of taxes under RCW 84.36.262 and 84.36.810, and a statement of the applicable penalties for perjury under chapter 9A.72 RCW.

Each county shall use the affidavit form prescribed and furnished by the department of revenue.

The affidavit shall be signed by either the seller or the buyer, or the agent of either, under oath attesting to all required information.

Passed the House April 26, 1981.

Passed the Senate April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 168

[Substitute House Bill No. 667]

SCHOOLS, EXCESS LEVY LIMITATION—AUTHORITY TO EXCEED, PHASEOUT

AN ACT Relating to school district excess levies; and amending section 4, chapter 325, Laws of 1977 ex. sess. as amended by section 1, chapter 172, Laws of 1979 ex. sess. and RCW 84.52.0531.

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

Section 1. Section 4, chapter 325, Laws of 1977 ex. sess. as amended by section 1, chapter 172, Laws of 1979 ex. sess. and RCW 84.52.0531 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 as follows:

(1) (~~For excess levies in 1977 for collection in 1979, for excess levies in 1978 for collection in 1979, for excess levies in 1978 for collection in 1980, and for excess levies in 1979 for collection in 1980, the sum of:~~

~~(a) That amount equal to ten percent of each school district's prior year basic education allocation converted to one hundred percent of formula; plus~~

~~(b) That amount equal to each school district's prior year basic education allocation converted to one hundred percent of formula minus each school district's basic education allocation for such school year.~~

~~(2))~~ For excess levies in 1979 for collection in 1981, for excess levies in 1980 for collection in 1981 and thereafter, the sum of:

(a) That amount equal to ten percent of each school district's prior year basic education allocation converted to one hundred percent of formula; plus

(b) That amount equal to each school district's prior year basic education allocation converted to one hundred percent of formula minus each school district's basic education allocation for such school year; plus

(c) That amount equal to ten percent of each school district's prior year state allocation, exclusive of federal funds, for the following programs:

(i) Pupil transportation;

(ii) Handicapped education costs;

(iii) Gifted; and

(iv) Compensatory education, including but not limited to remediation assistance, bilingual education, and urban, rural, racial disadvantaged programs.

~~((3))~~ (2) Excess levies authorized under this section or under RCW 84.52.052 shall not be used directly or indirectly to increase the average salary or fringe benefits for certificated or classified personnel in any school district: PROVIDED, That any school district may expend excess levy funds to provide increases in salary and fringe benefits for classified or certificated personnel whose salary and fringe benefits are provided wholly from local school district excess levies in a percentage not to exceed the respective average percentage increases in the salary and fringe benefit levels for classified and certificated employees of the district funded with state appropriated funds: PROVIDED FURTHER, That those contracts which have been negotiated prior to July 1, 1977 by those school districts for such school year shall not be abrogated by this section. "Fringe benefits" for purposes of this subsection shall include:

(a) Employer retirement contributions, if applicable;

(b) Health and insurance payments including life, accident, disability, unemployment compensation, and workmen's compensation; and

(c) Employer social security contributions.

~~((4))~~ (3) Any school district whose average base compensation for certificated or classified personnel respectively is below state-wide average base compensation level for certificated or classified personnel during the preceding school year, may collect and expend property taxes authorized by this section, or under RCW 84.52.052, for the purpose of increasing such

district's average compensation for certificated or classified personnel as allowed in the latest applicable state operating budget. "Compensation", for purposes of this subsection, shall mean salary plus fringe benefits for classified and certificated personnel of a school district as allowed in the latest applicable state operating budget.

~~((5))~~ (4) For the purpose of this section, the basic education allocation shall be determined pursuant to RCW 28A.41.130, 28A.41.140, and 28A.41.145, as now or hereafter amended: PROVIDED, That when determining the basic education allocation under subsection~~((s))~~ (1) ~~((and (2)))~~ of this section, effective September 1, 1979, nonresident full time equivalent pupils who are participating in a program provided for in chapter 28A.44 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.

Certificated personnel shall include those persons employed by a school district in a teaching, instructional, administrative or supervisory capacity and who hold positions as certificated personnel as defined under RCW 28A.01.130, as now or hereafter amended, and every school district superintendent, and any person hired in any manner to fill a position designated as, or which is in fact, that of deputy superintendent or assistant superintendent. Classified personnel shall include those persons employed by a school district other than certificated personnel as defined in this section in a capacity for which certification is not required.

(5) Any district which is qualified to exceed the maximum dollar amount permitted under subsection (1) of this section during calendar year 1982 is authorized to exceed the levy limitations imposed by subsection (1) for taxes to be collected during calendar years 1983 through 1990 as follows:

(a) The dollar amount of levy qualification for taxes to be collected in 1983 shall be the same as the maximum qualification for 1982.

(b) For every district which qualifies to exceed the limitations in subsection (1) of this section during calendar year 1982, a "base year levy percentage" shall be established. This levy percentage shall be equal to the percent a district's levy qualification during calendar year 1982 is of the prior 1980-81 school fiscal year's basic education allocation and state allocation for categorical programs.

(c) The base year levy percentage shall be reduced in even increments beginning in calendar year 1984. The incremental reduction shall equal one-seventh of the percentage points the base year levy percentage exceeds the amount authorized in subsection (1) of this section.

(d) For excess levies to be collected in calendar year 1990, the maximum dollar amount which may be levied by or for any school district shall not exceed the amount authorized in subsection (1) of this section. The

provisions of this subsection shall not apply to excess levies to be collected after calendar year 1990.

(6) For the purpose of subsection((s)) (1) (~~(and (2))~~) of this section, the superintendent of public instruction may grant local school districts authority to exceed the levy limitations imposed by said subsections: PROVIDED, That said limitations can only be exceeded by an amount that will insure local school districts the ability to raise a total excess levy dollar amount per annual average full time equivalent student which when combined with the basic education allocation is equal to but does not exceed (~~(one hundred and four percent for levies to be collected in 1979; and)~~) one hundred and six percent for levies to be collected in 1980 and thereafter of the previous school year's comparable dollars per annual average full time equivalent student: PROVIDED FURTHER, That for levies to be collected in 1980 and thereafter any school district receiving authority to exceed the levy limitation and whose enrollment is declining at a rate of at least four percent, or three hundred full time equivalent students, whichever is less, from the immediately preceding school year, may, in addition to the increase above, further increase its levy by an amount equal to fifty percent of the enrollment decline multiplied by the previous school year's comparable dollars per annual full time equivalent student. The provisions of this subsection (6) shall only apply to excess levies for collection prior to calendar year 1983.

(7) 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.

Passed the House April 24, 1981.

Passed the Senate April 15, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 169

[House Bill No. 692]

WATER, SEWER DISTRICTS—BOARD VACANCIES, FILLING OF

AN ACT Relating to certain district commissioners; amending section 3, chapter 18, Laws of 1959 as amended by section 14, chapter 188, Laws of 1975 1st ex. sess. and RCW 57.12-.020; and amending section 8, chapter 210, Laws of 1941 as last amended by section 9, chapter 250, Laws of 1953 and RCW 56.12.030.

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

Section 1. Section 3, chapter 18, Laws of 1959 as amended by section 14, chapter 188, Laws of 1975 1st ex. sess. and RCW 57.12.020 are each amended to read as follows:

Nominations for the first board of commissioners to be elected at the election for the formation of the water district shall be by petition of at

least twenty-five percent of the qualified electors of the district, or twenty-five of the qualified electors of the district, whichever is lesser, filed in the auditor's office of the county in which the district is located, at least thirty days prior to the election. Thereafter, candidates for the office of water commissioners shall file declarations of candidacy and their election shall be conducted as provided by the general election laws. A vacancy or vacancies on the board shall be filled by appointment by the remaining commissioner or commissioners until the next regular election for commissioners: PROVIDED, That if there are two vacancies on the board, one vacancy shall be filled by appointment by the remaining commissioner and the one remaining vacancy shall be filled by appointment by the then two commissioners and said appointed commissioners shall serve until the next regular election for commissioners: PROVIDED FURTHER, That if there is a vacancy of the entire board a new board may be appointed by the board of county commissioners.

Any person residing in the district who is a qualified voter under the laws of the state may vote at any district election.

Sec. 2. Section 8, chapter 210, Laws of 1941 as last amended by section 9, chapter 250, Laws of 1953 and RCW 56.12.030 are each amended to read as follows:

Nominations for the first board of commissioners to be elected at the election for the formation of the sewer district shall be by petition of fifty qualified electors or ten percent of the qualified electors of the district, whichever is the smaller. The petition shall be filed in the auditor's office of the county in which the district is located at least thirty days before the election. Thereafter candidates for the office of sewer commissioner shall file declarations of candidacy and their election shall be conducted as provided by the general elections laws. A vacancy or vacancies shall be filled by appointment by the remaining commissioner or commissioners until the next regular election for commissioners: PROVIDED, That if there are two vacancies on the board, one vacancy shall be filled by appointment by the remaining commissioner and the one remaining vacancy shall be filled by appointment by the then two commissioners and said appointed commissioners shall serve until the next regular election for commissioners: PROVIDED FURTHER, That if there is a vacancy of the entire board a new board may be appointed by the board of county commissioners. Any person residing in the district who is at the time of election a qualified voter may vote at any election held in the sewer district.

All expense of elections for the formation or reorganization of a sewer district shall be paid by the county in which the election is held and the expenditure is hereby declared to be for a county purpose, and the money paid

for that purpose shall be repaid to the county by the district if formed or reorganized.

Passed the House April 2, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 170

[House Bill No. 707]

WATER SUPPLY FACILITIES (REFERENDUM 38)—1980 BOND ISSUE— APPROPRIATION

AN ACT Relating to domestic, municipal, and industrial water supply facilities; making an appropriation; and declaring an emergency.

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

NEW SECTION. Section 1. There is appropriated from the state and local improvements revolving account—water supply facilities (Referendum 38) of the general fund, to the department of social and health services for the biennium ending June 30, 1981, the sum of ten million dollars, or so much thereof as may be necessary, to administer and carry out the purposes of RCW 43.99E.020 and 43.99E.025. This appropriation is made out of the proceeds of bonds issued under chapter 43.99E RCW (Referendum 38).

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

Passed the House April 2, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 171

[House Bill No. 727]

FOREST LAND FIRE PROTECTION—ASSESSMENT RATE

AN ACT Relating to assessment of forest lands for fire protection and suppression purposes; amending section 1, chapter 102, Laws of 1977 ex. sess. and RCW 76.04.360; and declaring an emergency.

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

Section 1. Section 1, chapter 102, Laws of 1977 ex. sess. and RCW 76.04.360 are each amended to read as follows:

If any owner of forest land neglects or fails to provide adequate fire protection therefor as required by RCW 76.04.350, the department shall

provide such protection therefor, notwithstanding the provisions of RCW ((76.04.520)) 76.04.515, at a cost to the owner of not to exceed ((eighteen)) twenty cents an acre per year on lands west of the summit of the Cascade mountains and ((fourteen)) sixteen cents an acre per year on lands east of the summit of the Cascade mountains.

For the purpose of chapter 76.04 RCW, the supervisor may divide the forest lands of the state, or any part thereof, into districts, for patrol and assessment purposes, may classify lands according to the character of timber prevailing, and the fire hazard existing, and place unprotected lands under the administration of the proper district. Such cost must be justified by a showing of budgets on demand of twenty-five owners of forest land in the county concerned at public hearing. Any amounts paid or contracted to be paid by the supervisor of the department of natural resources for this purpose from any funds at his disposal shall be a lien upon the property patrolled and protected, and unless reimbursed by the owner within ten days after October 1st of the year in which they were incurred, on which date the supervisor of the department of natural resources shall be prepared to make statement thereof upon request to any forest owner whose own protection has not been previously approved by him as adequate, shall be reported by the supervisor of the department of natural resources to the assessor of the county in which the property is situated who shall extend the amounts upon the tax rolls covering the property, or the county assessor ((may)) shall upon authorization from the supervisor of the department of natural resources levy the forest patrol assessment against the amounts of unimproved land as shown in each ownership on the county assessor's records and the assessor may then segregate on his records to provide that the improved land and improvements thereon carry the millage levy designed to support the rural fire protection districts as provided for in chapter 52.04 RCW.

The amounts assessed shall be collected at the time, in the same manner, by the same procedure, and with the same penalties attached that the next general state and county taxes on the same property are collected, except that errors in assessments may be corrected at any time by the supervisor of the department of natural resources certifying them to the treasurer of the county in which the land involved is situated. Upon the collection of such assessments the county treasurer shall transmit them to the supervisor of the department of natural resources to be applied against expenses incurred in carrying out the provisions of this section.

The supervisor of the department of natural resources shall ((include in)) add to the assessment a sum not to exceed ((one-half of)) one cent per acre, to cover the necessary and reasonable ((cost of office and clerical work incurred)) administrative costs incurred by the department in the enforcement of these provisions. He may also expend any sums collected from

owners of forest lands or received from any other source for necessary (~~office and clerical expense~~) administrative costs in connection with the enforcement of RCW 76.04.370.

When land against which forest patrol assessments are outstanding is acquired for delinquent taxes and sold at public auction, the state shall have a prior lien on the proceeds of sale over and above the amount necessary to satisfy the county's delinquent tax judgment, and the county treasurer in case the proceeds of sale exceed the amount of the delinquent tax judgment shall forthwith remit to the supervisor of the department of natural resources the amount of the outstanding patrol assessments.

All public bodies owning or administering forest lands shall pay the forest patrol assessments provided in this section and the special forest fire suppression account assessments under RCW 76.04.515. The forest patrol assessments and special forest fire suppression account assessments shall be payable by public bodies from any available funds within thirty days following receipt of the written notice from the department which is given after October 1st of the year in which the protection was provided. Unpaid assessments shall not be a lien against the publicly owned land but shall constitute a debt by the public body to the department and shall be subject to interest charges in the same amount as other unpaid forest patrol assessments.

A public body, having failed to previously pay forest patrol assessments required of it by this section, which fails to suppress a fire on or originating from forest lands owned or administered by it shall be liable for the costs of suppression incurred by the department or its agent and shall not be entitled to reimbursement of any costs incurred by the public body in the suppression activities.

The supervisor of the department of natural resources shall furnish the surety company bond under RCW 43.30.170(6), conditioned for the faithful performance of his duties and for a faithful accounting for all sums received and expended thereunder, which bond shall be approved by the attorney general.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, shall take effect immediately, and the assessments provided for in section 1 of this amendatory act shall be payable in 1982 and thereafter.

Passed the House April 24, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 172

[Substitute House Bill No. 753]

EXCISE TAXES—PAYMENT DUE DATES—ALUMINUM MANUFACTURERS,
BUSINESS AND OCCUPATION TAX

AN ACT Relating to revenue and taxation; amending section 82.04.240, chapter 15, Laws of 1961 as last amended by section 1, chapter 196, Laws of 1979 ex. sess. and RCW 82.04.240; amending section 82.04.250, chapter 15, Laws of 1961 as last amended by section 4, chapter 281, Laws of 1971 ex. sess. and RCW 82.04.250; amending section 82.04.260, chapter 15, Laws of 1961 as last amended by section 2, chapter 196, Laws of 1979 ex. sess. and RCW 82.04.260; amending section 82.04.270, chapter 15, Laws of 1961 as last amended by section 6, chapter 281, Laws of 1971 ex. sess. and RCW 82.04.270; amending section 82.04.440, chapter 15, Laws of 1961 as last amended by section 16, chapter 149, Laws of 1967 ex. sess. and RCW 82.04.440; amending section 82.24.020, chapter 15, Laws of 1961 as last amended by section 3, chapter 157, Laws of 1972 ex. sess. and RCW 82.24.020; amending section 1, chapter 7, Laws of 1981 and RCW 82.32.____; amending section 82.32.090, chapter 15, Laws of 1961 as last amended by section 2, chapter 7, Laws of 1981 and RCW 82.32.090; amending section 5, chapter 7, Laws of 1981 (uncodified); adding a new section to chapter 82.04 RCW; repealing section 82.04.275, chapter 15, Laws of 1961, section 12, chapter 149, Laws of 1967 ex. sess. and RCW 82.04.275; providing effective dates; and declaring an emergency.

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

Section 1. Section 82.04.240, chapter 15, Laws of 1961 as last amended by section 1, chapter 196, Laws of 1979 ex. sess. and RCW 82.04.240 are each amended to read as follows:

Upon every person except persons taxable under subsections (2), (3), (4), (5), ~~((6))~~ (7), (8), or ~~(9)((-or-(10)))~~ of RCW 82.04.260 engaging within this state in business as a manufacturer; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including byproducts, manufactured, multiplied by the rate of forty-four one-hundredths of one percent.

The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.

Sec. 2. Section 82.04.250, chapter 15, Laws of 1961 as last amended by section 4, chapter 281, Laws of 1971 ex. sess. and RCW 82.04.250 are each amended to read as follows:

Upon every person except persons taxable under ~~((subsection (9) of))~~ RCW 82.04.260(8) engaging within this state in the business of making sales at retail, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of forty-four one-hundredths of one percent.

Sec. 3. Section 82.04.260, chapter 15, Laws of 1961 as last amended by section 2, chapter 196, Laws of 1979 ex. sess. and RCW 82.04.260 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of buying wheat, oats, dry peas, corn, rye and barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of one one-hundredth of one percent.

(2) Upon every person engaging within this state in the business of manufacturing wheat into flour, soybeans into soybean oil, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour or oil manufactured, multiplied by the rate of one-eighth of one percent.

(3) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of one-quarter of one percent.

(4) Upon every person engaging within this state in the business of manufacturing seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of one-eighth of one percent.

(5) Upon every person engaging within this state in the business of manufacturing by canning, preserving, freezing or dehydrating fresh fruits and vegetables; as to such persons the amount of tax with respect to such business shall be equal to the value of the products canned, preserved, frozen or dehydrated multiplied by the rate of three-tenths of one percent.

~~(6) ((Upon every person engaging within this state in the business of manufacturing aluminum pig, ingot, billet, plate, sheet (flat or coiled), rod, bar, wire, cable or extrusions, as to such persons the amount of the tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of four-tenths of one percent.~~

~~(7))~~ Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of forty-four one-hundredths of one percent.

~~((8))~~ (7) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of thirty-three one-hundredths of one percent.

~~((9))~~ (8) Upon every person engaging within this state in the business of making sales, at retail or wholesale, of nuclear fuel assemblies manufactured by that person, as to such persons the amount of tax with respect to

such business shall be equal to the gross proceeds of sales of the assemblies multiplied by the rate of twenty-five one-hundredths of one percent.

~~((10))~~ (9) Upon every person engaging within this state in the business of manufacturing nuclear fuel assemblies, as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of twenty-five one-hundredths of one percent.

~~((11))~~ (10) Upon every person engaging within this state in the business of acting as a travel agent; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of twenty-five one-hundredths of one percent.

~~((12))~~ (11) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of thirty-three one-hundredths of one percent.

~~((13))~~ (12) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of thirty-three one hundredths of one percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers,

trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

Sec. 4. Section 82.04.270, chapter 15, Laws of 1961 as last amended by section 6, chapter 281, Laws of 1971 ex. sess. and RCW 82.04.270 are each amended to read as follows:

(1) Upon every person except persons taxable under subsections (1) or ~~((9))~~ (8) of RCW 82.04.260 engaging within this state in the business of making sales at wholesale; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of such business multiplied by the rate of forty-four one-hundredths of one percent.

(2) The tax imposed by this section is levied and shall be collected from every person engaged in the business of distributing in this state articles of tangible personal property, owned by them from their own warehouse or other central location in this state to two or more of their own retail stores or outlets, where no change of title or ownership occurs, the intent hereof being to impose a tax equal to the wholesaler's tax upon persons performing functions essentially comparable to those of a wholesaler, but not actually making sales: PROVIDED, That the tax designated in this section may not be assessed twice to the same person for the same article. The amount of the tax as to such persons shall be computed by multiplying forty-four one-hundredths of one percent of the value of the article so distributed as of the time of such distribution: PROVIDED, That persons engaged in the activities described in this subsection shall not be liable for the tax imposed if by proper invoice it can be shown that they have purchased such property from a wholesaler who has paid a business and occupation tax to the state upon the same articles. This proviso shall not apply to purchases from manufacturers as defined in RCW 82.04.110. The department of revenue shall prescribe uniform and equitable rules for the purpose of ascertaining such value, which value shall correspond as nearly as possible to the gross proceeds from sales at wholesale in this state of similar articles of like quality and character, and in similar quantities by other taxpayers: PROVIDED FURTHER, That delivery trucks or vans will not under the purposes of this section be considered to be retail stores or outlets.

Sec. 5. Section 82.04.440, chapter 15, Laws of 1961 as last amended by section 16, chapter 149, Laws of 1967 ex. sess. and RCW 82.04.440 are each amended to read as follows:

Every person engaged in activities which are within the purview of the provisions of two or more of sections RCW 82.04.230 to 82.04.290, inclusive, shall be taxable under each paragraph applicable to the activities engaged in: PROVIDED, That persons taxable under RCW 82.04.250 or 82.04.270 shall not be taxable under RCW 82.04.230, 82.04.240 or subsection (2), (3), (4), (5), ~~((6);)~~ or ~~((8))~~ (7) of RCW 82.04.260 with respect to extracting or manufacturing of the products so sold, and that persons taxable under RCW 82.04.240 or RCW 82.04.260 subsection (4) shall not

be taxable under RCW 82.04.230 with respect to extracting the ingredients of the products so manufactured.

Sec. 6. Section 82.24.020, chapter 15, Laws of 1961 as last amended by section 3, chapter 157, Laws of 1972 ex. sess. and RCW 82.24.020 are each amended to read as follows:

There is levied and there shall be collected as hereinafter provided, a tax upon the sale, use, consumption, handling, possession or distribution of all cigarettes, in an amount equal to the rate of ~~((six and one-half))~~ eight and one-half mills per cigarette. For purposes of this ~~((section, and for purposes of))~~ chapter and RCW 28A.47.440 ~~((and 73.32.130))~~, "possession" shall mean both (1) physical possession by the purchaser and, (2) when cigarettes are being transported to or held for the purchaser or his designee by a person other than the purchaser, constructive possession by the purchaser or his designee, which constructive possession shall be deemed to occur at the location of the cigarettes being so transported or held.

Sec. 7. Section 1, chapter 7, Laws of 1981 and RCW 82.32.____ are each amended to read as follows:

~~((For tax payments due for the taxable activities occurring in and after the month of September, 1981, through April, 1982, the taxes imposed in chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW are due and payable within twenty-five days following the end of the month in which the taxable activities occur. For tax payments due for taxable activities occurring after April, 1982, and through April, 1983, these taxes are due and payable within twenty days following the end of the month in which the taxable activities occur. For tax payments due for taxable activities occurring after April, 1983, these taxes are due and payable within fifteen days following the end of the month in which the taxable activities occur.))~~ Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within the number of days specified in the following table after the end of the month in which the taxable activities occur.

For activities occurring in	Days
October, 1981 through March, 1982	25
April, 1982 through March, 1983	20
April, 1983 and thereafter	15

The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

Sec. 8. Section 82.32.090, chapter 15, Laws of 1961 as last amended by section 2, chapter 7, Laws of 1981 and RCW 82.32.090 are each amended to read as follows:

If payment of any tax due is not received by the department of revenue by the due date, there shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not received (~~((by the last day of the month in which the due date falls))~~) within thirty days after the due date, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received (~~((by the last day of the month next succeeding the month in which the due date falls))~~) within sixty days after the due date, there shall be assessed a total penalty of twenty percent of the amount of the tax. No penalty so added shall be less than two dollars.

If payment of any tax is received within the first ten days of the month next succeeding the month in which the tax is payable, the amount of such payment shall be credited to, and shall be treated for all purposes as having been collected during, the fiscal year which includes the month preceding the month in which such due date falls. Effective June 30, 1985, and thereafter if the payment of any tax is received during the first twenty-five days in the month in which the tax is payable, the amount of such payment shall be credited to, and shall be treated for all purposes as having been collected during, the fiscal year which includes the month preceding the month in which such due date falls.

If a warrant be issued by the department of revenue for the collection of taxes, increases, and penalties, there shall be added thereto a penalty of five percent of the amount of the tax, but not less than five dollars.

Notwithstanding the foregoing, the aggregate of penalties imposed under this chapter for failure to file a return, late payment of any tax, increase, or penalty, or issuance of a warrant shall not exceed twenty-five percent of the tax due, or seven dollars, whichever is greater.

Sec. 9. Section 5, chapter 7, Laws of 1981 (uncodified) is amended to read as follows:

This act shall take effect (~~((September))~~) October 1, 1981.

NEW SECTION. Sec. 10. There is added to chapter 82.04 RCW a new section to read as follows:

Upon every person engaging within this state in the business of manufacturing aluminum pig, ingot, billet, plate, sheet (flat or coiled), rod, bar, wire, cable or extrusions; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of four-tenths of one percent.

NEW SECTION. Sec. 11. Section 82.04.275, chapter 15, Laws of 1961, section 12, chapter 149, Laws of 1967 ex. sess. and RCW 82.04.275 are each repealed.

NEW SECTION. Sec. 12. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981, except section 9 of this act shall take effect September 1, 1981, sections 7 and 8 of this act shall take effect October 1, 1981, and section 10 of this act shall take effect July 1, 1983.

Passed the House April 26, 1981.

Passed the Senate April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 173

[Second Substitute House Bill No. 338]

JOINT OPERATING AGENCIES, NUCLEAR GENERATING PROJECTS— NEGOTIATED CONTRACTS

AN ACT Relating to operating agencies; amending section 2, chapter 28, Laws of 1977 ex. sess. and RCW 43.52.490; adding new sections to chapter 43.52 RCW; repealing section 1, chapter 28, Laws of 1977 ex. sess. and RCW 43.52.480; prescribing penalties; providing expiration dates; and declaring an emergency.

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

Section 1. Section 2, chapter 28, Laws of 1977 ex. sess. and RCW 43.52.490 are each amended to read as follows:

An operating agency shall have the power to ~~((make any amendment to))~~ amend a contract previously let for the construction of ~~((the project))~~ a nuclear generating project and associated facilities, by change order or other writing, if ~~((it finds))~~ the managing director certifies to the executive board or executive committee and the executive board or executive committee finds in an open public meeting that:

(1) Such amendment is necessary to comply with applicable regulations or standards of any state or federal governmental agency, or with any change in plans or specifications recommended by the architect-engineer in charge of the project or under his (its) direction or by the managing director for the purpose of improving the safety or feasibility of the project or expediting completion of the project on the most advantageous terms in the public interest~~((:PROVIDED, That))~~;

(2) Such amendment does not provide for a type of construction ~~((of a project))~~ basically different from that provided for in such contract;

(3) The plans and specifications for work to be performed under the contract amendment are at least fifty percent complete; and

(4) Such amendment specifies that the contractor will be compensated for actual work performed valued at its contracted cost.

Nothing in this 1981 act may be construed to bear on the validity of any contract amendment executed under the law as it existed prior to the effective date of this 1981 act or to affect any judicial proceeding arising from actions taken under such law.

This section shall expire on December 31, 1987, or on the date that construction is completed on those nuclear generating projects which are under construction by any joint operating agency on the effective date of this act, whichever is sooner.

NEW SECTION. Sec. 2. There is added to chapter 43.52 RCW a new section to read as follows:

It is the long-established policy of the state of Washington that competitive bidding for construction and procurement contracts for public improvements is the best practice and is in the public interest in assuring the citizens of the state the lowest cost in obtaining these improvements. However, the legislature declares that for certain work during the final stages of construction and startup of a nuclear generating project and associated facilities it will permit award of contracts through competitive negotiation when competitive bidding is not practicable or not advantageous.

The legislature intends that negotiated contracts be limited to the final stages of construction and startup of a nuclear generating project and associated facilities.

NEW SECTION. Sec. 3. There is added to chapter 43.52 RCW a new section to read as follows:

In addition to the powers of an operating agency under other provisions of law, an operating agency may enter into a contract for work to be performed during the final stages of construction and startup through negotiation without competitive bids only if all the following conditions are first satisfied:

(1) The executive board or executive committee of the operating agency has adopted a procedure to determine when a project has reached the final stages of construction and startup. A project shall not be considered to have reached the final stages of completion and startup unless the managing director certifies that the project is approximately eighty percent or more complete calculated by the method used to determine this percentage for the purpose of disclosing relevant information under 15 U.S.C. Sec. 77 et seq. as existing on the effective date of this act.

(2) The managing director certifies in writing to the executive board or executive committee and the executive board or executive committee finds that executing a negotiated contract will accomplish completion and startup more economically, expeditiously, or safely than executing a competitively bid contract.

(3) The selection of a contractor was made in accordance with procedures adopted by the executive board or executive committee requiring competitive proposals, the request for which states the relative importance of the various evaluation factors, including professional competence of offerors, the technical merits of offers, and the price.

(4) The joint operating agency retains authority and responsibility for inspection, testing, and compliance with applicable regulations or standards of any state or federal governmental agency.

(5) The operating agency has defined in writing the roles, responsibilities, and obligations of the new contractor and any contractor who commenced any work to be reworked, performed by, or completed by the new contractor.

NEW SECTION. Sec. 4. There is added to chapter 43.52 RCW a new section to read as follows:

An operating agency may provide in any negotiated contract for payment of cost and compensation in the form of reimbursement of actual contractor's costs recognized as allowable under the contract, plus a profit or fee as set forth in the contract, only if there is compliance with the following requirements:

(1) The managing director certifies to the executive board or executive committee that it is not feasible to determine in advance what a fixed or unit contract price should be for the work, materials, or equipment to be covered by the proposed contract, either because of difficulty in defining and detailing the scope of the work to be performed, the materials, or equipment required;

(2) The executive board or executive committee finds in an open public meeting held under chapter 42.30 RCW that the contract is likely to be less costly than contracts of other types or that it is impracticable to obtain the work, materials, or equipment required except under the contract;

(3) The contract provides that:

(a) The contractor shall submit cost or pricing data and shall certify that, to the best of its knowledge and belief, the cost and pricing data submitted were accurate, complete, and current as of a mutually agreed upon date which is prior to the pricing of the negotiated contract;

(b) The operating agency and the state auditor shall audit the books and records of the contractor, its subcontractors under the contract, or any person who has submitted cost or pricing data in connection with the obtaining of the contract or the performance of the contract as necessary to determine compliance with relevant provisions of law;

(c) The contract price or compensation, including any profit or fee, shall be adjusted to exclude any significant sum by which the price was increased because contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed upon between the parties; and

(d) Notice is given to the contractor that the provisions of chapters 42-.20 and 42.23 RCW apply to employees and officers of the operating agency; and

(4) Standards or guidelines are set forth in the contract for the determination of what the compensation payable to the contractor shall be, which shall not be based upon cost-plus-a-percentage-of-cost.

NEW SECTION. Sec. 5. There is added to chapter 43.52 RCW a new section to read as follows:

The administrative auditor shall file with the executive board or executive committee of the operating agency a quarterly report relating to compliance by the operating agency with sections 1 through 4 of this act. The administrative auditor shall file copies of the report with the legislative budget committee, which shall file a copy of each report with the respective chairpersons of the energy and utilities committees of the senate and house of representatives under RCW 43.52.378.

NEW SECTION. Sec. 6. There is added to chapter 43.52 RCW a new section to read as follows:

All of the provisions of Titles 9 and 9A RCW apply to actions of a joint operating agency.

NEW SECTION. Sec. 7. Section 1, chapter 28, Laws of 1977 ex. sess. and RCW 43.52.480 are each repealed.

NEW SECTION. Sec. 8. Sections 2 through 5 of this act shall expire on December 31, 1987, or on the date that construction is completed on those nuclear generating projects which are under construction by any joint operating agency on the effective date of this act, whichever is sooner.

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.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 23, 1981.

Passed the Senate April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 174

[Engrossed Senate Bill No. 3131]
PATIENT ABUSE, STATE HOSPITALS

AN ACT Relating to patient abuse; amending section 1, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.010; amending section 2, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.020; amending section 3, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.030; amending section 4, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.040; amending section 6, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.060; and amending section 9, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.090.

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

Section 1. Section 1, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.010 are each amended to read as follows:

(1) The Washington state legislature finds and declares that a reporting system is needed to protect nursing home and state hospital patients from abuse. Instances of nonaccidental injury, neglect, death, sexual abuse, and cruelty to ~~((nursing home))~~ such patients have occurred, and in the instance where such a ~~((nursing home))~~ patient is deprived of his or her right to conditions of minimal health and safety, the state is justified in emergency intervention based upon verified information. Therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities.

(2) It is the intent of the legislature that: (a) As a result of such reports, protective services shall be made available in an effort to prevent further abuses, and to safeguard the general welfare of the patients; and (b) such reports shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious, or erroneous information or actions.

Sec. 2. Section 2, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.020 are each amended to read as follows:

Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Court" means the superior court of the state of Washington.

(2) "Law enforcement agency" means the police department, ~~((the prosecuting attorney,))~~ 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 podiatry, optometry, pharmacy, physical therapy, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery. The term "practitioner" shall include a nurses aide, a nursing home administrator licensed under chapter 18.52 RCW, and a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a nursing home patient who is being furnished Christian Science treatment

by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected patient for the purposes of this chapter.

(4) "Department" means the state department of social and health services.

(5) "Nursing home" has the meaning prescribed by RCW 18.51.010.

(6) "Social worker" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of nursing home patients, or providing social services to nursing home patients, whether in an individual capacity or as an employee or agent of any public or private organization or institution.

(7) "Psychologist" means 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.

(8) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(9) "Abuse or neglect" or "patient abuse or neglect" means the nonaccidental physical injury or condition, sexual abuse, or negligent treatment of a nursing home or state hospital patient under circumstances which indicate that the patient's health, welfare, and safety is harmed thereby.

(10) "Negligent treatment" means an act or omission which evinces a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the patient's health, welfare, and safety.

(11) "State hospital" means any hospital operated and maintained by the state for the care of the mentally ill under chapter 72.23 RCW.

Sec. 3. Section 3, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.030 are each amended to read as follows:

(1) When any practitioner, social worker, psychologist, pharmacist, employee of a nursing home, employee of a state hospital, or employee of the department has reasonable cause to believe that a nursing home or state hospital patient has suffered abuse or neglect, the person shall report such incident, or cause a report to be made, to either a law enforcement agency or to the department as provided in RCW 70.124.040.

(2) Any other person who has reasonable cause to believe that a nursing home or state hospital patient has suffered abuse or neglect may report such incident to either a law enforcement agency or to the department as provided in RCW 70.124.040.

(3) The department or any law enforcement agency receiving a report of an incident of abuse or neglect involving a nursing home or state hospital patient who has died or has had physical injury or injuries inflicted other than by accidental means or who has been subjected to sexual abuse shall report the incident to the proper county prosecutor for appropriate action.

Sec. 4. Section 4, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.040 are each amended to read as follows:

(1) Where a report is deemed warranted under RCW 70.124.030, an immediate oral report shall be made by telephone or otherwise to either a law enforcement agency or to the department and, upon request, shall be followed by a report in writing. The reports shall contain the following information, if known:

- (a) The name and address of the person making the report;
 - (b) The name and address of the nursing home or state hospital patient;
 - (c) The name and address of the ((nursing-home)) patient's relatives having responsibility for the patient;
 - (d) The nature and extent of the injury or injuries;
 - (e) The nature and extent of the neglect;
 - (f) The nature and extent of the sexual abuse;
 - (g) Any evidence of previous injuries, including their nature and extent;
- and

(h) Any other information which may be helpful in establishing the cause of the ((nursing-home)) patient's death, injury, or injuries, and the identity of the perpetrator or perpetrators.

(2) Each law enforcement agency receiving such a report shall, in addition to taking the action required by RCW 70.124.050, immediately relay the report to the department and to other law enforcement agencies, as appropriate. For any report it receives, the department shall likewise take the required action and in addition relay the report to the appropriate law enforcement agency or agencies. The appropriate law enforcement agency or agencies shall receive immediate notification when the department, upon receipt of such report, has reasonable cause to believe that a criminal act has been committed.

Sec. 5. Section 6, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.060 are each amended to read as follows:

(1) A person participating in good faith in the making of a report pursuant to this chapter or testifying as to alleged patient abuse or neglect in a judicial proceeding shall in so doing be immune from any liability, civil or criminal, arising out of such reporting or testifying under any law of this state or its political subdivisions, and if such person is an employee of a nursing home or state hospital it shall be an unfair practice under chapter 49.60 RCW for the employer to dismiss said employee for such activity.

(2) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) or (4) or 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

Sec. 6. Section 9, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.090 are each amended to read as follows:

In the adoption of rules under the authority of this chapter, the department shall provide for the publication and dissemination to nursing homes, state hospitals, and nursing home and state hospital employees and the posting where appropriate by nursing homes and state hospitals of informational, educational, or training materials calculated to aid and assist in achieving the objectives of this chapter.

Passed the Senate April 24, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 175

[Substitute Senate Bill No. 3415]

HEALTH CARE SERVICE CONTRACTS, REGISTERED NURSES' SERVICES

AN ACT Relating to health care contracts; and adding a new section to chapter 48.44 RCW.

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

NEW SECTION. Section 1. There is added to chapter 48.44 RCW a new section to read as follows:

Notwithstanding any provision of this chapter, for any health care service contract thereunder which is entered into or renewed after the effective date of this act, benefits shall not be denied under such contract for any health care service performed by a holder of a license issued pursuant to chapter 18.88 RCW if (1) the service performed was within the lawful scope of such person's license, and (2) such contract would have provided benefits if such service had been performed by a holder of a license issued pursuant to chapter 18.71 RCW: **PROVIDED, HOWEVER,** That no provision of chapter 18.71 RCW shall be asserted to deny benefits under this section: **AND PROVIDED FURTHER,** That no part of this section shall apply to agreements entered into or renewed by a health maintenance organization which provides comprehensive health care services directly to enrolled participants of such organization on a group practice per capita prepayment basis, and which is a health maintenance organization registered under chapter 48.46 RCW or a federally qualified health maintenance organization.

The provisions of this section are intended to be remedial and procedural to the extent that they do not impair the obligation of any existing contract.

Passed the Senate March 18, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 176

[Substitute Senate Bill No. 3006]

DEATH—PRESUMPTION OF—INFORMATION DISSEMINATION

AN ACT Relating to vital statistics; adding a new section to chapter 70.58 RCW; adding a new section to chapter 68.08 RCW; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 70.58 RCW a new section to read as follows:

A county coroner, medical examiner, or the prosecuting attorney having jurisdiction may issue a certificate of presumed death when the official issuing the certificate determines to the best of the official's knowledge and belief that there is sufficient circumstantial evidence to indicate that a person has in fact died in the county or in waters contiguous to the county as a result of an accident or natural disaster, such as a drowning, flood, earthquake, volcanic eruption, or similar occurrence, and that it is unlikely that the body will be recovered. The certificate shall recite, to the extent possible, the date, circumstances, and place of the death, and shall be the legally accepted fact of death.

In the event that the county in which the death occurred cannot be determined with certainty, the county coroner, medical examiner, or prosecuting attorney in the county in which the events occurred and in which the decedent was last known to be alive may issue a certificate of presumed death under this section.

The official issuing the certificate of presumed death shall file the certificate with the state registrar of vital statistics, and thereafter all persons and parties acting in good faith may rely thereon with acquittance.

NEW SECTION. Sec. 2. There is added to chapter 68.08 RCW a new section to read as follows:

(1) The county coroner, medical examiner, or prosecuting attorney having jurisdiction may in such official's discretion release information concerning a person's death to the media and general public, in order to aid in identifying the deceased, when the identity of the deceased is unknown to the official and when he does not know the information to be readily available through other sources.

(2) The county coroner, medical examiner, or prosecuting attorney may withhold any information which directly or indirectly identifies a decedent until either:

(a) A notification period of forty-eight hours has elapsed after identification of the decedent by such official; or

(b) The next of kin of the decedent has been notified.

During the forty-eight hour notification period, such official shall make a good faith attempt to locate and notify the next of kin of the decedent.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 25, 1981.

Passed the House April 9, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 177

[Engrossed Senate Bill No. 3015]

EMPLOYMENT SECURITY DEPARTMENT RECORDS—GOVERNMENTAL AGENCY ACCESS

AN ACT Relating to employment security department records; and amending section 6, chapter 153, Laws of 1977 ex. sess. as amended by section 1, chapter 177, Laws of 1979 ex. sess. and RCW 50.13.060.

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

Section 1. Section 6, chapter 153, Laws of 1977 ex. sess. as amended by section 1, chapter 177, Laws of 1979 ex. sess. and RCW 50.13.060 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 (7) 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 ((that section)) subsection (1) must be satisfied.

(6) 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.

(7) 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.

(8) In conducting periodic salary or fringe benefit studies pursuant to law, the department of personnel and the higher education personnel board 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.

Passed the Senate March 18, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 178

[Senate Bill No. 3023]

BUSINESS AND OCCUPATION TAX—BUYERS OF DRY BEANS— EXEMPTION, KIDNEY DIALYSIS FACILITY SERVICES

AN ACT Relating to business and occupation taxes; amending section 82.04.260, chapter 15, Laws of 1961 as last amended by section 2, chapter 196, Laws of 1979 ex. sess. and RCW 82.04.260; and amending section 10, chapter 37, Laws of 1980 and RCW 82.04.4289.

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

Section 1. Section 82.04.260, chapter 15, Laws of 1961 as last amended by section 2, chapter 196, Laws of 1979 ex. sess. and RCW 82.04.260 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of buying wheat, oats, dry peas, dry beans, lentils, triticale, corn, rye and barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of one one-hundredth of one percent.

(2) Upon every person engaging within this state in the business of manufacturing wheat into flour, soybeans into soybean oil, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour or oil manufactured, multiplied by the rate of one-eighth of one percent.

(3) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of one-quarter of one percent.

(4) Upon every person engaging within this state in the business of manufacturing seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of one-eighth of one percent.

(5) Upon every person engaging within this state in the business of manufacturing by canning, preserving, freezing or dehydrating fresh fruits and vegetables; as to such persons the amount of tax with respect to such business shall be equal to the value of the products canned, preserved, frozen or dehydrated multiplied by the rate of three-tenths of one percent.

(6) Upon every person engaging within this state in the business of manufacturing aluminum pig, ingot, billet, plate, sheet (flat or coiled), rod, bar, wire, cable or extrusions; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of four-tenths of one percent.

(7) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of forty-four one-hundredths of one percent.

(8) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of thirty-three one-hundredths of one percent.

(9) Upon every person engaging within this state in the business of making sales, at retail or wholesale, of nuclear fuel assemblies manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the assemblies multiplied by the rate of twenty-five one-hundredths of one percent.

(10) Upon every person engaging within this state in the business of manufacturing nuclear fuel assemblies, as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of twenty-five one-hundredths of one percent.

(11) Upon every person engaging within this state in the business of acting as a travel agent; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of twenty-five one-hundredths of one percent.

(12) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of thirty-three one-hundredths of one percent.

(13) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and

commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of thirty-three one hundredths of one percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

Sec. 2. Section 10, chapter 37, Laws of 1980 and RCW 82.04.4289 are each amended to read as follows:

In computing tax there may be deducted from the measure of tax amounts derived as compensation for services rendered to patients or from sales of prescription drugs as defined in RCW 82.08.0281 furnished as an integral part of services rendered to patients by a hospital, as defined in chapter 70.41 RCW, which is operated as a nonprofit corporation, a kidney dialysis facility operated as a nonprofit corporation, whether or not operated in connection with a hospital, nursing homes and homes for unwed mothers operated as religious or charitable organizations, but only if no part of the net earnings received by such an institution inures directly or indirectly, to any person other than the institution entitled to deduction hereunder. In no event shall any such deduction be allowed, unless the hospital building is entitled to exemption from taxation under the property tax laws of this state.

Passed the Senate April 26, 1981.

Passed the House April 25, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 179

[Senate Bill No. 3039]

ALCOHOL FUEL—TRANSFERS BETWEEN PLANTS, DENATURED
REQUIREMENT, EXCLUSION

AN ACT Relating to alcohol fuel; and amending section 2, chapter 140, Laws of 1980 and RCW 66.12.130.

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

Section 1. Section 2, chapter 140, Laws of 1980 and RCW 66.12.130 are each amended to read as follows:

Nothing in this title shall apply to or prevent the sale, importation, purchase, production, or blending of alcohol used solely for fuel to be used in motor vehicles, farm implements, and machines or implements of husbandry or in combination with gasoline or other petroleum products for use as such fuel. Manufacturers and distillers of such alcohol fuel are not required to obtain a license under this title. Alcohol which is produced for use as fuel shall be denatured in accordance with a formula approved by the federal bureau of alcohol, tobacco and firearms prior to the removal of the alcohol from the premises as described in the approved federal permit application; PROVIDED, That alcohol which is being transferred between plants involved in the distillation or manufacture of alcohol fuel need not be denatured if it is transferred in accordance with federal bureau of alcohol, tobacco and firearms regulation 27 CFR 19.996 as existing on the effective date of this 1981 act. The exemptions from the state liquor control laws provided by this section only apply to distillers and manufacturers of alcohol to be used solely for fuel as long as the manufacturers and distillers are the holders of an appropriate permit issued under federal law.

Passed the Senate February 27, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 180

[Engrossed Senate Bill No. 3046]

PARTISAN ELECTIVE OFFICES, VACANCIES

AN ACT Relating to vacancies in partisan elective offices; amending section 2, page 28, Laws of 1866 as amended by section 3063, Code of 1881 and RCW 42.12.010; amending section 6, page 30, Laws of 1866 as amended by section 3066, Code of 1881 and RCW 42.12.030; and adding new sections to chapter 29.18 RCW.

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

NEW SECTION. Section 1. There is added to chapter 29.18 RCW a new section to read as follows:

If a vacancy occurs in any partisan elective office in the executive or legislative branches of state government or in any partisan county elective office before the fourth Tuesday prior to the primary for the next general election following the occurrence of the vacancy, a successor shall be elected to that office at that general election. Except during the last year of the term of office, if such a vacancy occurs on or after the fourth Tuesday prior to the primary for that general election, the election of the successor shall occur at the next succeeding general election. The elected successor shall hold office for the remainder of the unexpired term. This section shall not apply to any vacancy occurring in a charter county which has charter provisions inconsistent with this section.

NEW SECTION. Sec. 2. There is added to chapter 29.18 RCW a new section to read as follows:

Filings for a partisan elective office shall be opened for a period of three normal business days whenever, on or after the first day of the regular filing period and before the fourth Tuesday prior to a primary, a vacancy occurs in that office, leaving an unexpired term to be filled by an election for which filings have not been held.

Any such special three-day filing period shall be fixed by the election officer with whom declarations of candidacy for that office are filed. The election officer shall give notice of the special three-day filing period by notifying the press, radio, and television in the county or counties involved, and by such other means as may be required by law.

Candidacies validly filed within the special three-day filing period shall appear on the primary ballot as if filed during the regular filing period.

NEW SECTION. Sec. 3. There is added to chapter 29.18 RCW a new section to read as follows:

Where a vacancy occurs in any partisan county elective office, other than a member of the county legislative authority, the county legislative authority may appoint an employee that was serving as a deputy or assistant in such office at the time the vacancy occurred as an acting official to perform all necessary duties to continue normal office operations. The acting official will serve until a successor is either elected or appointed as required by law. This section does not apply to any vacancy occurring in a charter county which has charter provisions inconsistent with this section.

Sec. 4. Section 2, page 28, Laws of 1866 as amended by section 3063, Code of 1881 and RCW 42.12.010 are each amended to read as follows:

Every elective office shall become vacant on the happening of ~~((either))~~ any of the following events ~~((before the expiration of the term of such officer. First,))~~:

(1) The death of the incumbent; ~~((second,))~~

(2) His or her resignation. A vacancy caused by resignation shall be deemed to occur upon the effective date of the resignation; ~~((third,))~~

(3) His or her removal; (~~fourth~~);

(4) His or her ceasing to be (~~an inhabitant~~) a legally qualified elector of the district, county, city, town (~~or village for~~), or other municipal or quasi municipal corporation from which he or she shall have been elected or appointed (~~, or within which the duties of his office are to be discharged~~); (~~fifth~~);

(5) His or her conviction of (~~an infamous crime~~) a felony, or of any offense involving a violation of his or her official oath; (~~sixth~~);

(6) His or her refusal or neglect to take his or her oath of office, or to give or renew his or her official bond, or to deposit such oath or bond within the time prescribed by law; (~~seventh~~);

(7) The decision of a competent tribunal declaring void his or her election or appointment; (~~eighth~~); or

(8) Whenever a judgment shall be obtained against (~~such officer~~) that incumbent for breach of the condition of his or her official bond.

Sec. 5. Section 6, page 30, Laws of 1866 as amended by section 3066, Code of 1881 and RCW 42.12.030 are each amended to read as follows:

Whenever any officer resigns his office before the expiration of his term, or the office becomes vacant from any other cause, and at a subsequent special election such vacancy is filled, the person so elected to fill such vacancy shall (~~not hold the office any longer than the original incumbent who resigned would have been entitled to hold the office~~) hold office for the remainder of the unexpired term.

NEW SECTION. Sec. 6. 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 February 11, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 181

[Engrossed Senate Bill No. 3049]

HOSPITAL PATIENT CARE QUALITY REVIEW COMMITTEES, CIVIL IMMUNITY—HEALTH CARE PROVIDERS, STAFF PRIVILEGE REVOCATION, RECORDS CONFIDENTIALITY

AN ACT Relating to health care institutions' confidentiality of records; and amending section 1, chapter 144, Laws of 1971 ex. sess. as last amended by section 1, chapter 17, Laws of 1979 and RCW 4.24.250.

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

Section 1. Section 1, chapter 144, Laws of 1971 ex. sess. as last amended by section 1, chapter 17, Laws of 1979 and RCW 4.24.250 are each amended to read as follows:

Any health care (~~((practitioner))~~) provider as defined in RCW 7.70.020 (1) and (2) as now existing or hereafter amended who, in good faith, files charges or presents evidence against another member of their profession based on the claimed incompetency or gross misconduct of such person before a regularly constituted review committee or board of a professional society or hospital whose duty it is to evaluate the competency and qualifications of members of the profession, including limiting the extent of practice of such person in a hospital or similar institution, or before a regularly constituted committee or board of a hospital whose duty it is to review and evaluate the quality of patient care, shall be immune from civil action for damages arising out of such activities. The proceedings, reports, and written records of such committees or boards, or of a member, employee, staff person, or investigator of such a committee or board, shall not be subject to subpoena or discovery proceedings in any civil action, except actions arising out of the recommendations of such committees or boards involving the restriction or revocation of the clinical or staff privileges of a health care provider as defined above.

Passed the Senate March 10, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 182

[Substitute Senate Bill No. 3060]

WINE AND BEER LICENSEES—FREE SAMPLES

AN ACT Relating to alcoholic beverages; amending section 23R added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 217, Laws of 1937 as last amended by section 16, chapter 209, Laws of 1973 1st ex. sess. and RCW 66.24.370; and amending section 30, chapter 62, Laws of 1933 ex. sess. as last amended by section 10, chapter 173, Laws of 1975 1st ex. sess. and RCW 66.28.040.

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

Section 1. Section 23R added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 217, Laws of 1937 as last amended by section 16, chapter 209, Laws of 1973 1st ex. sess. and RCW 66.24.370 are each amended to read as follows:

There shall be a wine retailer's license to be designated as class F license to sell wine in bottles and original packages, not to be consumed on the premises where sold, at any store other than the state liquor stores: PROVIDED, Such licensee shall pay to the state liquor stores for wines purchased from such stores the current retail price; fee forty-three dollars and

seventy-five cents per annum: PROVIDED, FURTHER, That a holder of a class A or class B license shall be entitled to the privileges permitted in this section by paying an annual fee of twelve dollars and fifty cents for each store.

Licenses under this section whose business is primarily the sale of wine at retail may provide, free or for a charge, single-serving samples of two ounces or less to customers for the purpose of sales promotion.

Sec. 2. Section 30, chapter 62, Laws of 1933 ex. sess. as last amended by section 10, chapter 173, Laws of 1975 1st ex. sess. and RCW 66.28.040 are each amended to read as follows:

No brewer, wholesaler, distiller, winery, importer, rectifier, or other manufacturer of liquor shall, within the state, by himself, his clerk, servant, or agent, give to any person any liquor; but nothing in this section nor in RCW 66.28.010 or 66.28.025 shall prevent a brewer, wholesaler, winery, or importer from furnishing samples of beer or wine 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; 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(~~(, and)~~); nothing in this section shall prevent a brewer from serving beer without charge, on the brewery premises(~~(;)~~); and nothing in this section shall prevent a domestic winery from serving wine without charge, on the winery premises.

Passed the Senate March 10, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 183

[Senate Bill No. 3062]

TRAFFIC RESTRICTION NOTICES—ADMINISTRATIVE PROCEDURE ACT, EXCLUSION

AN ACT Relating to the adoption of state traffic restrictions; and amending section 1, chapter 234, Laws of 1959 as amended by section 1, chapter 237, Laws of 1967 and RCW 34.04.010.

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

Section 1. Section 1, chapter 234, Laws of 1959 as amended by section 1, chapter 237, Laws of 1967 and RCW 34.04.010 are each amended to read as follows:

(~~For the purpose of this chapter:~~) The definitions set forth in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Agency" means any state board, commission, department, or officer, authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches.

(2) "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 34.04.080, as now or hereafter amended, or (iii) ~~((speed))~~ traffic restrictions for motor vehicles, bicyclists, and pedestrians established by the ~~((state highway commission))~~ secretary of transportation or his designee where notice of such restrictions is given by official traffic control devices.

(3) "Contested case" means a proceeding before an agency in which an opportunity for a hearing before such agency is required by law or constitutional right prior or subsequent to the determination by the agency of the legal rights, duties, or privileges of specific parties. Contested cases shall 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 or agency rules.

(4) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any activity, but does not include a license required solely for revenue purposes.

(5) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or modification of a license.

Passed the Senate February 11, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 184

[Substitute Senate Bill No. 3063]

HOOD CANAL BRIDGE INSURANCE PROCEEDS

AN ACT Relating to the motor vehicle fund and the investment thereof; creating a new section; declaring an emergency; and providing effective dates.

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

NEW SECTION. Section 1. (1) There is hereby created in the motor vehicle fund the Hood Canal bridge account to the credit of which shall be deposited all property damage insurance proceeds received by the state as a result of the partial destruction of the Hood Canal bridge in February, 1979, together with the income from the investment of the insurance proceeds. All moneys deposited in this account shall be used by the department of transportation for the reconstruction of the Hood Canal bridge on state route number 104 or to reimburse in part the United States for federal funds used for the reconstruction of the bridge.

(2) Any moneys in the Hood Canal bridge account available for investment may be loaned to treasury funds, including the motor vehicle fund, in accordance with the provisions for interfund loans contained in RCW 43.84.100 and 43.84.110.

(3) The state investment board may invest and reinvest in accordance with RCW 43.84.150 the surplus moneys in the Hood Canal bridge account as the secretary of transportation deems appropriate. All income from said investments shall be deposited to the credit of the Hood Canal bridge account in the motor vehicle fund.

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

Passed the Senate April 26, 1981.

Passed the House April 25, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 185

[Substitute Senate Bill No. 3064]

PUBLIC PARKING FACILITIES—TIME LIMITS

AN ACT Relating to motor vehicles; amending section 3, chapter 42, Laws of 1969 ex. sess. as amended by section 7, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.102; adding a new section to chapter 46.61 RCW; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 46.61 RCW a new section to read as follows:

The secretary of transportation may adopt regulations governing the use and control of park and ride lots and other parking facilities operated by the department of transportation, including time limits for the parking of vehicles.

Sec. 2. Section 3, chapter 42, Laws of 1969 ex. sess. as amended by section 7, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.102 are each amended to read as follows:

(1) An "abandoned vehicle" for the purposes of this chapter (~~shall~~) means (a) any vehicle left within the limits of any publicly operated parking facility for a period of forty-eight hours or longer in violation of a parking ordinance or regulation adopted and posted therein by the governmental agency having jurisdiction, or (b) any vehicle left within the limits of any highway or upon the property of another without the consent of the owner of such property for a period of twenty-four hours or longer(~~(, except that)~~). A vehicle shall not be considered abandoned if its owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance.

(2) An "abandoned vehicle hulk" for the purposes of this chapter shall mean the abandoned remnant or remains of a motor vehicle which is inoperative and cannot be made mechanically operative without the addition of vital parts or mechanisms and the application of a substantial amount of labor to effect repairs.

(3) A "registered abandoned vehicle disposer" or a "registered disposer" means any currently licensed tow truck operator, garage keeper, or other person engaged in the business of removing, storing, or disposing of vehicles, abandoned vehicles, or abandoned vehicle hulks, including vehicles or hulks removed pursuant to RCW 46.61.565 and 46.52.180, and who is properly registered and licensed pursuant to RCW 46.52.108 as now or hereafter amended.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 24, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 186

[Senate Bill No. 3072]

PRO TEMPORE AND VISITING JUDGES—COMPENSATION AND EXPENSES

AN ACT Relating to pro tempore judges; amending section 2, chapter 40, Laws of 1963 and RCW 2.04.250; amending section 2, chapter 114, Laws of 1973 and RCW 2.06.160; amending section 4, chapter 43, Laws of 1893 and RCW 2.08.170; amending section 7, chapter 259, Laws of 1957 and RCW 2.56.070; and amending section 23, chapter 299, Laws of 1961 and RCW 3.34.140.

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

Section 1. Section 2, chapter 40, Laws of 1963 and RCW 2.04.250 are each amended to read as follows:

(1) A superior court judge serving as a judge pro tempore of the supreme court as provided in RCW 2.04.240 shall receive, in addition to his regular salary, ~~((his actual traveling expenses not to exceed one round trip at ten cents per mile from his residence during his term of service as judge pro tempore and twenty dollars per day in lieu of subsistence and lodging))~~ 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 may be receiving, the following compensation and expenses:

(a) ~~((His actual traveling expenses not to exceed one round trip at ten cents per mile from his residence during his term of service as judge pro tempore and twenty dollars per day in lieu of subsistence and lodging))~~ 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 service as a judge pro tempore, an amount equal to the salary of a regularly elected judge of the court in which he last served for such period diminished by the amount of retirement pay accrued to him 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, ~~((the full amount of the actual traveling and living))~~ 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) The provisions of RCW 2.04.240 and 2.04.250 shall not be construed as impairing or enlarging any right or privilege acquired in any retirement or pension system by any judge or his dependents.

Sec. 2. Section 2, chapter 114, Laws of 1973 and RCW 2.06.160 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 actual travel expense or ten cents per mile, whichever is less, from his residence and in addition))~~ his regular salary, ~~((his actual living expenses not to exceed forty dollars per day during his term of service as judge pro tempore))~~ 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 may be receiving, the following compensation and expenses:

(a) ~~((His actual travel expenses or ten cents per mile, whichever is less, from his residence and in addition his living expenses not to exceed forty dollars per day during his term of service as judge pro tempore))~~ 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 service as judge pro tempore, he 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, ~~((the actual travel expenses or ten cents per mile, whichever is less, from place of residence and in addition the living expenses not to exceed forty dollars per day))~~ 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) The provisions of RCW 2.06.150 and 2.06.160 shall not be construed as impairing or enlarging any right or privilege acquired in any retirement or pension system by any judge or his dependents.

Sec. 3. Section 4, chapter 43, Laws of 1893 and RCW 2.08.170 are each amended to read as follows:

Any judge of the superior court of any county in this state who shall hold a session of the superior court of any other county, in pursuance of the provisions of RCW 2.08.140 through 2.08.170 shall be entitled to receive from the county in which he shall hold such sessions (~~the amount of his actual traveling expenses from his residence to the place where he shall hold such sessions, and on his return to his residence, and of the actual traveling expenses of his sojourn at the place where he shall hold such sessions during the continuance thereof~~) 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. The county clerk of such county shall, upon the presentation to him by such judge of a statement of such expenses, verified by his affidavit, issue to such judge a certificate that he is entitled to the amount thereof; and upon presentation of such certificate to the auditor of such county he shall draw a warrant on the (~~general fund [current expense fund]~~) current expense fund of such county for the amount in favor of such judge.

Sec. 4. Section 7, chapter 259, Laws of 1957 and RCW 2.56.070 are each amended to read as follows:

For attendance while holding court in another county or district pursuant to the direction of the chief justice, a judge shall be entitled to receive from the county to which he is sent (~~the amount of his actual traveling and living expenses~~) 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.

Sec. 5. Section 23, chapter 299, Laws of 1961 and RCW 3.34.140 are each amended to read as follows:

Any justice of the peace may hold a session in any justice court district in the state, at the request of the justice or majority of justices in such district if the visiting justice of the peace determines that the state of justice court business in his district will permit him to be absent: PROVIDED, That the board of county commissioners of the county in which such justice court is located shall first approve such temporary absence and no justice of the peace pro tempore shall be required to serve during his absence. A visiting justice shall be entitled to (~~his actual traveling and living expenses~~) 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 while so acting, to be paid by the visited district: PROVIDED, That no such (~~traveling or living~~) expenses shall be paid to the visiting justice unless the county commissioners of the county in

which the visited district is located shall have consented and approved thereto prior to such visit.

Passed the Senate February 11, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 187

[Senate Bill No. 3079]

OFFICIAL PROCEEDINGS VERIFICATION—UNSWORN CERTIFIED WRITTEN STATEMENTS

AN ACT Relating to crimes and criminal procedure; amending section 9A.72.010, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.72.010; amending section 9A.04.030, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.04.030; adding a new section to chapter 9A.72 RCW; adding a new section to chapter 10.25 RCW; and prescribing penalties.

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

Section 1. Section 9A.72.010, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.72.010 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Materially false statement" means any false statement oral or written, regardless of its admissibility under the rules of evidence, which could have affected the course or outcome of the proceeding; whether a false statement is material shall be determined by the court as a matter of law;

(2) "Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated; in this chapter, written statements shall be treated as if made under oath if:

(a) The statement was made on or pursuant to instructions on an official form bearing notice, authorized by law, to the effect that false statements made therein are punishable; ((or))

(b) The statement recites that it was made under oath, the declarant was aware of such recitation at the time he made the statement, intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto;

or

(c) It is a statement, declaration, verification, or certificate, made within or outside the state of Washington, which is certified or declared to be true under penalty of perjury as provided in section 3 of this 1981 act.

(3) An oath is "required or authorized by law" when the use of the oath is specifically provided for by statute or regulatory provision;

(4) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative, or other government agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or depositions;

(5) "Juror" means any person who is a member of any jury, including a grand jury, impaneled by any court of this state or by any public servant authorized by law to impanel a jury; the term juror also includes any person who has been drawn or summoned to attend as a prospective juror;

(6) "Testimony" includes oral or written statements, documents, or any other material that may be offered by a witness in an official proceeding.

Sec. 2. Section 9A.04.030, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.04.030 are each amended to read as follows:

The following persons are liable to punishment:

(1) A person who commits in the state any crime, in whole or in part.

(2) A person who commits out of the state any act which, if committed within it, would be theft and is afterward found in the state with any of the stolen property.

(3) A person who being out of the state, counsels, causes, procures, aids, or abets another to commit a crime in this state.

(4) A person who, being out of the state, abducts or kidnaps by force or fraud, any person, contrary to the laws of the place where the act is committed, and brings, sends, or conveys such person into this state.

(5) A person who commits an act without the state which affects persons or property within the state, which, if committed within the state, would be a crime.

(6) A person who, being out of the state, makes a statement, declaration, verification, or certificate under section 3 of this 1981 act which, if made within the state, would be perjury.

NEW SECTION. Sec. 3. There is added to chapter 9A.72 RCW a new section to read as follows:

Whenever, under any law of this state or under any rule, order, or requirement made under the law of this state, any matter in an official proceeding is required or permitted to be supported, evidenced, established, or proved by a person's sworn written statement, declaration, verification, certificate, oath, or affidavit, the matter may with like force and effect be supported, evidenced, established, or proved in the official proceeding by an unsworn written statement, declaration, verification, or certificate, which:

(1) Recites that it is certified or declared by the person to be true under penalty of perjury;

(2) Is subscribed by the person;

(3) States the date and place of its execution; and

(4) States that it is so certified or declared under the laws of the state of Washington.

The certification or declaration may be in substantially the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct":

.....
(Date and Place) (Signature)

This section does not apply to writings requiring an acknowledgement, depositions, oaths of office, or oaths required to be taken before a special official other than a notary public.

NEW SECTION. Sec. 4. There is added to chapter 10.25 RCW a new section to read as follows:

Perjury committed outside of the state of Washington in a statement, declaration, verification, or certificate authorized by section 3 of this 1981 act is punishable in the county in this state in which occurs the act, transaction, matter, action, or proceeding, in relation to which the statement, declaration, verification, or certification was given or made.

Passed the Senate February 11, 1981.
Passed the House April 16, 1981.
Approved by the Governor May 14, 1981.
Filed in Office of Secretary of State May 14, 1981.

CHAPTER 188
[Senate Bill No. 3102]
HABITUAL TRAFFIC OFFENDERS

AN ACT Relating to motor vehicles; amending section 4, chapter 284, Laws of 1971 ex. sess. as last amended by section 94, chapter 136, Laws of 1979 ex. sess. and RCW 46.65.020; and amending section 8, chapter 284, Laws of 1971 ex. sess. as last amended by section 3, chapter 62, Laws of 1979 and RCW 46.65.060.

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

Section 1. Section 4, chapter 284, Laws of 1971 ex. sess. as last amended by section 94, chapter 136, Laws of 1979 ex. sess. and RCW 46.65.020 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context, an habitual offender shall mean any person, resident or nonresident, who has accumulated convictions or findings that the person committed a traffic infraction as defined in RCW 46.20.270 as now or hereafter amended, or, if a minor, shall have violations recorded with the department of licensing, for separate and distinct offenses as described in either subsection (1) or (2) below committed within a five-year period, as evidenced by the records maintained in the department of licensing: PROVIDED, That where more than one described offense shall be committed within a six-hour period such multiple offenses shall, on the first such occasion, be treated as one offense for the purposes of this chapter:

(1) Three or more convictions, singularly or in combination, of the following offenses:

(a) Negligent homicide as defined in RCW 46.61.520;

(b) Driving or operating a motor vehicle while under the influence of intoxicants or drugs;

(c) Driving a motor vehicle while his or her license, permit, or privilege to drive has been suspended or revoked;

(d) Failure of the driver of any vehicle involved in an accident resulting in the injury or death of any person or damage to any vehicle which is driven or attended by any person to immediately stop such vehicle at the scene of such accident or as close thereto as possible and to forthwith return to and in every event remain at, the scene of such accident until he has fulfilled the requirements of RCW 46.52.020 as now or hereafter amended; ((or))

(e) Reckless driving as defined in RCW 46.61.500 as now or hereafter amended;

(f) Being in physical control of a motor vehicle while under the influence of intoxicating liquor or any drug as defined in RCW 46.61.504; or

(g) Attempting to elude a pursuing police vehicle as defined in RCW 46.61.024;

(2) Twenty or more convictions or findings that the person committed a traffic infraction for separate and distinct offenses, singularly or in combination, in the operation of a motor vehicle which are required to be reported to the department of licensing other than the offenses of driving with an expired driver's license and not having a driver's license in the operator's immediate possession. Such convictions or findings shall include those for offenses enumerated in subsection (1) above when taken with and added to those offenses described herein but shall not include convictions or findings for any nonmoving violation. No person may be considered an habitual offender under this subsection unless at least three convictions have occurred within the three hundred sixty-five days immediately preceding the last conviction.

The offenses included in subsections (1) and (2) hereof shall be deemed to include offenses under any valid town, city, or county ordinance substantially conforming to the provisions cited in said subsections (1) and (2) or amendments thereto, and any federal law, or any law of another state, including subdivisions thereof, substantially conforming to the aforesaid state statutory provisions.

Sec. 2. Section 8, chapter 284, Laws of 1971 ex. sess. as last amended by section 3, chapter 62, Laws of 1979 and RCW 46.65.060 are each amended to read as follows:

If the department finds that such person is not an habitual offender under this chapter, the proceeding shall be dismissed, but if the department finds that such person is an habitual offender, the department shall revoke

the operator's license for a period of five years: PROVIDED, That the department may stay the date of the revocation if it finds that the traffic offenses upon which it is based were caused by or are the result of the alcoholism of the person, as defined in RCW 70.96A.020, as now or hereafter amended and that since his or her last offense he or she has undertaken and followed a course of treatment for alcoholism on a program approved by the department of social and health services; such stay shall be subject to terms and conditions as are deemed reasonable by the department. Said stay shall continue as long as there is no further conviction for any of the offenses listed in RCW 46.65.020(1). Upon a subsequent conviction for any offense listed in RCW 46.65.020(1) or violation of any of the terms or conditions of the original stay order, the stay shall be removed and the department shall revoke the operator's license for a period of five years.

Passed the Senate March 17, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 189

[Second Substitute Senate Bill No. 3105]

NATURAL AREAS—SELECTION, NOMINATION, REGISTRATION, DEDICATION—APPROPRIATION

AN ACT Relating to natural areas; amending section 2, chapter 119, Laws of 1972 ex. sess. and RCW 79.70.020; amending section 3, chapter 119, Laws of 1972 ex. sess. and RCW 79.70.030; adding new sections to chapter 119, Laws of 1972 ex. sess. and to chapter 79.70 RCW; repealing section 5, chapter 119, Laws of 1972 ex. sess. and RCW 79.70.050; and making an appropriation.

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

Section 1. Section 2, chapter 119, Laws of 1972 ex. sess. and RCW 79.70.020 are each amended to read as follows:

For the purposes of this chapter:

(1) "Department" shall mean the department of natural resources.

(2) "Natural areas" and "natural area preserves" shall mean such public or private areas of land or water which have retained their natural character, although not necessarily completely natural and undisturbed, or which are important in preserving rare or vanishing flora, fauna, (~~archeological~~) geological, natural historical or similar features of scientific or educational value and which are acquired or voluntarily registered or dedicated by the owner under this chapter.

(3) "Public lands" and "state lands" shall have the meaning set out in RCW 79.01.004.

(4) (~~"Committee" shall mean the Washington state natural preserves advisory committee created in RCW 79.70.050~~) "Council" means the natural heritage advisory council as established in section 4 of this 1981 act.

(5) "Commissioner" means the commissioner of public lands.

(6) "Instrument of dedication" means any written document intended to convey an interest in real property pursuant to chapter 64.04 RCW.

(7) "Natural heritage resources" means the plant community types, aquatic types, unique geologic types, and special plant and animal species and their critical habitat as defined in the natural heritage plan established under RCW 79.70.030.

(8) "Plan" means the natural heritage plan as established under RCW 79.70.030.

(9) "Program" means the natural heritage program as established under RCW 79.70.030.

(10) "Register" means the Washington register of natural area preserves as established under RCW 79.70.030.

NEW SECTION. Sec. 2. There is added to chapter 119, Laws of 1972 ex. sess. and to chapter 79.70 RCW a new section to read as follows:

The legislature finds:

(1) That it is necessary to establish a process and means for public and private sector cooperation in the development of a system of natural areas. Private and public landowners should be encouraged to participate in a program of natural area establishment which will benefit all citizens of the state;

(2) That there is a need for a systematic and accessible means for providing information concerning the locations of the state's natural heritage resources; and

(3) That the natural heritage advisory council should utilize a specific framework for natural heritage resource conservation decision making through a classification, inventory, priority establishment, acquisition, and management process known as the natural heritage program. Future natural areas should avoid unnecessary duplication of already protected natural heritage resources including those which may already be protected in existing publicly owned or privately dedicated lands such as nature preserves, natural areas, parks, or wilderness.

Sec. 3. Section 3, chapter 119, Laws of 1972 ex. sess. and RCW 79.70-.030 are each amended to read as follows:

In order to set aside, preserve and protect natural areas within the state, the department is authorized, in addition to any other powers, to:

(1) Establish by rule and regulation the criteria for selection, acquisition, management, protection and use of such natural areas;

(2) Cooperate (~~and~~) or contract with any federal, state, or local governmental agency, private organizations or individuals in carrying out the purpose of this chapter;

(3) Consistent with the plan, acquire by gift, devise, purchase, grant, dedication, or means other than eminent domain, the fee or any lesser right or interest in real property which shall be held and managed as a natural area; ((and))

(4) Acquire by gift, devise, grant or donation any personal property to be used in the acquisition and/or management of natural areas;

(5) Inventory existing public, state and private lands in cooperation with the ((committee)) council to assess possible natural areas to be preserved within the state;

(6) Maintain a natural heritage program to provide assistance in the selection and nomination of areas containing natural heritage resources for registration or dedication. The program shall maintain a classification of natural heritage resources, an inventory of their locations, and a data bank for such information. The department of natural resources shall cooperate with the department of game in the selection and nomination of areas from the data bank that relate to critical wildlife habitats. Information from the data bank shall be made available to public and private agencies and individuals for environmental assessment and proprietary land management purposes. Usage of the classification, inventory or data bank of natural heritage resources for any purpose inconsistent with the natural heritage program is not authorized;

(7) Prepare a natural heritage plan which shall govern the natural heritage program in the conduct of activities to create and manage a system of natural areas which may include areas designated under the research natural area program on federal lands in the state;

(a) The plan shall list the natural heritage resources to be considered for registration and shall provide criteria for the selection and approval of natural areas under this chapter;

(b) The department shall provide opportunities for input, comment, and review to the public, other public agencies, and private groups with special interests in natural heritage resources during preparation of the plan;

(c) Upon approval by the council and adoption by the department, the plan shall be updated and submitted biennially to the appropriate committees of the legislature for their information and review. The plan shall take effect ninety days after the adjournment of the legislative session in which it is submitted unless the reviewing committees suggest changes or reject the plan; and

(8) Maintain a state register of natural areas containing significant natural heritage resources to be called the Washington register of natural area preserves. Selection of natural areas for registration shall be in accordance with criteria listed in the natural heritage plan and accomplished through voluntary agreement between the owner of the natural area and the department. No privately owned lands may be proposed to the council for registration without prior notice to the owner or registered without voluntary

consent of the owner. No state or local governmental agency may require such consent as a condition of any permit or approval of or settlement of any civil or criminal proceeding or to penalize any landowner in any way for failure to give, or for withdrawal of, such consent.

(a) The department shall adopt rules and regulations as authorized by RCW 43.30.310 and 79.70.030(1) and chapter 34.04 RCW relating to voluntary natural area registration.

(b) After approval by the council, the department may place sites onto the register or remove sites from the register.

(c) The responsibility for management of registered natural area preserves shall be with the preserve owner. A voluntary management agreement may be developed between the department and the owners of the sites on the register.

(d) Any public agency may register lands under provisions of this chapter.

NEW SECTION. Sec. 4. There is added to chapter 119, Laws of 1972 ex. sess. and to chapter 79.70 RCW a new section to read as follows:

(1) The natural heritage advisory council is hereby established. The council shall consist of fifteen members, nine of whom shall be chosen as follows and who shall elect from the council's membership a chairperson:

(a) Five individuals, appointed by the commissioner, who shall be recognized experts in the ecology of natural areas and represent the public, academic, and private sectors. Desirable fields of expertise are biological and geological sciences; and

(b) Four individuals, appointed by the commissioner, who shall be selected from the various regions of the state. At least one member shall be or represent a private forest landowner and at least one member shall be or represent a private agricultural landowner.

(2) Members appointed under subsection (1) of this section shall serve for terms of four years.

(3) In addition to the members appointed by the commissioner, the director of the department of game, the director of the department of ecology, the director of the department of fisheries, the supervisor of the department of natural resources, the director of the state parks and recreation commission, and the administrator of the interagency committee for outdoor recreation, or an authorized representative of each agency officer, shall serve as ex officio, nonvoting members of the council.

(4) Any vacancy on the council shall be filled by appointment for the unexpired term by the commissioner.

(5) In order to provide for staggered terms, of the initial members of the council:

(a) Three shall serve for a term of two years;

(b) Three shall serve for a term of three years; and

(c) Three shall serve for a term of four years.

(6) Members of the natural preserves advisory committee serving on the effective date of this act, shall serve as members of the council until the commissioner appoints a successor to each. The successor appointment shall be specifically designated to replace a member of the natural preserves advisory committee until all members of that committee have been replaced. A member of the natural preserves advisory committee is eligible for appointment to the council if otherwise qualified.

(7) Members of the council shall serve without compensation. Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended.

NEW SECTION. Sec. 5. There is added to chapter 119, Laws of 1972 ex. sess. and to chapter 79.70 RCW a new section to read as follows:

(1) The council shall:

(a) Meet at least annually and more frequently at the request of the chairperson;

(b) Recommend policy for the natural heritage program through the review and approval of the natural heritage plan;

(c) Advise the department, the department of game, the state parks and recreation commission, the department of fisheries, and other state agencies managing state-owned land or natural resources regarding areas under their respective jurisdictions which are appropriate for natural area registration or dedication;

(d) Advise the department of rules and regulations that the council considers necessary in carrying out this chapter; and

(e) Review and approve area nominations by the department or other agencies for registration and review and comment on legal documents for the voluntary dedication of such areas.

(2) From time to time, the council shall identify areas from the natural heritage data bank which qualify for registration. Priority shall be based on the natural heritage plan and shall generally be given to those resources which are rarest, most threatened, or under-represented in the heritage conservation system on a state-wide basis. After qualifying areas have been identified, the department shall advise the owners of such areas of the opportunities for acquisition or voluntary registration or dedication.

NEW SECTION. Sec. 6. There is added to chapter 119, Laws of 1972 ex. sess. and to chapter 79.70 RCW a new section to read as follows:

(1) The owner of a registered natural area, whether a private individual or an organization, may voluntarily agree to dedicate the area as a natural area by executing with the state an instrument of dedication in a form approved by the council. The instrument of dedication shall be effective upon its recording in the real property records of the appropriate county or counties in which the natural area is located. The county assessor in computing assessed valuation shall take into consideration any reductions in property

values and/or highest and best use which result from natural area dedication.

(2) A public agency owning or managing a registered natural area preserve may dedicate lands under the provisions of this chapter.

(3) The department shall adopt rules and regulations as authorized by RCW 43.30.310 and 79.70.030(1) relating to voluntary natural area dedication and defining:

(a) The types of real property interests that may be transferred;

(b) Real property transfer methods and the types of consideration of payment possible;

(c) Additional dedication provisions, such as natural area management, custody, use, and rights and privileges retained by the owner; and

(d) Procedures for terminating dedication arrangements.

NEW SECTION. Sec. 7. There is appropriated to the department of natural resources for the fiscal year ending June 30, 1982, the sum of one hundred thirty thousand dollars, or so much thereof as may be necessary, for carrying out the purposes of this act. Of this sum, sixty thousand dollars shall be from the general fund—state, and seventy thousand dollars shall be from the general fund—federal. Receipts from sales of services and data from the natural heritage data bank shall be credited to the appropriate program and treated as a recovery of expenditures.

NEW SECTION. Sec. 8. Section 5, chapter 119, Laws of 1972 ex. sess. and RCW 79.70.050 are each hereby repealed.

Passed the Senate April 1, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 190

[Engrossed Substitute Senate Bill No. 3128]

SPECIAL PURPOSE DISTRICTS

AN ACT Relating to special purpose districts; amending section 35.58.120, chapter 7, Laws of 1965 as last amended by section 5, chapter 70, Laws of 1974 ex. sess. and RCW 35.58.120; amending section 10, chapter 210, Laws of 1941 as last amended by section 2, chapter 58, Laws of 1974 ex. sess. and RCW 56.08.010; amending section 1, chapter 261, Laws of 1961 as amended by section 1, chapter 24, Laws of 1973 and RCW 56.08.100; amending section 2, chapter 261, Laws of 1961 as amended by section 2, chapter 24, Laws of 1973 and RCW 57.08.100; and creating new sections.

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

NEW SECTION. Section 1. Special purpose districts may expend funds to recruit job candidates and reimburse candidates for reasonable and necessary travel expenses, including transportation, subsistence, and lodging.

NEW SECTION. Sec. 2. Elected officials of special purpose districts are immune from civil liability for damages arising from actions performed within the scope of their official duties or employment, but liability shall remain on the special purpose districts for the tortious conduct of its officials under RCW 4.96.010.

Sec. 3. Section 35.58.120, chapter 7, Laws of 1965 as last amended by section 5, chapter 70, Laws of 1974 ex. sess. and RCW 35.58.120 are each amended to read as follows:

A metropolitan municipal corporation shall be governed by a metropolitan council composed of the following:

(1) One member (a) who shall be the elected county executive of the central county, or (b) if there shall be no elected county executive, one member who shall be selected by, and from, the board of commissioners of the central county.

(2) One additional member for each county commissioner district or county council district which shall contain fifteen thousand or more persons residing within the metropolitan municipal corporation, who shall be the county commissioner or county councilman from such district;

(3) One additional member selected by the board of commissioners or county council of each component county for each county commissioner district or county council district containing fifteen thousand or more persons residing in the unincorporated portion of such commissioner district lying within the metropolitan municipal corporation each such appointee to be a resident of such unincorporated portion;

(4) One member from each component city which shall have a population of fifteen thousand or more persons, who shall be the mayor of such city, if such city shall have the mayor-council form of government, and in other cities shall be selected by, and from, the mayor and city council of each of such cities.

(5) One member representing all component cities which have less than fifteen thousand population each, to be selected by and from the mayors of such smaller cities in the following manner: The mayors of all such cities shall meet ((on the second Tuesday following the establishment of a metropolitan municipal corporation and thereafter on the third Tuesday in June of each even-numbered year at two o'clock p.m. at the office of the board of county commissioners of the central county)) prior to July 1 of each even-numbered year at a time and place to be fixed by the metropolitan council. The ((chairman)) chairperson of ((such board)) the metropolitan council shall preside. After nominations are made, successive ballots shall be taken until one candidate receives a majority of all votes cast.

(6) One additional member selected by the city council of each component city containing a population of fifteen thousand or more for each fifty

thousand population over and above the first fifteen thousand, such members to be selected from such city council until all councilmen are members and thereafter to be selected from other officers of such city.

(7) For any metropolitan municipal corporation which shall be authorized to perform the function of metropolitan water pollution abatement, one additional member who shall be a commissioner of a sewer district or a water district which is operating a sewer system and is a component part of the metropolitan municipal corporation and shall participate only in those council actions which relate to the performance of the function of metropolitan water pollution abatement. The commissioners of all such sewer districts and water districts which are component parts of the metropolitan municipal corporation shall meet on the first Tuesday of the month following May 21, 1971 and thereafter on the second Tuesday of June of each even-numbered year at ((two)) seven o'clock p.m. at the office of the board of county commissioners of the central county. After election of a chairman, nominations shall be made to select a member to serve on the metropolitan council and successive ballots taken until one candidate receives a majority of votes cast.

(8) One member, who shall be chairman of the metropolitan council, selected by the other members of the council. ((He)) The member shall not hold any public office of or be an employee of any component city or component county of the metropolitan municipal corporation.

Sec. 4. Section 10, chapter 210, Laws of 1941 as last amended by section 2, chapter 58, Laws of 1974 ex. sess. and RCW 56.08.010 are each amended to read as follows:

A sewer district may acquire by purchase or by condemnation and purchase all lands, property rights, water, and water rights, both within and without the district, necessary for its purposes. A sewer district may lease real or personal property necessary for its purposes for a term of years for which such leased property may reasonably be needed where in the opinion of the board of sewer commissioners such property may not be needed permanently or substantial savings to the district can be effected thereby. The right of eminent domain shall be exercised in the same manner and by the same procedure as provided for cities of the third class, insofar as consistent with the provisions of this title, except that all assessments or reassessment rolls required to be filed by eminent domain commissioners or commissioners appointed by the court shall be prepared and filed by the district, and the duties devolving upon the city treasurer shall be imposed upon the county treasurer for the purposes hereof; it may construct, condemn and purchase, add to, maintain, and operate systems of sewers for the purpose of furnishing the district and inhabitants thereof with an adequate system of sewers for all uses and purposes, public and private, including but not limited to on-site sewage disposal facilities, facilities for the drainage of storm or surface waters, public highways, streets, and roads with full authority to

regulate the use and operation thereof and the service rates to be charged. For such purposes a district may conduct sewage throughout the district and throughout other political subdivisions within the district, and construct and lay sewer pipe along and upon public highways, roads, and streets, within and without the district, and condemn and purchase or acquire land and rights of way necessary for such sewer pipe. A district may erect sewage treatment plants, within or without the district, and may acquire by purchase or condemnation, properties or privileges necessary to be had to protect any lakes, rivers, or watercourses and also other areas of land from pollution, from its sewers or its sewage treatment plant. A district may charge property owners seeking to connect to the district system of sewers, as a condition to granting the right to so connect, in addition to the cost of such connection, such reasonable connection charge as the board of commissioners shall determine to be proper in order that such property owners shall bear their equitable share of the cost of such system. A district may compel all property owners within the sewer district located within an area served by the district system of sewers to connect their private drain and sewer systems with the district system under such penalty as the sewer commissioners shall prescribe by resolution. The district may for such purpose enter upon private property and connect the private drains or sewers with the district system and the cost thereof shall be charged against the property owner and shall be a lien upon property served.

Sec. 5. Section 1, chapter 261, Laws of 1961 as amended by section 1, chapter 24, Laws of 1973 and RCW 56.08.100 are each amended to read as follows:

A sewer district, by a majority vote of its board of commissioners, may enter into contracts to provide health care services and/or group insurance and/or term life insurance(;) and/or social security insurance for the benefit of its employees and may pay all or any part of the cost thereof(:(~~PROVIDED, That term life insurance shall be limited to a five thousand dollar coverage or ten thousand dollars for double indemnity benefits~~)). Any two or more sewer districts or one or more sewer districts and one or more water districts, by a majority vote of their respective boards of commissioners, may, if deemed expedient, join in the procuring of such health care services and/or group insurance and/or term life insurance, and the board of commissioners of each participating sewer and/or water district may by appropriate resolution authorize their respective district to pay all or any portion of the cost thereof.

Sec. 6. Section 2, chapter 261, Laws of 1961 as amended by section 2, chapter 24, Laws of 1973 and RCW 57.08.100 are each amended to read as follows:

A water district, by a majority vote of its board of commissioners, may enter into contracts to provide health care services and/or group insurance and/or term life insurance(;) and/or social security insurance for the

benefit of its employees and may pay all or any part of the cost thereof(~~(: PROVIDED, That term life insurance shall be limited to five thousand dollars coverage or ten thousand dollars for a double indemnity death benefit)~~). Any two or more water districts or any one or more water districts and one or more sewer districts, by a majority vote of their respective boards of commissioners, may, if deemed expedient, join in the procuring of such health care services and/or group insurance and/or term life insurance, and the board of commissioners of each participating sewer and/or water district may by appropriate resolution authorize their respective district to pay all or any portion of the cost thereof.

Passed the Senate March 24, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 191

[Senate Bill No. 3153]

CITIES AND TOWNS—NEEDY PERSON RELIEF PROGRAMS

AN ACT Relating to cities and towns; and amending section 74.04.040, chapter 26, Laws of 1959 and RCW 74.04.040.

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

Section 1. Section 74.04.040, chapter 26, Laws of 1959 and RCW 74.04.040 are each amended to read as follows:

The care, support, and relief of needy persons is hereby declared to be a joint federal, state, and county function. County offices are charged with the responsibility((:)) for the administration of public assistance within the respective county or counties or parts thereof as local offices of the department as prescribed by the rules and regulations of the department.

Whenever a city or town establishes a program or policy for the care, support, and relief of needy persons it shall provide notice of the program or policy to the county or counties within which the city or town is located.

Passed by the Senate March 10, 1981.

Passed by the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 192

[Substitute Senate Bill No. 3154]

FINANCIAL INSTITUTION INDIVIDUAL ACCOUNT DEPOSIT ACT

AN ACT Relating to financial institutions and deposits of individuals therewith; amending section 4, chapter 280, Laws of 1961 as amended by section 1, chapter 143, Laws of 1979 and RCW 30.20.090; amending section 10, chapter 173, Laws of 1933 as amended by

section 9, chapter 131, Laws of 1943 and RCW 31.12.140; amending section 32.12.010, chapter 13, Laws of 1955 as last amended by section 1, chapter 145, Laws of 1967 and RCW 32.12.010; amending section 32.12.020, chapter 13, Laws of 1955 as last amended by section 40, chapter 117, Laws of 1974 ex. sess. and RCW 32.12.020; amending section 41, chapter 235, Laws of 1945 and RCW 33.20.040; amending section 13, chapter 176, Laws of 1963 and RCW 32.12.120; adding a new chapter to Title 30 RCW; adding a new section to chapter 30.20 RCW; adding a new section to chapter 31.12 RCW; adding a new section to chapter 33.20 RCW; repealing section 30.20.010, chapter 33, Laws of 1955 and RCW 30.20.010; repealing section 30.20.015, chapter 33, Laws of 1955, section 6, chapter 280, Laws of 1961, section 5, chapter 133, Laws of 1967 and RCW 30.20.015; repealing section 30.20.020, chapter 33, Laws of 1955, section 2, chapter 280, Laws of 1961, section 39, chapter 117, Laws of 1974 ex. sess., section 28, chapter 234, Laws of 1977 ex. sess. and RCW 30.20.020; repealing section 30.20.030, chapter 33, Laws of 1955, section 49, chapter 154, Laws of 1973 1st ex. sess. and RCW 30.20.030; repealing section 1, chapter 347, Laws of 1955 and RCW 30.20.035; repealing section 5, chapter 280, Laws of 1961, section 19, chapter 278, Laws of 1975 1st ex. sess. and RCW 30.20.100; repealing section 32.12.030, chapter 13, Laws of 1955, section 7, chapter 280, Laws of 1961, section 4, chapter 176, Laws of 1963 and RCW 32.12.030; repealing section 12, chapter 176, Laws of 1963, section 20, chapter 278, Laws of 1975 1st ex. sess. and RCW 32.12.110; repealing section 40, chapter 235, Laws of 1945 and RCW 33.20.030; repealing section 1, chapter 165, Laws of 1975 1st ex. sess., section 3, chapter 107, Laws of 1979 and RCW 33.20.035; repealing section 43, chapter 235, Laws of 1945, section 50, chapter 154, Laws of 1973 1st ex. sess. and RCW 33.20.050; repealing section 45, chapter 235, Laws of 1945 and RCW 33.20.070; repealing section 46, chapter 235, Laws of 1945, section 6, chapter 246, Laws of 1963, section 41, chapter 117, Laws of 1974 ex. sess. and RCW 33.20.080; and providing an effective date.

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

NEW SECTION. Section 1. SHORT TITLE. This chapter shall be known and may be cited as the financial institution individual account deposit act.

NEW SECTION. Sec. 2. PURPOSES. The purposes of this chapter are:

- (1) To provide a consistent law applicable to all financial institutions authorized to accept deposits from individuals with respect to payments by the institutions to individuals claiming rights to the deposited funds; and
- (2) To qualify and simplify the law concerning the respective ownership interests of individuals to funds held on deposit by financial institutions, both as to the relationship between the individual depositors and beneficiaries of an account, and to the financial institution–depositor–beneficiary relationships; and
- (3) To simplify and make consistent the law pertaining to payments by financial institutions of deposited funds both before and after the death of a depositor or depositors, including provisions for the validity and effect of certain nontestamentary transfers of deposits upon the death of one or more depositors.

NEW SECTION. Sec. 3. CONSTRUCTION. When construing sections and provisions of this chapter, the sections and provisions shall:

- (1) Be liberally construed and applied to promote the purposes of the chapter; and

(2) Be considered part of a general act which is intended as unified coverage of the subject matter, and no part of the chapter shall be deemed impliedly repealed by subsequent legislation if such construction can be reasonably avoided; and

(3) Not be held invalid because of the invalidity of other sections or provisions of the chapter as long as the section or provision in question can be given effect without regard to the invalid section or provision, and to this end the sections and provisions of this chapter are declared to be severable; and

(4) Not be construed by reference to section or subsection headings as used in the chapter since these do not constitute any part of the law; and

(5) Not be deemed to alter the community or separate property nature of any funds held on deposit by a financial institution or any individual's community or separate property rights thereto, and a depositor's community and/or separate property rights to funds on deposit shall not be affected by the form of the account; and

(6) Not be construed as authorizing or extending the authority of any financial institution to accept deposits or to permit a financial institution to accept deposits from such persons or entities or upon such terms as would contravene any other applicable federal or state law.

NEW SECTION. Sec. 4. DEFINITIONS. Unless the context of this chapter otherwise requires, the terms contained in this section have the meanings indicated.

(1) "Account" means a contract of deposit between a depositor or depositors and a financial institution; the term includes a checking account, savings account, certificate of deposit, savings certificate, share account, savings bond, and other like arrangements.

(2) "Actual knowledge" means written notice to a manager of a branch of a financial institution, or an officer of the financial institution in the course of his employment at the branch, pertaining to funds held on deposit in an account maintained by the branch received within a period of time which affords the financial institution a reasonable opportunity to act upon the knowledge.

(3) "Individual" means a human being; "person" includes an individual, corporation, partnership, limited partnership, joint venture, trust, or other entity recognized by law to have separate legal powers.

(4) "Agent" means a person designated by a depositor or depositors in a contract of deposit or other document to have the authority to deposit and to make payments from an account in the name of the depositor or depositors.

(5) "Agency account" means an account to which funds may be deposited and from which payments may be made by an agent designated by a depositor. In the event there is more than one depositor named on an account, each depositor may designate the same or a different agent for the

purpose of depositing to or making payments of funds from a depositor's account.

(6) "Single account" means an account in the name of one depositor only.

(7) "Joint account without right of survivorship" means an account in the name of two or more depositors and which contains no provision that the funds of a deceased depositor become the property of the surviving depositor or depositors.

(8) "Joint account with right of survivorship" means an account in the name of two or more depositors and which provides that the funds of a deceased depositor become the property of one or more of the surviving depositors.

(9) "Trust and P.O.D. accounts" means accounts payable on request to a depositor during the depositor's lifetime, and upon the depositor's death to one or more designated beneficiaries, or which are payable to two or more depositors during their lifetimes, and upon the death of all depositors to one or more designated beneficiaries. The term "trust account" does not include deposits by trustees or other fiduciaries where the trust or fiduciary relationship is established other than by a contract of deposit with a financial institution.

(10) "Trust or P.O.D. account beneficiary" means a person or persons, other than a codepositor, who has or have been designated by a depositor or depositors to receive the depositor's funds remaining in an account upon the death of a depositor or all depositors.

(11) "Depositor", when utilized in determining the rights of individuals to funds in an account, means an individual who owns the funds. When utilized in determining the rights of a financial institution to make or withhold payment, and/or to take any other action with regard to funds held under a contract of deposit, "depositor" means the individual or individuals who have the current right to payment of funds held under the contract of deposit without regard to the actual rights of ownership thereof by these individuals. A trust or P.O.D. account beneficiary becomes a depositor only when the account becomes payable to the beneficiary by reason of having survived the depositor or depositors named on the account, depending upon the provisions of the contract of deposit.

(12) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law.

(13) "Depositor's funds" or "funds of a depositor" means the amount of all deposits belonging to or made for the benefit of a depositor, less all withdrawals of the funds by the depositor or by others for the depositor's benefit, plus the depositor's prorated share of any interest or dividends included in the current balance of the account and any proceeds of deposit life insurance added to the account by reason of the death of a depositor.

(14) "Payment(s)" of sums on deposit includes withdrawal, payment by check or other directive of a depositor or his agent, any pledge of sums on deposit by a depositor or his agent, any set-off or reduction or other disposition of all or part of an account balance, and any payments to any person under sections 12, 14, 15, 16, 17, 18, 19, 20, and 22 of this act.

(15) "Proof of death" means a certified or authenticated copy of a death certificate, or photostatic copy thereof, purporting to be issued by an official or agency of the jurisdiction where the death purportedly occurred, or a certified or authenticated copy of a record or report of a governmental agency, domestic or foreign, that a person is dead. In either case, the proofs constitute prima facie proof of the fact, place, date, and time of death, and identity of the decedent and the status of the dates, circumstances, and places disclosed by the record or report.

(16) "Request" means a request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this chapter the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.

(17) "Withdrawal" means payment to a person pursuant to check or other directive of a depositor.

NEW SECTION. Sec. 5. TYPES OF ACCOUNTS WHICH FINANCIAL INSTITUTION MAY ESTABLISH. The types of accounts in which funds may be deposited with a financial institution include, but are not limited to, the following:

- (1) A single account;
- (2) A joint account without right of survivorship;
- (3) A joint account with right of survivorship;
- (4) An agency account;
- (5) A trust or P.O.D. account; and
- (6) Any compatible combination of the foregoing.

In each case, the type of account shall be determined by the terms of the contract of deposit between the depositor and the financial institution. The financial institution shall describe to a potential depositor the various types of accounts available.

NEW SECTION. Sec. 6. REQUIREMENTS OF CONTRACT OF DEPOSIT. The contract of deposit shall be in writing and signed by all individuals who have a current right to payment of funds from an account. The designation of an agent, or trust or P.O.D. account beneficiary by a depositor of a joint account without right of survivorship, or the designation of an agent by a depositor of a joint account with right of survivorship or by a depositor of a trust or P.O.D. account does not require the signature of a

codepositor. A financial institution may insert such additional terms and conditions in a contract of deposit as it deems appropriate.

NEW SECTION. Sec. 7. ACCOUNTS OF MINORS AND INCOMPETENTS. A minor or incompetent may enter into a valid and enforceable contract of deposit with the financial institution and any account in the name of a minor or incompetent shall, in the absence of clear and convincing evidence of a different intention at the time it is created, be held for the exclusive right and benefit of the minor or incompetent free from the control of all other persons.

NEW SECTION. Sec. 8. ACCOUNTS OF MARRIED PERSONS. A financial institution may enter into a contract of deposit without regard to whether the depositor is married and without regard as to whether the funds on deposit are the community or separate property of the depositor.

NEW SECTION. Sec. 9. OWNERSHIP OF FUNDS DURING LIFETIME OF DEPOSITOR. Subject to community property rights, during the lifetime of a depositor, or the joint lifetimes of depositors:

(1) Funds on deposit in a single account belong to the depositor.

(2) Funds on deposit in a joint account without right of survivorship and in a joint account with right of survivorship belong to the depositors in proportion to the net funds owned by each depositor on deposit in the account, unless the contract of deposit provides otherwise or there is clear and convincing evidence of a contrary intent at the time the account was created.

(3) Funds on deposit in a trust or P.O.D. account belong to the depositor and not to the trust or P.O.D. account beneficiary or beneficiaries; if two or more depositors are named on the trust or P.O.D. account, their rights of ownership to the funds on deposit in the account are governed by subsection (2) of this section.

(4) Ownership of funds on deposit in an agency account shall be determined in accordance with subsections (1), (2), and (3) of this section depending upon whether the principal is a depositor on a single account, joint account, joint account with right of survivorship, or trust or P.O.D. account.

NEW SECTION. Sec. 10. OWNERSHIP OF FUNDS AFTER DEATH OF A DEPOSITOR. Subject to community property rights and subject to the terms and provisions of any community property agreement, upon the death of a depositor:

(1) Funds which remain on deposit in a single account belong to the depositor's estate.

(2) Funds belonging to a deceased depositor which remain on deposit in a joint account without right of survivorship belong to the depositor's estate, unless the depositor has also designated a trust or P.O.D. account beneficiary of the depositor's interest in the account.

(3) Funds belonging to a deceased depositor which remain on deposit in a joint account with right of survivorship belong to the surviving depositors

unless there is clear and convincing evidence of a contrary intent at the time the account was created. If there is more than one individual having right of survivorship, the funds belong equally to the surviving depositors unless the contract of deposit otherwise provides. If there is more than one surviving depositor, the rights of survivorship shall continue between the surviving depositors.

(4) Funds remaining on deposit in a trust or P.O.D. account belong to the trust or P.O.D. account beneficiary designated by the deceased depositor unless the account has also been designated as a joint account with right of survivorship, in which event the funds remaining on deposit in the account do not belong to the trust or P.O.D. account beneficiary until the death of the last surviving depositor and the rights of the surviving depositors shall be determined by subsection (3) of this section. If the deceased depositor has designated more than one trust or P.O.D. account beneficiary, and more than one of the beneficiaries survive the depositor, the funds belong equally to the surviving beneficiaries unless the depositor has specifically designated a different method of distribution in the contract of deposit; if two or more beneficiaries survive, there is no right of survivorship as between them unless the terms of the account or deposit agreement expressly provide for rights of survivorship between the beneficiaries.

(5) Upon the death of a depositor of an agency account, the agency shall terminate and any funds remaining on deposit belonging to the deceased depositor shall become the property of the depositor's estate or such other persons who may be entitled thereto, depending upon whether the account was a single account, joint account, joint account with right of survivorship, or a trust or P.O.D. account.

Any transfers to surviving depositors or to trust or P.O.D. account beneficiaries pursuant to the terms of this section are declared to be effective by reason of the provisions of the account contracts involved and this chapter and are not to be considered as testamentary dispositions. The rights of survivorship and of trust and P.O.D. account beneficiaries arise from the express terms of the contract of deposit and cannot, under any circumstances, be changed by the will of a depositor.

NEW SECTION. Sec. 11. CONTROVERSIES BETWEEN OWNERS. Sections 9 and 10 of this act are intended to establish ownership of funds on deposit in the accounts stated, as between depositors and/or trust or P.O.D. account beneficiaries, and the provisions thereof are relevant only as to controversies between such persons and their creditors, and other successors, and have no bearing on the power of any person to receive payment of funds maintained in the accounts or the right of a financial institution to make payments to any person as provided by the terms of the contract of deposit.

NEW SECTION. Sec. 12. RIGHT TO RELY ON FORM OF ACCOUNT—DISCHARGE OF FINANCIAL INSTITUTIONS. In making payments of funds deposited in an account, a financial institution may rely conclusively and entirely upon the form of the account and the terms of the contract of deposit at the time the payments are made. A financial institution is not required to inquire as to either the source or the ownership of any funds received for deposit to an account, or to the proposed application of any payments made from an account. Unless a financial institution has actual knowledge of the existence of dispute between depositors, beneficiaries, or other persons claiming an interest in funds deposited in an account, all payments made by a financial institution from an account at the request of any depositor to the account and/or the agent of any depositor to the account in accordance with this section and sections 14, 15, 16, 17, 18, 19, 20, and 22 of this act shall constitute a complete release and discharge of the financial institution from all claims for the amounts so paid regardless of whether or not the payment is consistent with the actual ownership of the funds deposited in an account by a depositor and/or the actual ownership of the funds as between depositors and/or the beneficiaries of P.O.D. and trust accounts, and/or their heirs, successors, personal representatives, and assigns.

NEW SECTION. Sec. 13. RIGHTS AS BETWEEN INDIVIDUALS PRESERVED. The protection accorded to financial institutions under sections 12, 14, 15, 16, 17, 18, 19, 20, 21, and 22 of this act shall have no bearing on the actual rights of ownership to deposited funds by a depositor, and/or between depositors, and/or by and between beneficiaries of trust and P.O.D. accounts, and their heirs, successors, personal representatives, and assigns.

NEW SECTION. Sec. 14. PAYMENT OF FUNDS TO A DEPOSITOR. Payments of funds on deposit in a single account may be made by a financial institution to or for the depositor regardless of whether the depositor is, in fact, the actual owner of the funds. Payments of funds on deposit in an account having two or more depositors may be made by a financial institution to or for any one or more of the depositors named on the account without regard to the actual ownership of the funds by or between the depositors, and without regard to whether any other depositor or depositors so named are deceased or incompetent at the time the payments are made.

NEW SECTION. Sec. 15. PAYMENT TO MINORS AND INCOMPETENTS. Financial institutions may make payments of funds on deposit in an account established by a depositor who is a minor or incompetent without regard to whether it has actual knowledge of the minority or incompetency of the depositor unless the branch of the financial institution at which the account is maintained has received written notice to withhold

payment to the minor or incompetent by the guardian of his estate and had a reasonable opportunity to act upon the notice.

NEW SECTION. Sec. 16. PAYMENT TO TRUST AND P.O.D. ACCOUNT BENEFICIARIES. Financial institutions may pay any funds remaining on deposit in an account to a trust or P.O.D. account beneficiary or beneficiaries when the financial institution has received proofs of death of all depositors to the account who pursuant to the terms of the contract of deposit were required to predecease the beneficiary. If there is more than one trust or P.O.D. account beneficiary, financial institutions shall not, unless the contract of deposit otherwise provides, pay to any one such beneficiary more than that amount which is obtained by dividing the total of the funds on deposit in the account by the number of trust or P.O.D. account beneficiaries.

NEW SECTION. Sec. 17. PAYMENT TO AGENTS OF DEPOSITORS. Any funds on deposit in an account may be paid by a financial institution to or upon the order of any agent of any depositor. The contract of deposit or other document creating such agency may provide, in accordance with chapter 11.94 RCW, that any such agent's powers to receive payments and make withdrawals from an account continues in spite of, or arises by virtue of, the incompetency of a depositor, in which event the agent's powers to make payments and withdrawals from an account on behalf of a depositor is not affected by the incompetency of a depositor. Except as provided in this section, the authority of an agent to receive payments or make withdrawals from an account terminates with the death or incompetency of the agent's principal: PROVIDED, That a financial institution is not liable for any payment or withdrawal made to or by an agent for a deceased or incompetent depositor unless the financial institution making the payment or permitting the withdrawal had actual knowledge of the incompetency or death at the time payment was made.

NEW SECTION. Sec. 18. PAYMENT TO PERSONAL REPRESENTATIVES. Financial institutions may pay any funds remaining on deposit in an account which belongs to a deceased depositor to the personal representative of the depositor's estate under any of the following circumstances:

- (1) When the decedent was the depositor on a single account; or
- (2) When the decedent was a depositor on a joint account without right of survivorship or the only surviving depositor on a joint account with right of survivorship, and has not designated a trust or P.O.D. account beneficiary of the decedent's interest, and the financial institution has received the proofs of death necessary to establish the deaths of the other depositors named on the account; or
- (3) When the decedent was a beneficiary of a P.O.D. or trust account and the financial institution has received proofs of death of the beneficiary

and all depositors to the account who, pursuant to the terms of the contract of deposit, were required to predecease the beneficiary; or

(4) When consent to the payment has been given in writing by all depositors and beneficiaries of the account; or

(5) When so ordered or directed by a superior court of the state or other court having jurisdiction over the matter.

NEW SECTION. Sec. 19. PAYMENT TO HEIRS AND CREDITORS OF A DECEASED DEPOSITOR. In each case, where it is provided in section 18 of this act that a financial institution may make payment of funds deposited in an account to the personal representative of the estate of a deceased depositor or beneficiary, the financial institution may make payment of the funds to the following persons under the circumstances provided:

(1) In those instances where the deceased depositor left a surviving spouse, and the deceased depositor and the surviving spouse shall have executed a community property agreement which by its terms would include funds of the deceased depositor remaining in the account, a financial institution may make payment of all funds in the name of the deceased spouse to the surviving spouse upon receipt of a certified copy of the community property agreement as recorded in the office of a county auditor of the state and an affidavit of the surviving spouse that the community property agreement was validly executed and in full force and effect upon the death of the depositor.

(2) In those instances where the balance of the funds in the name of a deceased depositor does not exceed two thousand five hundred dollars, payment of the decedent's funds remaining in the account may be made to the surviving spouse, next of kin, funeral director, or other creditor who may appear to be entitled thereto upon receipt of proof of death and an affidavit to the effect that no personal representative has been appointed for the deceased depositor's estate. As a condition to the payment, a financial institution may require such waivers, indemnity, receipts, and acquittance and additional proofs as it may consider proper.

(3) In those instances where the balance of the funds in the name of a deceased depositor does not exceed ten thousand dollars, to the person entitled thereto when presented by an affidavit which meets the requirements of chapter 11.62 RCW.

A person receiving a payment from a financial institution pursuant to subsections (2) and (3) of this section is answerable and accountable therefor to any personal representative of the deceased depositor's estate wherever and whenever appointed.

NEW SECTION. Sec. 20. PAYMENT TO FOREIGN PERSONAL REPRESENTATIVE. In each case where it is provided in this chapter that payment may be made to the personal representative of the estate of a deceased depositor or trust or P.O.D. account beneficiary, financial institutions

may make payment of the funds on deposit in a deceased depositor's or beneficiary's account to the personal representative of the decedent's estate appointed under the laws of any other state or territory or country after:

(1) At least ninety days have elapsed since the date of the deceased depositor's death; and

(2) Upon receipt of the following:

(a) Proof of death of the deceased depositor or beneficiary;

(b) Proof of the appointment and continuing authority of the personal representative requesting payment; and

(c) The personal representative's, or its agent's, affidavit to the effect that to the best of his or her knowledge no personal representative has been or will be appointed under the laws of this state; and

(d) Receipt of an inheritance tax release from the department of revenue. However, if a personal representative of the deceased depositor's or beneficiary's estate is appointed and qualified as such under the laws of this state, and delivers proof of the appointment and qualification to the office or branch of the financial institution in which the deposit is maintained prior to the transmissions of the sums on deposit to the foreign personal representative, then the funds shall be paid to the personal representative of the deceased depositor's or beneficiary's estate who has been appointed and qualified in this state.

NEW SECTION. Sec. 21. **AUTHORITY TO WITHHOLD PAYMENT.** Nothing contained in this chapter shall be deemed to require any financial institution to make any payment from an account to a depositor, or any trust or P.O.D. account beneficiary, or any other person claiming an interest in any funds deposited in the account, if the financial institution has actual knowledge of the existence of a dispute between the depositors, beneficiaries, or other persons concerning their respective rights of ownerships to the funds contained in, or proposed to be withdrawn, or previously withdrawn from the account, or in the event the financial institution is otherwise uncertain as to who is entitled to the funds pursuant to the contract of deposit. In any such case, the financial institution may, without liability, notify, in writing, all depositors, beneficiaries, or other persons claiming an interest in the account of either its uncertainty as to who is entitled to the distributions or the existence of any dispute, and may also, without liability, refuse to disburse any funds contained in the account to any depositor, and/or trust or P.O.D. account beneficiary thereof, and/or other persons claiming an interest therein, until such time as either:

(1) All such depositors and/or beneficiaries have consented, in writing, to the requested payment; or

(2) The payment is authorized or directed by a court of proper jurisdiction.

NEW SECTION. Sec. 22. **ADVERSE CLAIM BOND.** Notwithstanding section 21 of this act, a financial institution may, without liability, pay

or permit withdrawal of any funds on deposit in an account to a depositor and/or agent of a depositor and/or trust or P.O.D. account beneficiary, and/or other person claiming an interest therein, even when the financial institution has actual knowledge of the existence of the dispute, if the adverse claimant shall execute to the financial institution, in form and with security acceptable to it, a bond in an amount which is double either the amount of the deposit or the adverse claim, whichever is the lesser, indemnifying the financial institution from any and all liability, loss, damage, costs, and expenses, for and on account of the payment of the adverse claim or the dishonor of the check or other order of the person in whose name the deposit stands on the books of the financial institution: PROVIDED, That where the person in whose name the deposit stands is a fiduciary for the adverse claimant, and the facts constituting such relationship, and also the facts showing reasonable cause of belief on the part of the claimant that the fiduciary is about to misappropriate the deposit, are made to appear by the affidavit of the claimant, the financial institution shall, without liability, refuse to deliver the property for a period of not more than five business days from the date that the financial institution receives the adverse claimant's affidavit, without liability for the sufficiency or truth of the facts alleged in the affidavit, after which time the claim shall be treated as any other claim under this section.

NEW SECTION. Sec. 23. There is added to chapter 30.20 RCW a new section to read as follows:

Deposits made by individuals in a national bank, state bank, trust company, or other banking institution subject to the supervision of the supervisor of banking are governed by chapter 30.— RCW (sections 1 through 22 of this 1981 act).

NEW SECTION. Sec. 24. There is added to chapter 31.12 RCW a new section to read as follows:

Deposits made by individuals in a credit union under this chapter are governed by chapter 30.— RCW (sections 1 through 22 of this 1981 act).

Sec. 25. Section 4, chapter 280, Laws of 1961 as amended by section 1, chapter 143, Laws of 1979 and RCW 30.20.090 are each amended to read as follows:

Notice to any national bank, state bank, trust company, mutual savings bank or bank under the supervision of the supervisor of banking, doing business in this state of an adverse claim to a deposit standing on its books to the credit of any person may be disregarded without liability by said bank or trust company unless said adverse claimant shall also either procure a restraining order, injunction or other appropriate process against said bank or trust company from a court of competent jurisdiction in a cause therein instituted by him wherein the person to whose credit the deposit stands is made a party and served with summons or shall execute to said

bank or trust company, in form and with sureties acceptable to it, a bond, in an amount which is double either the amount of said deposit or said adverse claim, whichever is the lesser, indemnifying said bank or trust company from any and all liability, loss, damage, costs and expenses, for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands on the books of said bank or trust company: PROVIDED, That where the person to whose credit the deposit stands is a fiduciary for such adverse claimant, and the facts constituting such relationship, and also the facts showing reasonable cause of belief on the part of said claimant that the said fiduciary is about to misappropriate said deposit, are made to appear by the affidavit of such claimant, the bank or trust company shall without liability refuse to deliver such property for a period of not more than five business days from the date that the bank received the adverse claimant's affidavit, without liability for the sufficiency or truth of the facts alleged in the affidavit, after which time the claim shall be treated as any other claim under this section.

This section shall not apply to accounts subject to chapter 30.— RCW (sections 1 through 22 of this 1981 act).

Sec. 26. Section 10, chapter 173, Laws of 1933 as amended by section 9, chapter 131, Laws of 1943 and RCW 31.12.140 are each amended to read as follows:

Shares may be issued (~~and deposits received~~) in the name of a minor, and such shares (~~and deposits~~) may, in the discretion of the directors, be withdrawn by such minor or by his parent or guardian (~~, and in either case payments made on such withdrawals shall be valid and shall release the corporation from liability to the minor, parent or guardian in respect of such share and deposits~~). A minor under eighteen shall not have the right to vote.

~~((Two or more eligible persons may jointly become depositors or members in a credit union and such persons shall enjoy the same rights as though the deposits had been made by, or the shares issued to, an individual member, and unless written instructions to the contrary are given to the credit union relative to such account, and written receipt thereof acknowledged by such credit union, any of such persons may exercise the rights of ownership, transfer and withdrawal incidental to such ownership without the other joint holders joining therein, and in the event of death, the survivor or survivors may exercise all rights incidental to such deposits or shares.))~~

Sec. 27. Section 32.12.010, chapter 13, Laws of 1955 as last amended by section 1, chapter 145, Laws of 1967 and RCW 32.12.010 are each amended to read as follows:

Deposits made by individuals in a mutual savings bank under this chapter are governed by chapter 30.— RCW (sections 1 through 22 of this 1981

act). In addition, other deposits which a savings bank may establish include but are not limited to the following:

(1) ~~((Deposits in the name of the depositor and another or others in joint form with right of survivorship:~~

(2) ~~Deposits in the name of the depositor as trustee for another under a voluntary and revocable trust:~~

(3) ~~Deposits in the name of the depositor and another in joint form with right of survivorship as trustee for another under a voluntary and revocable trust:~~

(4)) ~~Deposits in the name of, or on behalf of, a partnership or other form of multiple ownership enterprise.~~

((5)) (2) ~~Deposits in the name of a corporation, society, or unincorporated association.~~

((6)) (3) ~~Deposits maintained by a person, society, or corporation as administrator, executor, guardian, or trustee under a will or trust agreement.~~

((7) ~~Deposits designated as community property of a marital community, whether in the name of either or both of the members of the community:~~

(8) ~~Deposits designated as separate property of the depositor.))~~

Every such bank may limit the aggregate amount which an individual or any corporation or society may have to his or its credit to such sum as such bank may deem expedient to receive; and may in its discretion refuse to receive a deposit, or may at any time return all or any part of any deposits or require the withdrawal of any dividends or interest. Any account in excess of one hundred thousand dollars may only be accepted or held in accordance with such regulations as the supervisor may establish.

Sec. 28. Section 32.12.020, chapter 13, Laws of 1955 as last amended by section 40, chapter 117, Laws of 1974 ex. sess. and RCW 32.12.020 are each amended to read as follows:

The sums deposited with any savings bank, together with any dividends or interest credited thereto, shall be repaid to the depositors thereof respectively, or to their legal representatives, after demand in such manner, and at such times, and under such regulations, as the board of trustees shall prescribe, subject to the provisions of this section and RCW 32.12.030. Such regulations shall be posted in a conspicuous place in the room where the business of such savings bank shall be transacted, and shall be available to depositors upon request. All such rules and regulations, and all amendments thereto, from time to time in effect, shall be binding upon all depositors.

(1) Such bank may at any time by a resolution of its board of trustees require a notice of not more than six months before repaying deposits, in which event no deposit shall be due or payable until the required notice of intention to withdraw the same shall have been personally given by the depositor: PROVIDED, That such bank at its option may pay any deposit or

deposits before the expiration of such notice. But no bank shall agree with its depositors or any of them in advance to waive the requirement of notice as herein provided.

(2) Except as provided in subdivisions (3), (4), and (5) of this section the savings bank shall not pay any dividend, or interest, or deposit, or portion thereof, or any check drawn upon it by a depositor unless the certificate of deposit is produced, or the passbook of the depositor is produced and the proper entry is made therein, at the time of the payment.

(3) The board of trustees of any such bank may by its bylaws provide for making payments in cases of loss of passbook or certificate of deposit, or other exceptional cases where the passbooks or certificates of deposit cannot be produced without loss or serious inconvenience to depositors, the right to make such payments to cease when so directed by the supervisor upon his being satisfied that such right is being improperly exercised by any such bank; but payments may be made at any time upon the judgment or order of a court.

(4) The board of trustees of any such bank may by its bylaws provide for making payments to depositors at their request, of dividends or interest payable on any deposit, without requiring the production of the passbook or certificate of deposit of the depositor, and any payment made in accordance with any such request and the receipt or acquittance of the one to whom such payment is made shall be a valid and sufficient release and discharge to such savings bank for all payments made on account of such request prior to receipt by such savings bank of notice in writing not to pay such sums in accordance with the terms of such request.

(5) The issuance of a passbook or certificate of deposit may be omitted for any account if a ledger record thereof is maintained in lieu of a passbook or certificate of deposit on which shall be entered deposits, withdrawals, and interest credited: PROVIDED, That in any event a passbook or certificate of deposit shall be issued upon the request of any depositor.

~~((6) If any person dies leaving in any such bank an account on which the balance due him does not exceed one thousand dollars and no executor or administrator of his estate has been appointed, such bank may in its discretion pay the balance of his account to his widow (or if the decedent was a married woman, then to her husband), next of kin, funeral director, or other creditor who may appear to be entitled thereto. As a condition of such payment such bank may require proof by affidavit as to the parties in interest, the filing of proper waivers, the execution of a bond of indemnity with surety or sureties by the person to whom the payment is to be made, and a proper receipt and acquittance for such payment. For any such payment pursuant to this section such bank shall not be liable to the decedent's executor or administrator thereafter appointed, unless the payment was made within six months after the decedent's death, and an action to recover the amount is commenced within six months after the date of payment. On the~~

death of any depositor of any savings bank, the bank may also pay out the moneys on deposit to the credit of the deceased upon presentation of an affidavit as provided in RCW 11.62.010.))

NEW SECTION. Sec. 29. There is added to chapter 33.20 RCW a new section to read as follows:

Deposits made by individuals in an association are governed by chapter 30.— RCW (sections 1 through 22 of this 1981 act).

Sec. 30. Section 41, chapter 235, Laws of 1945 and RCW 33.20.040 are each amended to read as follows:

Subject to chapter 30.— RCW (sections 1 through 22 of this 1981 act), minors may become members of an association and all contracts entered into between a minor and an association, with respect to his membership or his savings therein, shall be valid and enforceable, and ~~((all savings accounts of minors shall be held for the exclusive right and benefit of such minor and free from the control or lien of all other persons, except creditors, and shall be paid, together with the dividends thereon, to the minor member, and his receipt or acquittance shall be a valid discharge of the obligation:))~~ a minor may not disaffirm, because of his minority, any such membership or agreement in connection therewith.

Sec. 31. Section 13, chapter 176, Laws of 1963 and RCW 32.12.120 are each amended to read as follows:

Notice to any mutual savings bank doing business in this state of an adverse claim to a deposit standing on its books to the credit of any person shall not be effectual to cause said bank to recognize said adverse claimant unless said adverse claimant shall also either procure a restraining order, injunction or other appropriate process against said bank from a court of competent jurisdiction in a cause therein instituted by him wherein the person to whose credit the deposit stands is made a party and served with summons or shall execute to said bank, in form and with sureties acceptable to it, a bond, in an amount which is double either the amount of said deposit or said adverse claim, whichever is the lesser, indemnifying said bank from any and all liability, loss, damage, costs and expenses, for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands on the books of said bank: PROVIDED, That this law shall not apply in any instance where the person to whose credit the deposit stands is a fiduciary for such adverse claimant, and the facts constituting such relationship as also the facts showing reasonable cause of belief on the part of said claimant that the said fiduciary is about to misappropriate said deposit, are made to appear by the affidavit of such claimant.

This section shall not apply to accounts subject to chapter 30.— RCW (sections 1 through 22 of this 1981 act).

NEW SECTION. Sec. 32. Sections 1 through 22 of this act shall constitute a new chapter in Title 30 RCW.

NEW SECTION. Sec. 33. The following acts or parts of acts are each repealed:

- (1) Section 30.20.010, chapter 33, Laws of 1955 and RCW 30.20.010;
- (2) Section 30.20.015, chapter 33, Laws of 1955, section 6, chapter 280, Laws of 1961, section 5, chapter 133, Laws of 1967 and RCW 30.20.015;
- (3) Section 30.20.020, chapter 33, Laws of 1955, section 2, chapter 280, Laws of 1961, section 39, chapter 117, Laws of 1974 ex. sess., section 28, chapter 234, Laws of 1977 ex. sess. and RCW 30.20.020;
- (4) Section 30.20.030, chapter 33, Laws of 1955, section 49, chapter 154, Laws of 1973 1st ex. sess. and RCW 30.20.030;
- (5) Section 1, chapter 347, Laws of 1955 and RCW 30.20.035;
- (6) Section 5, chapter 280, Laws of 1961, section 19, chapter 278, Laws of 1975 1st ex. sess. and RCW 30.20.100;
- (7) Section 32.12.030, chapter 13, Laws of 1955, section 7, chapter 280, Laws of 1961, section 4, chapter 176, Laws of 1963 and RCW 32.12.030;
- (8) Section 12, chapter 176, Laws of 1963, section 20, chapter 278, Laws of 1975 1st ex. sess. and RCW 32.12.110;
- (9) Section 40, chapter 235, Laws of 1945 and RCW 33.20.030;
- (10) Section 1, chapter 165, Laws of 1975 1st ex. sess., section 3, chapter 107, Laws of 1979 and RCW 33.20.035;
- (11) Section 43, chapter 235, Laws of 1945, section 50, chapter 154, Laws of 1973 1st ex. sess. and RCW 33.20.050;
- (12) Section 45, chapter 235, Laws of 1945 and RCW 33.20.070; and
- (13) Section 46, chapter 235, Laws of 1945, section 6, chapter 246, Laws of 1963, section 41, chapter 117, Laws of 1974 ex. sess. and RCW 33.20.080.

NEW SECTION. Sec. 34. This act shall take effect on July 1, 1982.

Passed the Senate February 27, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 193

[Engrossed Senate Bill No. 3183]

PROCEEDINGS AFTER JUDGMENT

AN ACT Relating to proceedings after judgment; amending section 351, page 91, Laws of 1869 as last amended by section 355, Code of 1881 and RCW 6.04.100; amending section 24, chapter 133, Laws of 1893 as amended by section 2, chapter 93, Laws of 1899 and RCW 6.32.240; amending section 4, chapter 264, Laws of 1969 ex. sess. as amended by section 1, chapter 55, Laws of 1977 ex. sess. and RCW 7.33.040; amending section 11, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.110; amending section 13, chapter 264, Laws of 1969 ex. sess. as last amended by section 8, chapter 292, Laws of 1971 ex.

sess. and RCW 7.33.130; amending section 28, chapter 264, Laws of 1969 ex. sess. as last amended by section 1, chapter 6, Laws of 1971 and RCW 7.33.280; and repealing section 23, chapter 133, Laws of 1893 and RCW 6.32.230.

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

Section 1. Section 351, page 91, Laws of 1869 as last amended by section 355, Code of 1881 and RCW 6.04.100 are each amended to read as follows:

When the writ of execution is against the property of the judgment debtor, (~~it shall be executed by~~) the sheriff shall serve on the debtor, in the same manner as service of a summons in a civil action, a copy of the writ, together with copies of RCW 6.12.010, 6.12.050, 6.12.060, 6.16.020, and 6.16.090, each as now existing or hereafter amended, and shall execute the writ as follows:

(1) If property has been attached, he shall indorse on the execution, and pay to the clerk forthwith the amount of the proceeds of sales of perishable property or debts due the defendant received by him, sufficient to satisfy the judgment.

(2) If the judgment is not then satisfied, and property has been attached and remains in his custody, he shall sell the same, or sufficient thereof to satisfy the judgment.

(3) If then any portion of the judgment remains unsatisfied, or if no property has been attached or the same has been discharged, he shall levy on the property of the judgment debtor, sufficient to satisfy the judgment.

(4) Property shall be levied on in like manner and with like effect as similar property is attached.

(5) Until a levy, personal property shall not be affected by the execution. When property has been sold or debts received by the sheriff on execution, he shall pay the proceeds thereof, or sufficient to satisfy the judgment, as commanded in the writ.

(6) When property has been attached and it is probable that such property will not be sufficient to satisfy the judgment, the execution may be levied on other property of the judgment debtor without delay. If after satisfying the judgment any property, or the proceeds thereof, remain in the custody of the sheriff, he shall deliver the same to the judgment debtor.

Sec. 2. Section 24, chapter 133, Laws of 1893 as amended by section 2, chapter 93, Laws of 1899 and RCW 6.32.240 are each amended to read as follows:

Special proceedings under this chapter may be instituted and prosecuted before the superior or district court of the county in which the judgment was entered or any judge thereof, or before the superior or district court of any county to the sheriff of which an execution has been issued or in which a transcript of said judgment has been filed in the office of the clerk of said court or before any judge thereof.

Sec. 3. Section 4, chapter 264, Laws of 1969 ex. sess. as amended by section 1, chapter 55, Laws of 1977 ex. sess. and RCW 7.33.040 are each amended to read as follows:

Before the issuance of the writ of garnishment the plaintiff or someone in his behalf shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, including the amount alleged to be due, and that the plaintiff has reason to believe, and does believe, (a) that the garnishee, stating his name and residence, is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or (b) that he has in his possession, or under his control, personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law, and shall pay to the clerk of the superior court the fee provided by RCW 36.18.020, or to the clerk of the justice court the fee of two dollars. The party applying for this writ shall state in such affidavit whether or not the party who is to be the garnishee is the employer of the defendant.

Sec. 4. Section 11, chapter 264, Laws of 1969 ex. sess. and RCW 7.33-.110 are each amended to read as follows:

Said writ shall be substantially in the following form:

"IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF

..... ,
Plaintiff, No.
vs.
..... ,
Defendant WRIT OF
GARNISHMENT
..... ,
Garnishee

THE STATE OF WASHINGTON TO:
Garnishee

AND TO:
Defendant

The above-named plaintiff claims that the above-named defendant is indebted to plaintiff and that the amount of dollars should be held to satisfy that indebtedness and has applied for a writ of garnishment against you.

You are hereby commanded to answer this writ by filling in the attached form according to the instructions thereon, and you must mail or deliver the original of such answer to the court, one copy to the plaintiff or his attorney, and one copy to the defendant within twenty days after the service of the writ upon you.

If you owe the defendant any wages, salary or other compensation for personal services, then you shall do as follows:

(1) For each week of such wages, salary or other compensation for personal services you owe the defendant, deduct twenty-five percent of the disposable earnings of defendant, or the amount by which his disposable earnings exceed dollars for each week, whichever shall be less.

(2) The total amount deducted above is subject to garnishment, and all other sums shall be paid to the defendant on the day you would customarily pay him such wages, salary or other compensation.

(3) Do not make any deduction if the defendant's wages, salary or other compensation does not exceed dollars for each week of such wages, salary or other compensation you owe the defendant. This weekly amount is exempt by law from garnishment and must be paid to the defendant.

Unless directed by the court, do not pay any debt, whether wages subject to this garnishment or any other debt, owed the defendant when this writ was served, or deliver, sell or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control when this writ was served; any such payment, delivery, sale or transfer is void as to so much of the debt, property or shares as are necessary to satisfy plaintiff's claim and costs for this writ with interest.

In the event that you owe to defendant a debt payable in money and subject to this garnishment in excess of the amount set forth in the first paragraph of this garnishment, hold only the amount set forth in said first paragraph of this garnishment and release all additional funds or property to defendant.

WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR DEFENDANT'S CLAIMED DEBT TO PLAINTIFF.

NOTICE TO DEFENDANT: THE LAW MAY PROTECT CERTAIN TYPES AND AMOUNTS OF YOUR INCOME AND PROPERTY FROM GARNISHMENT. TO CLAIM SUCH EXEMPTIONS, YOU MUST FILE A SWORN STATEMENT WITH THE COURT WITHIN TWENTY DAYS AFTER THE GARNISHEE ANSWERS THIS WRIT.

Witness, the Honorable, Judge of the Superior Court, and the seal thereof, this day of, 19 . . .

[Seal]

.....
 Attorney for
 Plaintiff (or
 Plaintiff,
 if no attorney)

.....
 Clerk of
 Superior
 Court

.....
 Address

.....
 By

Sec. 5. Section 13, chapter 264, Laws of 1969 ex. sess. as last amended by section 8, chapter 292, Laws of 1971 ex. sess. and RCW 7.33.130 are each amended to read as follows:

Service of the writ of garnishment is invalid unless there is served therewith (1) Four answer forms as provided in RCW 7.33.150 together with stamped envelopes addressed respectively to the clerk of the court issuing the writ, the attorney for the plaintiff (or to the plaintiff if he has no attorney), and the defendant; and (2) Cash, or a check made payable to the garnishee in the amount of ten dollars. The writ of garnishment may be mailed to the garnishee by certified mail, return receipt requested, ((or it may)) addressed in the same manner as a summons in a civil action, and will be binding upon the garnishee on the second business day following the time as set forth on the return receipt. The writ may also be served by the sheriff of the county in which the garnishee lives or it may be served by any citizen of the state of Washington eighteen years of age or over and not a party to the action in which it is issued in the same manner as a summons in an action is served: **PROVIDED, HOWEVER,** That where the writ is directed to a bank, banking association, mutual savings bank or savings and loan association maintaining branch offices, as garnishee, the writ must be directed to and service thereof must be made by certified mail, return receipt requested, to, or by leaving a copy of the writ with, the manager or any other officer or cashier or assistant cashier of such bank or association at the office or branch thereof at which the account evidencing such indebtedness of the defendant is carried or at the office or branch which has in its possession or under its control credits or other personal property belonging to the defendant. In every case where a writ of garnishment is served by an officer, such officer shall make his return thereon showing the time, place and manner of service and that the writ was accompanied by answer forms and addressed envelopes and cash or a check as required by this section, and noting thereon his fees for making such service and shall sign his name to such return. In case such service is made by any person other than an officer, such person shall attach to the original writ his affidavit showing his qualifications to make such service, and that the writ was accompanied by answer forms and addressed envelopes and cash deposit or a check as required by this section, and the time, place and manner of making service, and shall endorse thereon the legal fees therefor.

Sec. 6. Section 28, chapter 264, Laws of 1969 ex. sess. as last amended by section 1, chapter 6, Laws of 1971 and RCW 7.33.280 are each amended to read as follows:

(1) If the garnishee is an employer owing the defendant wages, salary, or other compensation for personal services, then for each week of such wages, salary, or other compensation ~~((; the following amounts))~~ an amount shall be exempt from garnishment ~~((: The greater of (1)))~~ which is the greatest of the following:

(a) Forty times the state hourly minimum wage; or

~~((2))~~ (b) Seventy-five percent of the disposable earnings of the defendant; or

(c) Such amount as may be exempt under federal law.

(2) Such exemption shall apply whether such earnings are paid, or to be paid, weekly, monthly, or at other intervals, and whether there be due the defendant earnings for one week, a portion thereof, or for a longer period.

(3) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amount required by law to be withheld: PROVIDED, That amount deducted from an employee's compensation as contributions toward a participating pension or retirement program established pursuant to a collective bargaining agreement shall not be considered a part of disposable earnings. Unless directed otherwise by the court, the garnishee shall determine and deduct the amount exempt under this section and shall pay this amount to the defendant ~~((: PROVIDED FURTHER, That the foregoing))~~.

(4) The exemptions under this section shall not apply in the case of a garnishment for child support if (a) the garnishment is based on a judgment or other court order; (b) the amount stated on the writ does not exceed the amount of two months support payments; and (c) the following language is conspicuously added to the writ of garnishment: "This garnishment is based on a judgment or court order for child support. Hold all funds you owe the defendant up to the amount stated above without regard to any statutory exemption".

(5) No money due or earned as earnings as defined in RCW 7.33.010 (3) shall be exempt from garnishment under the provisions of RCW 6.16.020, as now or hereafter amended.

NEW SECTION. Sec. 7. Section 23, chapter 133, Laws of 1893 and RCW 6.32.230 are each repealed.

Passed the Senate March 24, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 194
[Substitute Senate Bill No. 3187]
SHERIFFS' SERVICES FEES

AN ACT Relating to sheriffs' duties; amending section 36.18.040, chapter 4, Laws of 1963 as amended by section 1, chapter 94, Laws of 1975 1st ex. sess. and RCW 36.18.040; amending section 36.18.060, chapter 4, Laws of 1963 and RCW 36.18.060; amending section 4, chapter 187, Laws of 1919 as last amended by section 3, chapter 83, Laws of 1970 ex. sess. and RCW 12.40.040; and adding a new section to chapter 12.40 RCW.

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

Section 1. Section 36.18.040, chapter 4, Laws of 1963 as amended by section 1, chapter 94, Laws of 1975 1st ex. sess. and RCW 36.18.040 are each amended to read as follows:

Sheriffs shall collect the following fees for their official services: For service of each summons and complaint, ~~((and return thereon))~~ notice and complaint, summons and petition, and notice of small claim on each defendant, besides mileage, ((three)) six dollars;

For making a return ~~((of "not found" in the county upon a summons)),~~ besides mileage actually traveled, ~~((two))~~ five dollars;

For levying each writ of attachment or writ of execution upon real or personal property, besides mileage, ~~((four))~~ fifteen dollars ~~((and fifty cents))~~;

For filing copy of writ of attachment or writ of execution with auditor, ~~((three))~~ five dollars plus auditor's filing fee;

~~((For chattel mortgage foreclosure (short form), levy four dollars and fifty cents; posting notice, two dollars; service of notice, three dollars;))~~

For serving writ of possession or restitution without aid of the county, besides mileage, ~~((four))~~ fifteen dollars ~~((and fifty cents))~~;

For serving writ of possession or restitution with aid of the county, besides mileage, ~~((seven))~~ twenty-five dollars ~~((and fifty cents))~~ plus fifteen dollars for each hour after one hour;

~~((For service and return of subpoena, upon each person served, besides mileage, one dollar and fifty cents;))~~

For summoning each juror, besides mileage, ~~((one))~~ five dollars ~~((and fifty cents))~~;

For serving an arrest warrant in any action or proceeding, besides mileage, ~~((six))~~ fifteen dollars;

For ~~((serving or))~~ executing any other writ or process in a civil action or proceeding, besides mileage, ~~((three))~~ fifteen dollars ~~((and fifty cents))~~;

~~((For taking and approving any bond, in a civil action or proceeding, required by law to be taken or approved by him, except indemnity bonds, three dollars and fifty cents;))~~

For each mile actually and necessarily traveled by him in going to or returning from any place of service, or attempted service, ~~((fifteen))~~ twenty-five cents;

For making a deed to lands sold upon execution or order of sale or other decree of court, to be paid by the purchaser, ~~((nine))~~ twenty dollars;

For making copies of papers when sufficient copies are not furnished, one dollar for first page and fifty cents per each additional page;

For the service of any ~~((process))~~ other document and supporting papers for which no other fee is provided for herein, ~~((three))~~ six dollars ~~((and fifty cents))~~;

~~((For the making of any return for which no other fee is provided herein, three dollars and fifty cents;~~

~~For the execution of any process for which no other fee is provided herein, six dollars;~~

~~For the service of affidavit and bond in replevin, three dollars and fifty cents for each defendant; approval of bond, three dollars and fifty cents; taking property, three dollars and fifty cents;))~~

For posting ~~((notices))~~ a notice of sale, or postponement, ~~((three))~~ five dollars ~~((and fifty cents))~~ besides mileage;

For certificate or bill of sale of ~~((real))~~ property, ~~((seven))~~ or certificate of redemption, twenty dollars ~~((and fifty cents))~~;

~~((For serving notice of redemption, three dollars and fifty cents; certificate of redemption, seven dollars and fifty cents;~~

~~For making a return of no property found, two dollars;~~

~~For estray sales, crying sale, three dollars and fifty cents, besides mileage;))~~

For conducting a sale of ~~((personal))~~ property ~~((pursuant to exemption [execution] or order of sale, five))~~ fifteen dollars.

Fees allowable under this section may be recovered by the prevailing party incurring the same as court costs.

Sec. 2. Section 36.18.060, chapter 4, Laws of 1963 and RCW 36.18.060 are each amended to read as follows:

The officers mentioned in this chapter except the county sheriff shall not, in any case, except for the state or county, perform any official services unless the fees prescribed therefor are paid in advance, and on such payment the officer must perform the services required. The county sheriff may allow payment to be made after official services have been performed as the sheriff deems appropriate. For every failure or refusal to perform official duty when the fees are tendered, the officer is liable on his official bond.

Sec. 3. Section 4, chapter 187, Laws of 1919 as last amended by section 3, chapter 83, Laws of 1970 ex. sess. and RCW 12.40.040 are each amended to read as follows:

Said notice of claim can be served either as provided for the service of summons or complaint and notice in civil actions or by registered or certified mail provided a return receipt with the signature of the party being served is filed with the court, but no other paper is to be served with the notice. The officer serving such notice shall be entitled to receive from the plaintiff, besides mileage, ~~((one dollar))~~ the fee specified in RCW 36.18.040 for such service; which sum, together with the filing fee named in RCW 12.40.030, shall be added to any judgment given for plaintiff.

NEW SECTION. Sec. 4. There is added to chapter 12.40 RCW a new section to read as follows:

In the event persons other than the sheriff or duly appointed deputies charge a fee for services in excess of the fees allowed under RCW 36.18.040, the prevailing party incurring such charges shall be entitled to recover as court costs only the amount of the fees for such services as provided in RCW 36.18.040.

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 30, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 195

[Senate Bill No. 3189]

CHILD GUARDIANSHIP, SUPPORT

AN ACT Relating to juveniles; amending section 51, chapter 155, Laws of 1979 and RCW 13.34.230; amending section 8, chapter 160, Laws of 1913 as last amended by section 44, chapter 291, Laws of 1977 ex. sess. and RCW 13.34.160; amending section 1, chapter 188, Laws of 1955 as last amended by section 45, chapter 291, Laws of 1977 ex. sess. and RCW 13.34.170; and adding new sections to chapter 13.34 RCW.

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

Section 1. Section 51, chapter 155, Laws of 1979 and RCW 13.34.230 are each amended to read as follows:

Any party to a dependency proceeding, including the supervising agency, may file a petition in juvenile court requesting that guardianship be created as to a dependent child. The department of social and health services shall receive notice of any guardianship proceedings and have the right to intervene in the proceedings. ~~((Guardianship may be established if the court finds that: (1) The requirements of chapter 11.88 RCW are met; (2) the requirements of RCW 13.34.180(1), (2), (3), (4), and (5) are met; and (3) sole guardianship is in the best interests of the child. Guardianship of a~~

~~child under this section shall not disentitle a guardian from eligibility to receive foster care payments. Guardianship shall be as defined in chapter 11-88 RCW. PROVIDED, That if guardianship is established pursuant to this section, the review hearing requirements of RCW 13.34.130 shall not apply; the juvenile court shall determine the appropriate frequency of visitation between the parent or parents and the child; the juvenile court shall determine the need for any continued involvement of a supervising agency; any party may seek modification of the guardianship under RCW 13.34.150.)~~

NEW SECTION. Sec. 2. At the hearing on a guardianship petition, all parties have the right to present evidence and cross examine witnesses. The rules of evidence apply to the conduct of the hearing. A guardianship may be established if the court finds by a preponderance of the evidence that:

(1) The child has been found to be a dependent child under RCW 13.34.030(2);

(2) A dispositional order has been entered pursuant to RCW 13.34.130;

(3) The child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2);

(4) The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided;

(5) There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

(6) A guardianship rather than termination of the parent-child relationship or continuation of the child's current dependent status would be in the best interest of the family.

NEW SECTION. Sec. 3. If the court has made a finding under section 2 of this act, it shall enter an order establishing a guardianship for the child. The order shall:

(1) Appoint a person or agency to serve as guardian;

(2) Specify the guardian's rights and responsibilities concerning the care, custody, and control of the child. A guardian shall not have the authority to consent to the child's adoption;

(3) Specify an appropriate frequency of visitation between the parent and the child; and

(4) Specify the need for any continued involvement of the supervising agency and the nature of that involvement, if any.

NEW SECTION. Sec. 4. Any party may seek a modification of the guardianship order under RCW 13.34.150.

NEW SECTION. Sec. 5. Establishment of a guardianship under sections 2 and 3 of this act does not preclude a guardian from receiving foster care payments.

NEW SECTION. Sec. 6. A guardianship established under sections 2 and 3 of this act is not subject to the review hearing requirements of RCW 13.34.130.

NEW SECTION. Sec. 7. Any person over the age of twenty-one years who is not otherwise disqualified by this section, any nonprofit corporation, or any Indian tribe may be appointed the guardian of a child under section 3 of this act. No person is qualified to serve as a guardian who: (1) Is of unsound mind; (2) has been convicted of a felony or misdemeanor involving moral turpitude; or (3) is a person whom the court finds unsuitable.

Sec. 8. Section 8, chapter 160, Laws of 1913 as last amended by section 44, chapter 291, Laws of 1977 ex. sess. and RCW 13.34.160 are each amended to read as follows:

In any case in which the court shall find the child dependent, it may in the same or subsequent proceeding upon the parent or parents, guardian, or other person having custody of said child, being duly summoned or voluntarily appearing, proceed to inquire into the ability of such persons or person to support the child or contribute to its support, and if the court shall find such person or persons able to support the child or contribute thereto, the court may enter such order or decree as shall be according to equity in the premises, and may enforce the same by execution, or in any way in which a court of equity may enforce its decrees(~~(- PROVIDED, That no support payments shall be required of a parent who, throughout a dependence proceeding pursuant to RCW 13.34.030(2)(d), has continuously sought reconciliation with, and the return of, his or her child, unless such parent has been found to have abused or neglected such children))~~).

Sec. 9. Section 1, chapter 188, Laws of 1955 as last amended by section 45, chapter 291, Laws of 1977 ex. sess. and RCW 13.34.170 are each amended to read as follows:

In any case in which an order or decree of the juvenile court requiring a parent or parents, guardian, or other person having custody of a child to pay for shelter care and/or support of such child is not complied with, the court may, upon such person or persons being duly summoned or voluntarily appearing, proceed to inquire into the amount due upon said order or decree and enter judgment for such amount against the defaulting party or parties, and such judgment shall be docketed as are other judgments for the payment of money.

In such judgments, the county in which the same are entered shall be denominated the judgment creditor, or the state may be the judgment creditor where the child is in the custody of a state agency and said judgments may be enforced by the prosecuting attorney of such county, or the attorney general where the state is the judgment creditor and any moneys recovered

thereon shall be paid into the registry of the juvenile court and shall be disbursed to such person, persons, agency, or governmental department as the court shall find to be entitled thereto.

Such judgments shall remain as valid and enforceable judgments for a period of ~~((six))~~ ten years subsequent to the entry thereof.

NEW SECTION. Sec. 10. Sections 2 through 7 of this act are each added to chapter 13.34 RCW.

Passed the Senate March 9, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 196

[Senate Bill No. 3230]

MARINE PILOT LIABILITY

AN ACT Relating to pilotage; adding new sections to chapter 88.16 RCW; and creating a new section.

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

NEW SECTION. Section 1. There is added to chapter 88.16 RCW a new section to read as follows:

The preservation of human life and property associated with maritime commerce on the pilotage waters of this state is declared to be in the public interest, and the limitation and regulation of the liability of pilots licensed by the state of Washington is necessary to such preservation and is deemed to be in the public interest.

NEW SECTION. Sec. 2. There is added to chapter 88.16 RCW a new section to read as follows:

Pilots licensed by this state are authorized to limit their liability by special contracts or tariffs containing substantially the terms and provisions of the following form:

"PILOT LIABILITY

The rates and charges named in this tariff do not include marine insurance insuring the vessel, its owners, agents, or operators from the consequences of negligence or errors in the judgment of the particular pilots supplying the services. Upon reasonable notice from the vessel, its master, owners, agents, or operator, the pilots, parties hereto, will provide such insurance on a "trip" basis to the value of the vessel and its cargo, the premium of which will be assessed in addition to the rates and charges specified herein.

The election of the vessel, its master, owners, agents, or operators not to request pilots, parties hereto, to procure such insurance and to elect to have the pilots, parties hereto, perform services on the rates and charges specified

herein shall constitute a binding and irrevocable agreement on the part of the vessel, its master, owners, agents, or operators to the terms and conditions of the following:

It is understood and agreed, and is the essence of the contract under which the services of the pilot are tendered to the vessel, its master, and owners, that:

(1) The services rendered hereunder are rendered by a pilot duly and regularly licensed by the state of Washington pursuant to chapter 88.16 RCW, or with respect to domestic vessels, a state pilot who holds a valid license issued by the federal government;

(2) Such services are advisory in nature only, the master of the vessel remaining at all times in full command of the vessel;

(3) The services of the pilot are accepted on the express understanding that the master, owners, and operators covenant and agree to indemnify and hold harmless the pilot in respect to any liability including but not limited to suits or actions directly against the pilot by third parties by reason of errors or omissions of the pilot in the performance of pilotage services; excepting, however, such personal liability and rights over as may arise by reason of the wilful misconduct or gross negligence of the pilot; and

(4) The fees charged for the services rendered by the pilot under this agreement have been computed and are assessed in accordance with and based upon the above stipulations and the regulations governing pilot tariffs adopted by the board of pilotage commissioners pursuant to chapter 88.16 RCW.

NEW SECTION. Sec. 3. There is added to chapter 88.16 RCW a new section to read as follows:

The board shall adopt such regulations as necessary for the implementation of section 2 of this act, and shall designate the appropriate forms as required, shall make all provisions as necessary for coordination of sections 1 through 3 of this act, and shall keep accurate and complete records as necessary of the insurance and limited liability agreements as allowed in section 2 of this act.

NEW SECTION. Sec. 4. Prior to January 5, 1983, the board of pilotage commissioners shall forward to the legislature and governor a report concerning the implementation of sections 1 through 3 of this act.

Passed the Senate April 24, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 197

[Engrossed Substitute Senate Bill No. 3232]
HIGHWAY CLOSURES, STATE PATROL

AN ACT Relating to public highways; and adding a new section to chapter 47.48 RCW.

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

NEW SECTION. Section 1. There is added to chapter 47.48 RCW a new section to read as follows:

(1) Whenever the chief or another officer of the state patrol determines on the basis of a traffic investigation that an emergency exists or less than safe road conditions exist due to human-caused or natural disasters or extreme weather conditions upon any state highway, or any part thereof, state patrol officers may determine and declare closures and temporarily reroute traffic from any such affected highway.

(2) Any alteration of vehicular traffic on any state highway due to closure in emergency conditions is effective until such alteration has been approved or altered by the secretary of transportation or other department of transportation authorities in their local respective jurisdictions.

(3) All state highway closures by officers of the state patrol shall be immediately reported to the secretary of transportation and to other authorities in their local jurisdictions.

Passed the Senate April 24, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 198

[Senate Bill No. 3238]

WASHINGTON STATE SCHOOL BUILDING SYSTEM PROJECT

AN ACT Relating to the Washington state school building systems project; amending section 5, chapter 89, Laws of 1977 ex. sess. and RCW 28A.03.405; amending section 1, chapter 70, Laws of 1972 ex. sess. and RCW 48.48.045; repealing section 1, chapter 238, Laws of 1971 ex. sess. and RCW 28A.04.300; and repealing section 2, chapter 238, Laws of 1971 ex. sess. and RCW 28A.04.310.

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

NEW SECTION. Section 1. The following acts or parts of acts are each hereby repealed:

(1) Section 1, chapter 238, Laws of 1971 ex. sess. and RCW 28A.04-.300; and

(2) Section 2, chapter 238, Laws of 1971 ex. sess. and RCW 28A.04.310.

Sec. 2. Section 5, chapter 89, Laws of 1977 ex. sess. and RCW 28A.03-.405 are each amended to read as follows:

The Washington school facilities cost stabilization program shall:

(1) Encourage the expansion of the use of systems building in school construction and modernization by implementing the following procedures and others deemed appropriate:

(a) Develop procedural and technical guidelines to assist school officials and school designers in utilizing the systems concept within the framework of state board of education regulations for school building construction;

(b) ~~((Review and modify building subsystem specifications developed pursuant to RCW 28A.04.310 and develop and/or review specifications for additional subsystems as appropriate;~~

~~(c))~~ Require utilization of systems building on ~~((those))~~ projects, except modernization projects, receiving state assistance in addition to the amount determined allocable under basic state support level provisions in chapter 180-30 WAC when in the judgment of the superintendent of public instruction the projects lend themselves to systems building;

~~((d))~~ (c) Provide mandatory critiques of systems project designs on those projects where systems designs are required, and critiquing as requested for districts voluntarily utilizing systems design.

(2) Investigate and/or experiment with emerging design/construction and maintenance/operation practices, and assist school districts in implementing those which hold promise of achieving one or more of the goals of the state school facilities cost stabilization program.

Sec. 3. Section 1, chapter 70, Laws of 1972 ex. sess. and RCW 48.48-.045 are each amended to read as follows:

Standards for construction relative to fire prevention and safety for all schools under the jurisdiction of the superintendent of public instruction and state board of education shall be established by the state fire marshal, who shall adopt such nationally recognized fire and building codes and standards as may be applicable to local conditions. After the approval of such standards by the superintendent of public instruction and the state board of education, ~~((and review by the advisory board for school building systems established in RCW 28A.04.310;))~~ the fire marshal shall make or cause to be made plan reviews and construction inspections as may be necessary to insure compliance with said codes and standards.

Political subdivisions of the state having and enforcing such fire and building codes and standards at least equal to or higher than those by the state fire marshal as provided for in this section shall be exempted from the plan review and construction inspection provisions of this section within

their respective subdivision for as long as such codes and standards are enforced.

Passed the Senate March 16, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 199

[Senate Bill No. 3250]

SURPLUS LINE BROKER'S LICENSE—RESIDENCY

AN ACT Relating to insurance; and amending section .15.07, chapter 79, Laws of 1947 as last amended by section 3, chapter 102, Laws of 1980 and RCW 48.15.070.

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

Section 1. Section .15.07, chapter 79, Laws of 1947 as last amended by section 3, chapter 102, Laws of 1980 and RCW 48.15.070 are each amended to read as follows:

Any ((~~person~~)) resident of this state deemed by the commissioner to be competent and trustworthy, and while maintaining an office at a designated location in this state, may be licensed as a surplus line broker(~~(, as follows:))~~ in accordance with this section.

(1) Application to the commissioner for the license shall be made on forms furnished by the commissioner.

(2) The license fee shall be one hundred dollars for each license year during any part of which the license is in force. The annual renewal date shall be determined by the commissioner. The commissioner shall adopt a rule providing for the proration, on a quarterly basis, of the license fee. The proration shall be applicable only: (a) To applicants who apply for a license after the expiration of the first quarter of any license year, or (b) to licensees whose licenses would exist for less than nine months as a result of the adoption of the annual renewal date.

(3) Prior to issuance of license the applicant shall file with the commissioner a bond in favor of the state of Washington in the penal sum of twenty thousand dollars, with authorized corporate sureties approved by the commissioner, conditioned that he will conduct business under the license in accordance with the provisions of this chapter and that he will promptly remit the taxes provided by RCW 48.15.120. The licensee shall maintain such bond in force for as long as the license remains in effect.

(4) Every applicant for a surplus line broker's license or for the renewal of a surplus line broker's license shall file with the application or request for renewal a bond in favor of the people of the state of Washington, executed by an authorized corporate surety approved by the commissioner, in the amount of fifty thousand dollars and shall be the bonding requirement for

new licensees. The licensee shall maintain such bond in force while so licensed. The bond may be continuous in form, and total aggregate liability on the bond may be limited to the amount stated in the bond. The bond shall be contingent on the accounting by the surplus line broker to any person requesting such broker to obtain insurance, for moneys or premiums collected in connection therewith. A bond issued in accordance with RCW 48.17.250 or with this subsection will satisfy the requirements of both RCW 48.17.250 and this subsection if the limit of liability is not less than the greater of the requirement of RCW 48.17.250 or the requirement of this subsection.

(5) Any bond issued pursuant to subsection (3) or (4) of this section shall remain in force until the surety is released from liability by the commissioner, or until the bond is canceled by the surety. Without prejudice to any liability accrued prior to such cancellation, the surety may cancel the bond upon thirty days' advance notice in writing filed with the commissioner.

Passed the Senate February 27, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 200

[Senate Bill No. 3262]

SCHOOL BUS DRIVERS—CERTIFICATION CANCELLATION—DUE PROCESS HEARING

AN ACT Relating to education; and amending section 4, chapter 153, Laws of 1969 ex. sess. as amended by section 89, chapter 158, Laws of 1979 and RCW 28A.04.131.

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

Section 1. Section 4, chapter 153, Laws of 1969 ex. sess. as amended by section 89, chapter 158, Laws of 1979 and RCW 28A.04.131 are each amended to read as follows:

In addition to other powers and duties, the state board of education shall adopt rules and regulations governing the training and qualifications of school bus drivers. Such rules and regulations shall be designed to insure that persons will not be employed to operate school buses unless they possess such physical health and driving skills as are necessary to safely operate school buses: PROVIDED, That such rules and regulations shall insure that school bus drivers are provided a due process hearing before any certification required by such rules and regulations is cancelled: PROVIDED FURTHER, That such rules and regulations shall not conflict with the authority

of the department of licensing to license school bus drivers in accordance with RCW 46.20.440 through 46.20.470.

Passed the Senate March 24, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 201

[Engrossed Senate Bill No. 3264]

COMMERCIAL SALMON FISHING LICENSE—LATE APPLICATION FEE

AN ACT Relating to commercial salmon fishing; amending section 3, chapter 171, Laws of 1957 as last amended by section 1, chapter 57, Laws of 1965 ex. sess. and RCW 75.28.014; and declaring an emergency.

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

Section 1. Section 3, chapter 171, Laws of 1957 as last amended by section 1, chapter 57, Laws of 1965 ex. sess and RCW 75.28.014 are each amended to read as follows:

~~((Applications accompanied by the prescribed fees for the licenses required in RCW 75.28.013, as amended, shall be made in person, or postmarked not later than midnight of April 15th of the year in which the commercial salmon fishing license is to be effected.))~~ An applicant for a commercial salmon fishing license required by RCW 75.28.013 shall submit a license application in accordance with this section.

(1) If an application is postmarked or personally delivered to the department in Olympia by April 15th of the license year, it shall be accompanied by the prescribed license fee.

(2) If an application is postmarked or personally delivered to the department in Olympia after April 15th of the license year, it shall be accompanied by the prescribed license fee and a late application fee of two hundred dollars.

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

Passed the Senate April 25, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 202

[Senate Bill No. 3265]

SALMON CHARTER BOATS, LICENSE RENEWAL

AN ACT Relating to salmon charter boat licensing limitations; amending section 2, chapter 106, Laws of 1977 ex. sess. as amended by section 7, chapter 101, Laws of 1979 and RCW 75.30.020; and repealing section 6, chapter 101, Laws of 1979 and RCW 75.30.110.

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

Section 1. Section 2, chapter 106, Laws of 1977 ex. sess. as amended by section 7, chapter 101, Laws of 1979 and RCW 75.30.020 are each amended to read as follows:

For the purposes of this chapter, the term "charter boat" shall refer only to those charter boats from which salmon are taken. On and after May 28, 1977, the department shall initiate a moratorium on the issuance of charter boat licenses by issuing such licenses only to those boats whose owners can prove by means of good and sufficient documentary evidence that the boat was licensed pursuant to RCW 75.28.095 between January 1, 1974, and January 1, 1977. No charter boat shall be entitled to more than one charter boat license.

Such boats shall be entitled to receive and renew the charter boat license for each year (~~during the period from May 28, 1977 through December 31, 1981~~). A charter boat license for which no application is made to the department or which is not renewed in any year automatically expires and shall not be renewed further.

Nothing herein shall be construed to be contrary to the provisions of Title 75 RCW or any rule promulgated thereunder. All such charter boat licenses shall be transferable.

NEW SECTION. Sec. 2. Section 6, chapter 101, Laws of 1979 and RCW 75.30.110 are each hereby repealed.

Passed the Senate March 24, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 203

[Senate Bill No. 3295]

ARSON

AN ACT Relating to arson; amending section 9A.04.080, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.04.080; amending section 9A.48.020, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.48.020; amending section 9A.28.020, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.28.020; amending section 384, chapter 249, Laws of 1909 and RCW 9.91.090; and providing penalties.

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

Section 1. Section 9A.04.080, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.04.080 are each amended to read as follows:

Prosecutions for the offenses of murder, and arson where death ensues, may be commenced at any period after the commission of the offense; for offenses the punishment of which may be imprisonment in a state correctional institution, committed by any public officer in connection with the duties of his office or constituting a breach of his public duty or a violation of his oath of office, and arson where death does not ensue, within ten years after their commission; for all other offenses the punishment of which may be imprisonment in a state correctional institution, within three years after their commission; two years for gross misdemeanors; and for all other offenses, within one year after their commission: PROVIDED, That any length of time during which the party charged was not usually and publicly resident within this state shall not be reckoned within the one, two, three, and ten years respectively: AND FURTHER PROVIDED, That where an indictment has been found, or complaint or an information filed, within the time limited for the commencement of a criminal action, if the indictment, complaint or information be set aside, the time of limitation shall be extended by the length of time from the time of filing of such indictment, complaint, or information, to the time such indictment, complaint, or information was set aside.

Sec. 2. Section 9A.48.020, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.48.020 are each amended to read as follows:

(1) A person is guilty of arson in the first degree if he knowingly and maliciously:

- (a) Causes a fire or explosion which is manifestly dangerous to any human life, including firemen; or
- (b) Causes a fire or explosion which damages a dwelling; or
- (c) Causes a fire or explosion in any building in which there shall be at the time a human being who is not a participant in the crime; or
- (d) Causes a fire or explosion on property valued at ten thousand dollars or more with intent to collect insurance proceeds.

(2) Arson in the first degree is a class A felony.

Sec. 3. Section 9A.28.020, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.28.020 are each amended to read as follows:

(1) A person is guilty of an attempt to commit crime if, with intent to commit a specific crime, he does any act which is a substantial step toward the commission of that crime.

(2) If the conduct in which a person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution of such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission.

(3) An attempt to commit a crime is a:

(a) Class A felony when the crime attempted is murder in the first degree or arson in the first degree;

(b) Class B felony when the crime attempted is a class A felony other than murder in the first degree or arson in the first degree;

(c) Class C felony when the crime attempted is a class B felony;

(d) Gross misdemeanor when the crime attempted is a class C felony;

(e) Misdemeanor when the crime attempted is a gross misdemeanor or misdemeanor.

Sec. 4. Section 384, chapter 249, Laws of 1909 and RCW 9.91.090 are each amended to read as follows:

Every person who, with intent to defraud or prejudice the insurer thereof, shall wilfully injure or destroy any property not specified or included hereinbefore in this subdivision, which is insured at the time against loss or damage by ~~((fire or other))~~ casualty other than fire, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

Passed the Senate March 30, 1981.

Passed the House April 17, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 204

[Substitute Senate Bill No. 3299]

PUBLIC ROADS—ACCESS TO PUBLIC LANDS OR STATE FOREST LANDS

AN ACT Relating to natural resources; amending section 2, chapter 44, Laws of 1961 and RCW 79.38.020; amending section 3, chapter 44, Laws of 1961 and RCW 79.38.030; amending section 5, chapter 44, Laws of 1961 and RCW 79.38.050; amending section 6, chapter 44, Laws of 1961 and RCW 79.38.060; and adding a new section to chapter 76.12 RCW.

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

Section 1. Section 2, chapter 44, Laws of 1961 and RCW 79.38.020 are each amended to read as follows:

To facilitate the carrying out of the purpose of this chapter, the department of natural resources may:

(1) Grant easements, rights of way, and permits to cross public lands and state forest lands to any person in exchange for similar rights over lands not under its jurisdiction;

(2) Enter into agreements with any person or agency relating to purchase, construction, reconstruction, maintenance, repair, regulation, and use of access roads or public roads used to provide access to public lands or state forest lands;

(3) Dispose, by sale, exchange, or otherwise, of any interest in an access road in the event it determines such interest is no longer necessary for the purposes of this chapter.

Sec. 2. Section 3, chapter 44, Laws of 1961 and RCW 79.38.030 are each amended to read as follows:

Purchasers of valuable materials from public lands or state forest lands may use access roads or public roads for the removal of such materials where the rights acquired by the state will permit, but use shall be subject to the right of the department of natural resources:

(1) To impose reasonable terms for the use, construction, reconstruction, maintenance, and repair of such access roads; and

(2) To impose reasonable charges for the use of such access roads or public roads which have been constructed or reconstructed through funding by the department of natural resources.

Sec. 3. Section 5, chapter 44, Laws of 1961 and RCW 79.38.050 are each amended to read as follows:

The department of natural resources shall create, maintain, and administer a revolving fund, to be known as the access road revolving fund in which shall be deposited all moneys received by it from users of access roads as payment for costs incurred or to be incurred in maintaining, repairing, and reconstructing access roads, or public roads used to provide access to public lands or state forest lands. The department may use moneys in the fund for the purposes for which they were obtained without appropriation by the legislature.

Sec. 4. Section 6, chapter 44, Laws of 1961 and RCW 79.38.060 are each amended to read as follows:

All moneys received by the department of natural resources from users of access roads which are not deposited in the access road revolving fund shall be paid as follows:

(1) To reimburse the state fund or account from which expenditures have been made for the acquisition (~~and~~), construction or improvement of the access road or public road, and upon full reimbursement, then

(2) To the funds or accounts for which the public lands and state forest lands, to which access is provided, are pledged by law or constitutional provision, in which case the department of natural resources shall make an equitable apportionment between funds and accounts so that no fund or account shall benefit at the expense of another.

NEW SECTION. Sec. 5. There is added to chapter 76.12 RCW a new section to read as follows:

The department of natural resources may enter into agreements with the county to:

(1) Identify public roads used to provide access to state forest lands in need of improvement;

(2) Establish a time schedule for the improvements;

(3) Advance payments to the county to fund the road improvements: **PROVIDED**, That no more than fifty percent of the access road revolving fund shall be eligible for use as advance payments to counties. The department shall assess the fund on January 1 and July 1 of each year to determine the amount that may be used as advance payments to counties for road improvements; and

(4) Determine the equitable distribution, if any, of costs of such improvements between the county and the state through negotiation of terms and conditions of any resulting repayment to the fund or funds financing the improvements.

Passed the Senate March 30, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 205

[Senate Bill No. 3298]

VENUE, JURY TRANSFER

AN ACT Relating to venue in criminal procedures; adding a new section to chapter 10.25 RCW; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 10.25 RCW a new section to read as follows:

When a change of venue is ordered and the court, upon motion to transfer a jury or in the absence of such motion, determines that it would be more economical to move the jury than to move the pending action and that justice will be served, a change of venue shall be accomplished by the selection of a jury in the county to which the venue would otherwise have been transferred and the selected jury moved to the county where the indictment or information was filed.

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

Passed the Senate April 25, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 206

[Senate Bill No. 3343]

INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION—
MEMBERSHIP—DIRECTOR—SUNSET TERMINATION

AN ACT Relating to the interagency committee for outdoor recreation; amending section 11, chapter 5, Laws of 1965 as last amended by section 125, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.99.110; amending section 13, chapter 5, Laws of 1965 as amended by section 3, chapter 62, Laws of 1967 ex. sess. and RCW 43.99.130; repealing section 19, chapter 99, Laws of 1979 and RCW 43.131.185; and repealing section 61, chapter 99, Laws of 1979 and RCW 43.131.186; providing an effective date; providing an expiration date; and declaring an emergency.

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

Section 1. Section 11, chapter 5, Laws of 1965 as last amended by section 125, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.99.110 are each amended to read as follows:

There is created the interagency committee for outdoor recreation consisting of the commissioner of public lands, the director of parks and recreation, the director of game, the director of fisheries, ~~((the director of highways, and the director of commerce and economic development, the director of the department of ecology,))~~ and, by appointment of the governor, five members from the public at large who have a demonstrated interest in and a general knowledge of outdoor recreation in the state. The terms of members appointed from the public at large shall commence on January 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term; provided the first such members shall be appointed for terms as follows: One member for one year, two members for two years, and two members for three years. The governor shall appoint one of the members from the public at large to serve as chairman of the committee for the duration of the member's term. Members employed by the state shall serve without additional pay and participation in the work of the committee shall be deemed performance of their employment. Members from the public at large shall serve without pay, but shall be entitled to reimbursement individually for travel expenses incurred in performance of their duties as members of the committee in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

Sec. 2. Section 13, chapter 5, Laws of 1965 as amended by section 3, chapter 62, Laws of 1967 ex. sess. and RCW 43.99.130 are each amended to read as follows:

When requested by the committee, members employed by the state shall furnish assistance to the committee from their departments for the analysis and review of proposed plans and projects, and such assistance shall be a proper charge against the appropriations to the several agencies represented

on the committee. Assistance may be in the form of money, personnel, or equipment and supplies, whichever is most suitable to the needs of the committee.

The committee shall employ (~~(an administrator)~~) a director and may employ an assistant (~~(administrator)~~) director to serve at the pleasure of the committee and shall appoint such professional, technical, and clerical personnel and other assistants and employees as may be necessary to carry out the work of the committee.

NEW SECTION. Sec. 3. The following acts or parts of acts are each repealed:

- (1) Section 19, chapter 99, Laws of 1979 and RCW 43.131.185; and
- (2) Section 61, chapter 99, Laws of 1979 and RCW 43.131.186.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1981.

NEW SECTION. Sec. 5. The interagency committee for outdoor recreation shall cease to exist on June 30, 1987, unless extended by law for an additional fixed period of time.

Passed the Senate April 24, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 207

[Substitute Senate Bill No. 3344]

FACILITIES FOR THE HANDICAPPED (REFERENDUM 37)—CAPITAL PROJECTS ALLOCATIONS

AN ACT Relating to facilities for the handicapped; creating new sections; and declaring an emergency.

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

NEW SECTION. Section 1. The funds specified in sections 2 through 33 of this act, are hereby authorized as provided in this section for maximum allocation to the department of social and health services for the specified public bodies of the state for the specified projects for the planning, acquisition, construction, renovation, improvement, and equipping of regional and community facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps in accordance with chapter 43.99C RCW (Referendum 37).

In accordance with RCW 43.99C.047, the amounts specified in sections 2 through 33 of this act are authorized for capital allocation by the department of social and health services from the 1979 handicapped facilities

construction account appropriation contained in section 3, chapter 136, Laws of 1980.

The moneys allocated for the projects described in sections 2 through 33 of this act shall revert for reallocation if the final application for the project has not been submitted by December 31, 1981, and approved by March 31, 1982.

NEW SECTION. Sec. 2. ASOTIN COUNTY.

For Asotin County to renovate a community center for the handicapped (Project No. 201) \$ 99,220

NEW SECTION. Sec. 3. BENTON AND FRANKLIN COUNTIES.

(1) For the City of Kennewick to renovate a vocational rehabilitation center (Project No. 202) \$ 500,000

(2) For the City of Kennewick to purchase a home and renovate it as a group home for the developmentally disabled (Project No. 203) \$ 95,000

NEW SECTION. Sec. 4. CLALLAM COUNTY.

(1) For Clallam County to purchase and renovate an existing building for a community center for mental health day treatment (Project No. 601) \$ 81,860

(2) For the Port of Port Angeles to construct a greenhouse to serve as a sheltered workshop (Project No. 603) \$ 180,000

NEW SECTION. Sec. 5. CLARK COUNTY.

(1) For Clark County to expand an existing group home to provide additional space for developmentally disabled adults (Project No. 604) \$ 164,990

(2) For Clark County to construct a community center to serve the handicapped (Project No. 609) \$ 421,456

(3) For Clark College to construct two additional classrooms for the Parents Receiving Intensive Developmental Education (PRIDE) program to train developmentally disabled children from birth to six years of age (Project No. 632) \$ 129,310

NEW SECTION. Sec. 6. COLUMBIA COUNTY.

For Columbia County to construct a community center for the handicapped (Project No. 209) \$ 75,000

NEW SECTION. Sec. 7. COWLITZ COUNTY.

(1) For Cowlitz County to purchase an existing building and renovate it as a developmental disabilities center for multi-handicapped adults (residential facility and vocational program for developmentally disabled) (Project No. 611) \$ 180,000

(2) For Cowlitz County to construct a living unit for twelve developmentally disabled clients in joint participation with Wahkiakum County: PROVIDED, That the project be constructed in such a way that upon completion it will qualify as a "specialized group home" (Project No. 614) \$ 299,160

NEW SECTION. Sec. 8. DOUGLAS AND/CHELAN COUNTIES.

For Douglas County to purchase land and construct a community center to serve mentally ill clients from Douglas and Chelan counties (Project No. 107) \$ 401,000

NEW SECTION. Sec. 9. GARFIELD COUNTY.

For Garfield County to purchase a building and renovate it as a community center for the handicapped (Project No. 210) \$ 74,268

NEW SECTION. Sec. 10. GRANT COUNTY.

For the Port of Moses Lake to renovate an existing building and purchase equipment to operate a job and living skill training program for the handicapped in a sheltered workshop (Project No. 133) \$ 259,184

NEW SECTION. Sec. 11. GRAYS HARBOR COUNTY.

(1) For Grays Harbor County to renovate a building in Elma to serve as a community center for mentally ill clients and provide day treatment (Project No. 615) \$ 100,000

(2) For Grays Harbor County to construct a community center in Aberdeen to serve mentally ill clients (Project No. 616) \$ 200,460

(3) For Grays Harbor County to renovate and equip an existing facility to be used as a sheltered workshop (Project No. 617) \$ 94,000

NEW SECTION. Sec. 12. ISLAND COUNTY.

(1) For Island County to purchase a building and renovate it as a community center for mentally ill clients (Project No. 301) \$ 92,000

(2) For Island County to purchase a building and renovate it as a developmental disabilities training center (Project No. 304) \$ 137,000

NEW SECTION. Sec. 13. JEFFERSON COUNTY.

For Jefferson County to renovate and expand an existing developmental disabilities center (Project No. 618) \$ 87,120

NEW SECTION. Sec. 14. KING COUNTY.

(1) For the Seattle Housing Authority to renovate or construct a six-unit apartment for the mentally ill: PROVIDED, That if the sponsoring agency elects to renovate, no funds shall be allocated until a new project plan is submitted and approved by the Referendum 37 Regional Committee (Project No. 402) \$ 425,453

(2) For the Seattle Housing Authority to construct a six-bed close-to-home unit for the physically disabled (Project No. 403) \$ 515,584

(3) For the Seattle Housing Authority to purchase a house and renovate it as a group home for six mentally ill clients (Project No. 406) \$ 174,780

(4) For the City of Bellevue to expand an existing developmental disabilities training center to serve the handicapped (Project No. 408) \$ 163,600

(5) For the City of Bellevue to purchase an existing building and renovate it as a center to provide care and training for crippled children, developmentally disabled, and severely disabled (Project No. 409) \$ 231,000

(6) For Bellevue School District No. 405 to construct a developmental disabilities training center for handicapped students (Project No. 410) \$ 330,000

(7) For the City of Issaquah to construct a group training home for severely and profoundly developmentally disabled adults (Project No. 412) \$ 88,000

(8) For the Housing Authority of King County to construct a close-to-home living unit for sixteen developmentally disabled clients (Project No. 413) \$ 726,656

(9) For King County to construct a community center for handicapped children (Project

No. 414)	\$	928,759
(10) For King County to construct a community center for deaf clients (Project No. 416)		
	\$	1,143,087
(11) For the Seattle Housing Authority to purchase a house and renovate it as a close-to-home living unit to serve six mentally ill clients (Project No. 419)		
	\$	157,392
(12) For King County to construct a building to serve thirty seriously mentally ill, primarily low-income clients in a community home for the mentally ill (Project No. 420)		
	\$	529,496
(13) For King County to purchase a building and renovate it as a 68-bed close-to-home living unit for primarily low-income alcoholics who have been released from inpatient treatment (Project No. 421)		
	\$	586,037
(14) For the City of Issaquah to construct a developmental disability training center to provide work and independent living skills training for up to seventy multihandicapped adults (Project No. 423)		
	\$	465,318
(15) For the Port of Seattle to construct a developmental disability training center to provide vocational training of up to fifty-five severely retarded and behaviorally disordered adults (Project No. 424)		
	\$	799,597
(16) For Community College District No. 9 to construct a group home for up to eight developmentally disabled and physically handicapped clients of all ages (Project No. 426)		
	\$	340,708
(17) If a project or group of projects with a dollar value of at least \$789,353 does not meet the deadlines specified in section 1 of this 1981 act, the department of social and health services shall allocate funds not exceeding \$789,353 to King County for the construction of a developmental disability training center to provide pre-vocational services as well as social and living skills for retarded adults (Project No. 422).		

NEW SECTION. Sec. 15. KITSAP COUNTY.

(1) For the City of Winslow to purchase, renovate, and expand a building for use as a

multipurpose community center for the handi- capped (Project No. 501) \$	162,500
(2) For Kitsap County to purchase special- ized equipment to enrich existing programs in a children's developmental disabilities center and an adult sheltered workshop (Project No. 503) \$	13,620
(3) For Kitsap County to expand a commu- nity mental health center to serve seriously mentally handicapped clients (Project No. 505) \$	199,920
(4) For Kitsap County to purchase special woodshop equipment to expand work and train- ing experience for the handicapped at a shel- tered workshop (Project No. 509) \$	106,983
(5) For Kitsap County to construct a com- munity center to serve physically and develop- mentally disabled clients (Project No. 510) \$	298,785
<p><u>NEW SECTION.</u> Sec. 16. KITTITAS COUNTY.</p>	
(1) For Kittitas County to expand a devel- opmental disabilities training center (Project No. 211) \$	44,000
(2) For Kittitas County to purchase a building and renovate it as a mental health center (Project No. 212) \$	118,140
<p><u>NEW SECTION.</u> Sec. 17. KCLICKITAT COUNTY.</p>	
(1) For Klickitat County to purchase a mo- bile home to be used as a residential facility for four developmentally disabled adults (Project No. 619) \$	50,625
(2) For Klickitat County to purchase a fa- cility to house a community center for the county's developmental disability and mental health programs to serve developmentally dis- abled children from birth to five years of age and mentally ill clients of all ages (Project No. 633) \$	44,655
<p><u>NEW SECTION.</u> Sec. 18. LEWIS COUNTY.</p>	
For Lewis County to purchase and remodel a building to serve as a community mental health center (Project No. 620) \$	324,280
<p><u>NEW SECTION.</u> Sec. 19. MASON COUNTY.</p>	
For the Port of Shelton to purchase a build- ing for a day training center for developmen- tally disabled clients (Project No. 624) \$	168,400

NEW SECTION. Sec. 20. OKANOGAN COUNTY.

For Okanogan County to purchase a building and renovate it as a community center to serve developmentally disabled and mental health clients (Project No. 112)	\$ 188,760
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NEW SECTION. Sec. 21. PACIFIC COUNTY.

For Pacific County to construct a community center for mental health, developmentally disabled, and drug and alcohol clients (Project No. 627)	\$ 101,640
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NEW SECTION. Sec. 22. PIERCE COUNTY.

(1) For Pierce County to purchase a house and renovate it as a group home for developmentally disabled adolescents (Project No. 513)	\$ 155,000
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(2) For Pierce County to construct a community home for chronically mentally ill clients in conjunction with a related outpatient treatment center (Project No. 514)	\$ 432,200
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(3) For the City of Tacoma to purchase equipment for expansion of vocational training at a sheltered workshop (Project No. 516)	\$ 6,432
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(4) For the City of Tacoma to construct a community center for a consortium of handicapped groups to provide multiple services to blind, deaf, and physically handicapped clients (Project No. 519)	\$ 1,000,000
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(5) For the City of Tacoma to construct a residential treatment center for psychiatrically impaired youths (Project No. 520)	\$ 596,006
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(6) For the Housing Authority of the City of Tacoma to purchase an existing building and renovate it as specialized housing for developmentally disabled youths (Project No. 521)	\$ 95,000
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(7) For the City of Puyallup to purchase and renovate duplex housing for developmentally disabled clients to improve independent living skills (Project No. 523)	\$ 450,000
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NEW SECTION. Sec. 23. SAN JUAN COUNTY.

For San Juan County to purchase a building and renovate it as a community center for mental health, alcohol, and developmental disabilities programs (Project No. 305)	\$ 75,000
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NEW SECTION. Sec. 24. SKAGIT COUNTY.

(1) For Skagit County to renovate a building as a day treatment center for mental health clients (Project No. 306)	\$	23,280
(2) For Skagit County to construct a building for a developmental disabilities training center (Project No. 307)	\$	164,372
(3) For Skagit Valley Community College to construct a building for a sheltered workshop (Project No. 308)	\$	159,375

NEW SECTION. Sec. 25. SKAMANIA COUNTY.

For Skamania County to construct a developmental disabilities training center (Project No. 628)	\$	46,000
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NEW SECTION. Sec. 26. SNOHOMISH COUNTY.

(1) For the Port of Everett to renovate an existing building, purchase equipment, and construct a building for a sheltered workshop (Project No. 311)	\$	53,803
(2) For Edmonds Community College to renovate a former school as a sheltered workshop and developmental disabilities training center (Project No. 313)	\$	620,800
(3) For Snohomish County to construct two buildings for day treatment centers for developmentally disabled and mentally ill children and adults (Project No. 315)	\$	563,400
(4) For Community College District No. 5 to construct a specialized group home for six severely developmentally disabled children and adults (Project No. 323)	\$	514,835

NEW SECTION. Sec. 27. SPOKANE COUNTY.

(1) For School District No. 81 to renovate an existing building as a developmental disabilities training center to serve children (Project No. 116)	\$	244,000
(2) For Spokane County to purchase equipment for a vocational rehabilitation center (Project No. 117)	\$	383,345
(3) For Spokane County to construct a building and renovate another building to serve the handicapped (Project No. 121)	\$	126,000

(4) For Spokane County to purchase a building and renovate it to serve as a community center for the deaf/blind (Project No. 122)	\$	531,034
(5) For Spokane County to construct a group home for mentally retarded adults and purchase and remodel a home for severely mentally retarded adults (Project No. 124)	\$	250,000
(6) For Spokane County to purchase a building and renovate it as a community mental health center focusing on vocational rehabilitation of mentally ill adults (Project No. 134)	\$	170,630
(7) For Spokane County to purchase equipment to develop and expand a job training program for developmentally disabled and physically handicapped adults (Project No. 135)	\$	8,080
(8) For Spokane County to purchase a building and renovate it to house mentally ill adolescents: PROVIDED, That the project be placed at a site other than that originally identified (Project No. 123)	\$	302,500

NEW SECTION. Sec. 28. STEVENS COUNTY.

(1) For Stevens County to construct and partially renovate a vocational rehabilitation sheltered workshop (Project No. 125)	\$	74,740
(2) For Stevens County to renovate the mental health center to expand services (Project No. 126)	\$	92,240

NEW SECTION. Sec. 29. THURSTON COUNTY.

For Thurston County to construct a mental health center to serve Thurston and Mason counties (Project No. 630)	\$	575,000
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NEW SECTION. Sec. 30. WAHAKIACUM COUNTY.

For Wahkiakum County to construct a living unit for twelve developmentally disabled clients in joint participation with Cowlitz County: PROVIDED, That the project be constructed in such a way that upon completion it will qualify as a "specialized group home" (Project No. 614)	\$	70,840
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NEW SECTION. Sec. 31. WALLA WALLA COUNTY.

(1) For Walla Walla County to purchase rehabilitation equipment, renovate a sheltered

workshop, and purchase a house to serve as a living unit for four developmentally disabled adults (Project No. 215)	\$	92,250
(2) For Walla Walla County to renovate the mental health center to expand services (Project No. 217)	\$	48,000
(3) For Walla Walla County to purchase a premanufactured building for an infant stimulation program serving handicapped children from birth to three years of age (Project No. 223)	\$	66,000

NEW SECTION. Sec. 32. WHATCOM COUNTY.

(1) For Whatcom County to purchase and renovate a building as a supervised residential and treatment center for mentally ill clients (Project No. 319)	\$	201,150
(2) For Whatcom County to renovate a developmental disabilities training center in Bellingham (Project No. 320)	\$	42,855
(3) For Whatcom County to renovate a developmental disabilities training center in Lynden (Project No. 321)	\$	15,967
(4) For Whatcom County to construct a building for a sheltered workshop and training center for the developmentally disabled (Project No. 322)	\$	307,817

NEW SECTION. Sec. 33. WHITMAN COUNTY.

(1) For Whitman County to purchase microfilm processing equipment for a sheltered employment project to serve developmentally disabled adults (Project No. 130)	\$	42,432
(2) For Whitman County to renovate a portion of the mental health center to expand services (Project No. 132)	\$	73,900
(3) For Whitman County to purchase a house and renovate it as a group home for eight severely developmentally disabled adults (Project No. 141)	\$	118,812

NEW SECTION. Sec. 34. YAKIMA COUNTY.

(1) For the City of Union Gap to renovate a vocational rehabilitation training center (Project No. 220)	\$	106,090
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(2) For Yakima County to purchase equipment for a developmental disability training center (Project No. 221)	\$	46,058
(3) For Yakima County to purchase a building and renovate it as a center for deaf persons (Project No. 222)	\$	400,000
(4) For Yakima County to purchase equipment to expand an agricultural wood products program at a developmental disability training center (Project No. 225)	\$	56,000
(5) For Yakima County to purchase and renovate six two-bedroom units as supervised community homes for the mentally ill (Project No. 226)	\$	125,000
(6) For Yakima County to purchase a home and renovate it as a group home for six developmentally disabled adults from 21 to 35 years of age (Project No. 229)	\$	105,000

NEW SECTION. Sec. 35. 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. 36. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 25, 1981.

Passed the House April 17, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 208

[Senate Bill No. 3356]

IRRIGATION DISTRICTS—ELECTIONS

AN ACT Relating to irrigation districts; amending section 2, chapter 171, Laws of 1941 as last amended by section 1, chapter 68, Laws of 1963 and RCW 87.03.075; and amending section 8, page 675, Laws of 1889-90 and RCW 87.03.100.

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

Section 1. Section 2, chapter 171, Laws of 1941 as last amended by section 1, chapter 68, Laws of 1963 and RCW 87.03.075 are each amended to read as follows:

Voting in an irrigation district shall be by ballot. Ballots shall be of uniform size and quality, provided by the district, and for the election of directors shall contain only the names of the candidates who have filed with the secretary of the district a declaration in writing of their candidacy, or a petition of nomination as hereinafter provided, not ~~((less than twenty days before the day of the election))~~ later than five o'clock p.m. on the first Monday in November. Ballots shall contain space for sticker voting or for the writing in of the name of an undeclared candidate. A person filing a declaration of candidacy, or petition of nomination as hereinafter provided, shall designate therein the position for which he is a candidate. No ballots on any form other than the official form shall be received or counted.

In any election for directors where the number of votes which may be received will have no bearing on the length of the term to be served, the candidates for the position of director, in lieu of filing a declaration of candidacy hereunder, shall file with the secretary of the district a petition of nomination signed by at least ten qualified electors of the district, or of the division if the district has been divided into director divisions, not ~~((less than twenty days before the day of election))~~ later than five o'clock p.m. on the first Monday in November. If, after the expiration of the date for filing petitions of nomination, it appears that only one qualified candidate has been nominated thereby for each position to be filled it shall not be necessary to hold an election, and the board of directors shall ~~((within fifteen days after expiration of the date for filing petitions of nomination))~~ at their next meeting declare such candidate elected as director. The secretary shall immediately make and deliver to such person a certificate of election signed by him and bearing the seal of the district. The procedure set forth in this paragraph shall not apply to any other irrigation district elections.

Sec. 2. Section 8, page 675, Laws of 1889-90 and RCW 87.03.100 are each amended to read as follows:

As soon as all the votes are read off and counted, a certificate shall be drawn upon each of the papers containing the poll list and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk[s], judge[s], and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots ~~((shall be strung upon a cord or thread by the inspector during the counting thereof, in the order in which they are entered upon the tally lists by the clerk, and said ballots)),~~ together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by

the inspector, in the presence of the judges and clerks, and endorsed "Election returns of [naming the precinct] precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months, and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

Passed the Senate April 16, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 209

[Engrossed Senate Bill No. 3358]

IRRIGATION DISTRICTS—ASSESSMENTS

AN ACT Relating to irrigation districts; amending section 17, page 681, Laws of 1889-90 as last amended by section 10, chapter 129, Laws of 1921 and RCW 87.03.215; amending section 24, page 684, Laws of 1889-90 as last amended by section 2, chapter 169, Laws of 1967 and RCW 87.03.270; amending section 25, page 684, Laws of 1889-90 as last amended by section 1, chapter 60, Laws of 1955 and RCW 87.03.310; amending section 26, page 685, Laws of 1889-90 as last amended by section 7, chapter 43, Laws of 1933 and RCW 87.03.315; amending section 2, chapter 58, Laws of 1955 and RCW 87.03.320; amending section 3, chapter 58, Laws of 1955 and RCW 87.03.325; amending section 4, chapter 58, Laws of 1955 and RCW 87.03.330; amending section 28, page 686, Laws of 1889-90 as last amended by section 10, chapter 43, Laws of 1933 and RCW 87.03.335; amending section 3, chapter 172, Laws of 1941 and RCW 87.03.350; amending section 29, page 687, Laws of 1889-90 as last amended by section 5, chapter 58, Laws of 1955 and RCW 87.03.355; amending section 6, chapter 171, Laws of 1939 and RCW 87.03.360; amending section 30, page 687, Laws of 1889-90 as last amended by section 1, chapter 131, Laws of 1945 and RCW 87.03.370; amending section 1, chapter 194, Laws of 1933 and RCW 87.03.375; amending section 2, chapter 194, Laws of 1933 as amended by section 1, chapter 171, Laws of 1939 and RCW 87.03.380; amending section 3, chapter 194, Laws of 1933 and RCW 87.03.385; amending section 4, chapter 194, Laws of 1933 and RCW 87.03.390; repealing section 8, chapter 171, Laws of 1939 and RCW 87.03.365; and providing an effective date.

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

Section 1. Section 24, page 684, Laws of 1889-90 as last amended by section 2, chapter 169, Laws of 1967 and RCW 87.03.270 are each amended to read as follows:

The assessment roll, before its equalization and adoption, shall be checked and ((verified)) compared as to descriptions and ownerships, with the county treasurer's land rolls. On or before the fifteenth day of January in each year the secretary must deliver the assessment roll or the respective segregation thereof to the county treasurer of each respective county in

which the lands therein described are located, and said assessments shall become due and payable on the fifteenth day of February following.

One-half of all assessments on said roll shall become delinquent on the first day of ~~((June))~~ May following the filing of the roll unless said one-half is paid on or before the ~~((thirty-first))~~ thirtieth day of ~~((May))~~ April of said year, and the remaining one-half shall become delinquent on the first day of ~~((December))~~ November following, unless said one-half is paid on or before the ~~((thirtieth))~~ thirty-first day of ~~((November))~~ October: PROVIDED, That if the assessment is less than ten dollars for said year, then the full amount shall become delinquent on the first day of May. All delinquent assessments shall bear interest at the rate of ~~((ten))~~ twelve percent per annum from the date of delinquency until paid.

~~((Within twenty days after the filing of the assessment roll as aforesaid the respective county treasurers shall each publish a notice in a newspaper published in their respective counties in which any portion of the district may lie, that said assessments are due and payable at the office of the county treasurer of the county in which said land is located and will become delinquent unless paid as herein provided. Said notice shall state the dates of delinquency as fixed in this act and the rate of interest charged thereon and shall be published once a week for four successive weeks.))~~

Upon receiving the assessment roll the county treasurer shall prepare therefrom an assessment book in which shall be written the description of the land as it appears in the assessment roll, the name of the owner or owners where known, and if assessed to the unknown owners, then the word "unknown", and the total assessment levied against each tract of land. Proper space shall be left in said book for the entry therein of all subsequent proceedings relating to the payment and collection of said assessments.

On or before April 1st of each year, the treasurer of the district shall send a statement of assessments due. County treasurers who collect irrigation district assessments may send the statement of irrigation district assessments together with the statement of general taxes.

Upon payment of any assessment the county treasurer must enter the date of said payment in said assessment book opposite the description of the land and the name of the person paying and give a receipt to such person specifying the amount of the assessment and the amount paid with the description of the property assessed. ~~((On all assessments levied prior to the time this amendatory act takes effect the county treasurer shall collect the interest and penalty upon delinquent assessments in accordance with the law in effect at the time such assessments were levied, and on all assessments levied after this amendatory act takes effect it shall be the duty of the treasurer to collect the interest provided by this amendatory act.))~~

It shall be the duty of the ~~((county))~~ treasurer of the ~~((county in which any land in the district is located))~~ district to furnish upon request of the

owner, or any person interested, a statement showing any and all assessments levied as shown by the assessment roll in his office upon land described in such request(~~(, and)~~). All statements of ((general taxes)) irrigation district assessments covering any land in the district shall ((be accompanied by a statement showing the condition of irrigation district assessments against such lands)) show the amount of the irrigation district assessment, the dates on which the assessment is due, the place of payment, and, if the property was sold for delinquent assessments in a prior year, the amount of the delinquent assessment and the notation "certificate issued": PROVIDED, That the failure of the ((county)) treasurer to render any statement herein required of him shall not render invalid any assessments made by any irrigation district ((or proceedings had for the enforcement and collection of irrigation district assessments pursuant to this act)).

It shall be the duty of the county treasurer of any county, other than the county in which the office of the board of directors is located, to make monthly remittances to the county treasurer of the county in which the office of the board of directors is located covering all amounts collected by him for the irrigation district during the preceding month.

~~((The provision of this act with respect to delinquency and interest to be charged shall apply to all assessments now delinquent as well as to all assessments becoming delinquent hereafter, and it shall be the duty of the respective county treasurers to collect interest at said rate of ten percent per annum without regard to the date of levy or delinquency: PROVIDED; That upon redemption from any certificate of sale other than certificates of sale held by an irrigation district the county treasurer shall collect interest at the rate prescribed in such certificate of sale.))~~

When the ((county)) treasurer collects a delinquent assessment, in addition to any other amounts due by reason of the delinquency, he shall collect an additional sum of ((one)) ten dollars, which shall be deposited to the ~~((county current expense fund to the credit of the treasurer's office))~~ treasurer's operation and maintenance fund.

Sec. 2. Section 25, page 684, Laws of 1889-90 as last amended by section 1, chapter 60, Laws of 1955 and RCW 87.03.310 are each amended to read as follows:

On or before the thirty-first day of December of each year, the treasurer of each county shall post ((or)) and publish the delinquency list, which shall contain the names of persons to whom the property is assessed and a description of the property delinquent and the amount of the assessment and costs due, opposite each name and description.

~~((If he posts the delinquency list, he))~~ The treasurer shall append to and post with the list a notice, at least twenty days before the sale, that unless the assessments together with costs and accrued interest are paid, the property will be sold at public auction. One copy thereof shall be posted in ((his office, one copy in the office of the board,)) the county courthouse, and the

treasurer shall provide four copies to the irrigation district in which the property is located. The irrigation district shall post one copy in the irrigation district office and three copies in public places in ((each of the voting precincts in that part of)) the district ((within the county. He shall thereupon publish a list of the places where the notices are posted, and a notice that unless delinquent assessments as contained in the list, together with costs and accrued interest are paid, the property will be sold at public auction)). Such notice((- if he posts the delinquency list, or the delinquency list and such notice, if he does not post the delinquency list,)) shall be published once a week for three successive weeks in a newspaper of general circulation published in the county. ((Both)) Notices shall designate the time and place of sale. The time of sale shall be not less than twenty-one nor more than ((twenty-eight)) thirty-five days from the date of posting and from the date of the first publication of the notice thereof, ((if the delinquency list is posted, or from the date of the first publication of the delinquency list and the notice in connection therewith, if the list is published,)) and the place of the sale shall be at some point designated by the treasurer. At least ten days prior to the date of the public auction, the treasurer shall send by first class mail a notice to the taxpayer or owner of record of the land having a delinquent assessment. The notice shall contain a statement of the amount of the delinquent assessment plus interest as provided in RCW 87.03.270, as now or hereafter amended, accruing from the date of delinquency; a ten dollar delinquency charge owing on the land; the time, date, and place of the sale of properties having delinquent assessments; and a statement that failure to pay the assessment prior to the date of sale will result in a sale of the property.

Sec. 3. Section 26, page 685, Laws of 1889-90 as last amended by section 7, chapter 43, Laws of 1933 and RCW 87.03.315 are each amended to read as follows:

The treasurer of the county in which the land is situated shall conduct the sale of all lands situated therein and must collect in addition to the assessment due as shown on the delinquent list the costs and expenses of sale and interest at the rate ((of ten percent per annum from the date or dates of delinquency as hereinbefore)) provided in RCW 87.03.270, as now or hereafter amended. On the day fixed for the sale, or some subsequent day to which he may have postponed it, and between the hours of ten o'clock a.m. and three o'clock p.m., the county treasurer making the sale must commence the same, beginning at the head of the list, and continuing alphabetically, or in the numerical order of the parcels, lots or blocks, until completed. He may postpone the day of commencing the sale, or the sale from day to day, by giving oral notice thereof at the time of the postponement, but the sale must be completed within three weeks from the first day fixed.

Sec. 4. Section 2, chapter 58, Laws of 1955 and RCW 87.03.320 are each amended to read as follows:

The treasurer shall offer the parcel to the district on the date of sale for the amount of the assessment, accrued interest, and costs. If the district rejects the offer, then the treasurer shall sell the property to the highest and best bidder for cash. If the property is sold for more than the amount of the assessment, interest, and costs, the excess shall, after the deed has been delivered, be refunded, on application therefor, to the record owner of the property as of the date of the sale. In the event no claim for said excess is received by the treasurer within three years after the delivery of the deed, he shall, at the expiration of the three-year period, remit the excess to the district.

The purchaser, in addition to the purchase price, shall pay (~~one~~) two dollars to the treasurer for a duplicate of the certificate of sale. The treasurer shall account to the district for the (~~one~~) two dollars. If the purchaser does not pay the purchase price before ten o'clock a.m. the following day, the property shall be resold on the next day. If there is no purchaser for a tract when first offered for sale, it shall be offered again thereafter and if finally there is no purchaser it shall be struck off to the district as the purchaser for the amount of the assessment, interest, and costs, and the duplicate certificate shall be delivered to the secretary of the district, and filed by him in the office of the district. No charge shall be made for the duplicate certificate where the district is the purchaser, and in such case the county treasurer shall make an entry, "sold to the district," and he will be credited with the amount thereof in settlement.

When land has been omitted from the general district sale, or when a sale is illegal by reason of a defective notice of sale or material errors in the description of the property and the deed has not been delivered, a reassessment shall not be required, but the treasurer shall sell the property at the next general annual sale, for all delinquent assessments. The purchaser at an illegal sale who has not accepted delivery of deed shall be entitled to a return of any moneys paid, upon return of the certificate of sale.

Sales of land hereunder shall not convey title to any easement thereon owned by any public service corporation, or by the district, or by any municipal or public corporation, or convey the title to any public service facilities constructed or maintained on the land under such easement, including also any private easement owned by third parties by which service is received from the district, or municipal or public service corporation.

Sec. 5. Section 3, chapter 58, Laws of 1955 and RCW 87.03.325 are each amended to read as follows:

A district may assign or transfer the certificate of sale upon the payment of the amount which would be due if redemption were made. If no redemption is made of land for which a district holds a certificate of purchase, the district may receive the treasurer's deed therefor. The district may lease

from year to year with the right to include an option to purchase, sell on contract on deferred payments, or sell for cash and convey the lands so acquired, by deed executed by the president and secretary of the board and acknowledged by the president. Authority to lease, option, sell, or convey shall be by resolution of the board entered on its minutes, fixing the price at which the option may be granted or sale may be made, which price shall be not less than the reasonable market value of the property.

The board may without consideration, dedicate, grant, or convey district land or easements therein for highway or public utility purposes conveniencing the inhabitants of the district when it deems such action will enhance the value of the remaining district land to an extent equal to or greater than the value of the interest or easement dedicated, granted or conveyed, and may upon resolution, without consideration, issue quitclaim deeds to clear title to land sold under foreclosure.

When land is deeded to the district and if title remains vested in the district and the board believes the sale resulted from unavoidable accident, inadvertence, or misfortune, and without intent on the part of the person entitled to make redemption to permit the assessment to become delinquent and the land to be sold, it ~~((may))~~ shall reconvey to the person entitled to redemption within one year after deed is issued, upon the payment of the amount stated in the certificate of sale with interest thereon at ~~((ten percent per year))~~ the rate provided in RCW 87.03.270, as now or hereafter amended, from the date of sale, and ~~((one))~~ two dollars for the deed, and all subsequent assessments and costs with interest.

Sec. 6. Section 4, chapter 58, Laws of 1955 and RCW 87.03.330 are each amended to read as follows:

After receiving the amount of the assessments and costs, the treasurer shall make out in duplicate a certificate dated on the day of sale, stating the names of the persons assessed if known, a description of the land sold, the amount paid therefor, and that it was sold for assessments, giving the amount and the year of assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate shall be signed by the treasurer and one copy delivered to the purchaser, and the other filed in his office. ~~((Upon the sale of a tract of one acre or less the fee for a duplicate certificate shall be twenty-five cents and))~~ In case of a sale to a person or a district of more than one tract of land, the several tracts may be included in one certificate.

Sec. 7. Section 28, page 686, Laws of 1889-90 as last amended by section 10, chapter 43, Laws of 1933 and RCW 87.03.335 are each amended to read as follows:

The county treasurer, before delivering any certificate must file the same and enter in the assessment book opposite the description of the land sold, the date of sale, the purchaser's name and the amount paid therefor, and must regularly number the description on the margin of the assessment

book and put a corresponding number on each certificate. Such book must be open to public inspection without fee during office hours, when not in actual use.

On filing the certificate of sale as provided in the preceding paragraph the lien of the assessment vests in the purchaser and is only divested by the payment to the county treasurer making the sale of the purchase money and interest at the rate ~~((of ten percent per annum))~~ provided in RCW 87.03-.270, as now or hereafter amended, from the day of sale until redemption for the use of the purchaser.

Sec. 8. Section 3, chapter 172, Laws of 1941 and RCW 87.03.350 are each amended to read as follows:

~~((This act))~~ RCW 87.03.340 through 87.03.350 shall not be construed to modify the requirements of the law relating to notice on the part of a certificate holder of application for irrigation ~~((tax))~~ deed nor shall the giving of or failure to give, the notice required herein to be given to the land owner whose name and address appear on the current general tax roll, in any manner affect the legality of the sale or the legality of the title of the purchaser, if the property in any instance is not redeemed as required by law.

Sec. 9. Section 29, page 687, Laws of 1889-90 as last amended by section 5, chapter 58, Laws of 1955 and RCW 87.03.355 are each amended to read as follows:

Redemption may be made by any party in interest at any time before deed is delivered, by paying the amount of the assessment, interest, and costs included in the purchase price and interest on that amount thereof, and the amount of any assessments which the purchaser may have paid thereon, with like interest. If the district is the purchaser, the redemptioner need pay no assessment levied after the assessment for which the land was sold, but all such assessments shall remain a lien, and the land shall be subject to sale therefor. Redemption shall be made in legal tender, and the treasurer shall credit the amount paid to the person named in the certificate and pay it to him on demand, along with the excess, if any, paid by him on the purchase price at the time of sale.

Upon redemption the treasurer shall enter the word "redeemed," the date of redemption and by whom redeemed on the certificate and on the margin of the assessment book where the entry of the certificate is made. If the property is not redeemed within one year from the fifteenth day of January of the year in which it was sold, the treasurer shall upon demand by the holder of the certificate, make a deed of the property to the holder, reciting in the deed substantially the matters contained in the certificate, and that the property was not redeemed. Where the owner of the certificate is not the district, deed shall not issue until ~~((an affidavit showing service or publication of the notice of application for deed))~~ a court order of compliance issued pursuant to RCW 87.03.360 is filed with the treasurer and

twenty-one days have elapsed since the service or first publication of the notice.

The treasurer shall endorse on the margin of the current district assessment roll opposite the description of the land described in the deed, the date of delivery of the deed and the name of the grantee, and the transfer of the title shall be complete as of the time of delivery of the deed. The treasurer shall receive from the purchaser, for the use of the district, ~~((one))~~ two dollars for making the deed ~~((: PROVIDED, That if the tract is one acre or less the fee shall be twenty-five cents and when any person or district holds a certificate covering more than one tract of land, the several tracts may be included in one deed))~~.

Sec. 10. Section 6, chapter 171, Laws of 1939 and RCW 87.03.360 are each amended to read as follows:

The owner of any certificate of sale for irrigation district assessments, not including irrigation districts, shall, at least twenty-one days before applying for a deed, serve, in the manner provided herein, all parties residing upon the property or having ~~((an interest in said property or a mortgage lien thereon according to the records of the county auditor's office in the county in which said property is located))~~ a lien on, incumbrance against, or any other interest in the property according to a title search with a written notice stating that said property has been sold for delinquent irrigation assessments, giving the date of the sale, a description of the property, the amount for which it was sold, and the time the purchaser will apply for a ~~((tax))~~ treasurer's deed ~~((:))~~ and stating that the property may be redeemed at any time until such notice has been given and the deed issued. ~~((Notice to any party having an interest in or a mortgage lien on said property shall be given by registered mail, addressed to such party at his usual place of address, if known to the owner of the certificate, and, if not known, at the place of address shown by the instrument in the county auditor's office under which such party has an interest in or a mortgage lien on said property. If the name or address of any party upon whom service of notice is required is unknown to the owner of the certificate (his affidavit shall be prima facie evidence of that fact) and cannot be ascertained from the record of the instrument under which such party has an interest in or mortgage lien on said property, the owner of the certificate shall serve notice on such party or parties by publishing in two successive weekly issues of a newspaper published in the county where the property is situated a))~~ The notice shall be given according to the rules of the superior court on service of process. If personal service cannot be made and service by publication is authorized, then the notice shall be substantially in the following form:

NOTICE OF APPLICATION
FOR IRRIGATION ~~((TAX))~~ TREASURER'S DEED

Notice is hereby given that the undersigned is the owner and holder of an irrigation district ~~((tax))~~ certificate of sale covering the land hereinafter described, and, unless redeemed, the undersigned will, on or after the expiration of twenty-one days from the first publication of this notice apply to the county treasurer of the county in which said land is located for a ~~((tax))~~ treasurer's deed to said property. The date of said certificate, the amount thereof, the names of the parties to whom said property was assessed, and the description of the property are as follows:

- Date of certificate ;
 - Amount of certificate ;
 - Party assessed ;
 - Description of property ;
 - Date of first publication ;
-

Applicant.

~~((The first publication of such notice must be made at least twenty-one days before application for tax deed. If no newspaper is published in the county in which the property is situated, publication shall be had in a newspaper published in an adjoining county.))~~

In all cases coming under the provisions of this ~~((act))~~ chapter, the court shall review for compliance with the procedures of this chapter and issue an order of compliance before the owner of a ~~((delinquent tax))~~ certificate of sale or any officer thereof, if the owner is a corporation, ~~((shall, before being))~~ is entitled to receive a ~~((tax))~~ treasurer's deed ~~((; make and file with the county treasurer an affidavit showing service of notice as required by this section and, if published, an affidavit of the owner of the certificate and of the publisher showing compliance with the provisions of this section, and the affidavit or affidavits)).~~ The owner or officer shall file with the treasurer a copy of the court's order of compliance, and the order so filed shall be kept as a part of the permanent records of the office of the ~~((county))~~ treasurer. ~~((If, where a party other than an irrigation district holds a tax certificate, the property is redeemed after January 15th of the year following the year in which said certificate is issued, the party redeeming shall, in addition to paying the amount required to redeem, pay to the county treasurer an amount equal to five percent of the principal amount of the certificate, not exceeding the sum of ten dollars, which sum shall be paid to the holder of the certificate if, prior to redemption, he has served or commenced publication of the notice provided for in this section. If the~~

~~holder of the certificate has not served such notice or commenced publication at the time of redemption, said sum shall be returned to the redeemer))~~ The holder of the certificate of sale is entitled to reimbursement from the person redeeming the property for costs incurred under this section and costs of service or publication, court fees, title search fees, and reasonable attorneys' fees.

Sec. 11. Section 30, page 687, Laws of 1889-90 as last amended by section 1, chapter 131, Laws of 1945 and RCW 87.03.370 are each amended to read as follows:

The matter recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that—

First: That property was assessed as required by law.

Second: That property was equalized as required by law.

Third: That the assessments were levied in accordance with the law.

Fourth: The assessments were not paid.

Fifth: At a proper time and place the property was sold as prescribed by law and by the proper officers.

Sixth: The property was not redeemed.

Seventh: The person who executed the deed was the proper officer.

Eighth: Such deed, duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessments by the secretary, inclusive, up to the execution of the deed.

Ninth: When the grantee in the deed is a party other than the irrigation district or the county, the deed conveys to the grantee the absolute title to the lands described therein, free from all encumbrances, except general taxes, drainage or diking district assessments, drainage or diking improvement district assessments, and all existing irrigation district assessments.

Tenth: When the grantee in the deed is the irrigation district or the county, the deed conveys to the grantee the ~~((absolute))~~ title to the lands described therein subject to RCW 87.03.375 through 87.03.415. Upon final judgment in a quiet title action the deed conveys to the grantee absolute title to the lands described therein, free from all encumbrances except drainage or diking district assessments or installments thereof not delinquent at the time of sale, drainage or diking improvement district assessments or installments thereof not delinquent at the time of the sale, also except all existing irrigation district assessments or installments thereof not delinquent at the time of the sale, pursuant to which deed is issued.

Eleventh: If the irrigation district reconveys, which it may do upon installments or for cash, any lands so acquired by it to a grantee who has a right to such reconveyance under RCW 87.03.320 through 87.03.330, the grantee before receiving deed, shall pay all ~~((general taxes,))~~ drainage or

diking district assessments, drainage or diking improvement district assessments and irrigation district assessments which have been canceled by the deed to the irrigation district, such payment being made to the county treasurer for the benefit of the respective taxing districts entitled thereto, and such grantee shall also pay any expenses of the irrigation district incurred in caring for, operating, or improving said land. Upon reconveyance by an irrigation district, the general property taxes which were canceled by the deed to the irrigation district shall be reinstated for the purpose of collection under chapter 84.64 RCW as if no conveyance to the irrigation district had occurred.

Twelfth: All proceeds received by a county or irrigation district from any lands so acquired, shall be paid to the county treasurer, and by him distributed pro rata between the county, the irrigation districts, the drainage or diking district, the drainage or diking improvement districts, and the local improvement districts holding liens against said lands at the time the county or the irrigation district acquired title, in proportion to the amounts of the respective liens: PROVIDED, That there can be first deducted therefrom and reimbursed to the district or county advancing same, any expenses incurred in caring for, operating, or improving said land: PROVIDED FURTHER, That as an alternative method, where an irrigation district or a county has heretofore or may hereafter be the grantee, such district or county has the right to pay all general taxes, irrigation, drainage or diking district or diking or drainage improvement district assessments, which were canceled by deed to such district or county, and upon such payments being made the irrigation district or the county shall be the absolute owner of the land and upon sale thereof entitled to retain all the proceeds of sale.

Thirteenth: When the land is owned by the United States, or this state, the provisions of subsections nine, ten and eleven shall not apply, and in such cases the deed shall be prima facie evidence of the right of possession.

Sec. 12. Section 1, chapter 194, Laws of 1933 and RCW 87.03.375 are each amended to read as follows:

In any and all instances in this state in which a treasurer's irrigation assessment deed to real property has been or shall be issued to an irrigation district pursuant to statute and ~~((the district still retains the title))~~ before the district conveys title or an interest in the real property thus acquired, ((and for any reason a defect in title exists or adverse claims against the same have not been legally determined,)) the irrigation district shall ~~((have authority to))~~ institute an action in the superior court in the county where the land is located to quiet title against any and all ~~((such))~~ defects; and to determine ~~((such))~~ adverse claims and the priority thereof as ~~((in this act))~~ provided in this chapter. Further, the irrigation district shall institute such an action upon the written demand of any person, firm, or corporation claiming an interest in or to such lands. If the action results in a reconveyance of the lands, the court shall order the person, firm, or corporation to

pay the irrigation district all cost incurred by the district in the action, including reasonable attorneys' fees.

Sec. 13. Section 2, chapter 194, Laws of 1933 as amended by section 1, chapter 171, Laws of 1939 and RCW 87.03.380 are each amended to read as follows:

The irrigation district shall have authority to include in one action any and all tracts of land located in one county and owned by said district. Such action shall be one in rem as against every right and interest in and claim against any and every part of the real property involved (~~(, except so much thereof as may be at the time the summons and notice is filed with the clerk of the superior court, in the actual, open and notorious possession of any person or corporation, and then except only as to the interest claimed by such person so in possession: PROVIDED, That the possession required under the provisions of this act shall be construed to be that by personal occupancy only, and not merely by representation or in contemplation of the law, and personal service of summons and notice hereinafter provided for, upon one in personal possession of land involved, shall be conclusive upon any principal, if any, he may represent in such occupancy. No person, firm or corporation claiming an interest in or to such lands need be specifically named in the summons and notice, except as in this act provided, and no pleadings other than the summons and notice and the written statements of those claiming a right, title and interest in and to the property involved shall be required.~~

~~At any time after the action is instituted and prior to the time judgment is applied for, the district shall file with the clerk of the court the affidavit of the publisher of the summons and notice showing publication thereof as hereafter required and the affidavit of an officer of the district or of its attorney describing the lands, if any, included in the action, not in the actual, open and notorious possession of any person or corporation and such affidavits shall be prima facie evidence of the facts therein alleged).~~ All persons residing upon the property or having a lien on, an encumbrance against, or any other interest in the property according to a title search shall be named in the summons and notice under RCW 87.03.385.

Sec. 14. Section 3, chapter 194, Laws of 1933 and RCW 87.03.385 are each amended to read as follows:

~~((Upon filing a copy of summons and notice in the office of the county clerk, service thereof as against every interest in and claim against any and every part of the property described in such summons and notice, and every person or corporation, except one who is in actual, open and notorious possession of any of said properties as herein defined, shall be had by publication in a newspaper published in the district, or if no newspaper is published in the district, then a newspaper published in the county where the land is located for six consecutive weeks))~~ The summons and notice shall be given according to the rules of the superior court on service of process.

The summons and notice in such action shall contain the title of the court; specify in general terms the year for which the irrigation assessment was levied and the amount of the assessment and the costs for which each tract of land was sold; give the legal description of each tract of land involved, and the name of the owner or reputed owner appearing on the roll on which assessments for which the property was sold were levied; ~~((and))~~ state that the purpose of the action is to foreclose all adverse claims of every nature in and to the property described, and to have all claims of title and all existing liens and claims of every nature against said described real property, except that of the county for taxes levied prior to the date the district acquired title, forever barred; and state that there is a right of redemption prior to completion of the action.

~~((Said summons and notice shall also summon all persons, firms and corporations claiming any right, title and interest in and to said described real property to appear within sixty days after the date of the first publication, specifying the day and year thereof, and state in writing what right, title and interest they have or claim to have in and to the property described, and file the same with the clerk of the court above named; and shall notify them that in case of their failure so to do, judgment will be rendered determining that the title to said real property is in the irrigation district free and clear from all existing adverse interests, rights or claims whatsoever, save and except county and state taxes as herein mentioned. PROVIDED, That in case any of the land involved is in the actual, open and notorious possession of any one at the time the summons and notice is filed; as herein provided, a copy of the same modified as herein specified shall be served personally upon such person in the same manner as summons is served in civil actions generally. Such summons shall be substantially in the form above outlined, except that in lieu of the statement relative to the time for appearance it shall require the person served to appear within twenty days after the day of service, exclusive of the day of service, which need not be specified therein, and except further that the recitals regarding the amount of irrigation assessments and costs and the year the same were levied, the legal description of the land and the owner or reputed owner thereof as herein defined may be omitted, except with respect to the land occupied by the person or persons served.))~~

Every summons and notice provided for in this ~~((act))~~ chapter shall be subscribed by the attorney for the district, followed by his post office address.

Sec. 15. Section 4, chapter 194, Laws of 1933 and RCW 87.03.390 are each amended to read as follows:

Any person, firm or corporation who or which may have been entitled to redeem the property involved prior to the issuance of the treasurer's deed to the irrigation district, and his or its successors in interest, shall have the right, at any time after the commencement of, and prior to the judgment in

the action authorized herein, and not thereafter, to redeem such property by paying the county treasurer the amount of the irrigation assessment for which the property was sold to the district, and the amount of any other irrigation assessments which may have been levied prior to the date of such redemption, together with interest on all such irrigation assessments from the date of delinquency thereof, respectively, at the rate (~~of ten percent per annum~~) provided in RCW 87.03.270, as now or hereafter amended, and by paying such proportional part of the cost of foreclosure proceedings and of the action herein authorized as the county treasurer shall determine.

Upon redemption of any property before judgment as herein provided, the county treasurer shall issue to the redemptioner a certificate specifying the amount of the irrigation assessments, and costs charged, describing the land and stating that said irrigation assessments have been fully paid and the lien thereof discharged. Such certificate shall clear the land described therein from the claim of the irrigation district based on any treasurer's deed previously issued and all assessments, interest and costs included in such redemption.

Sec. 16. Section 17, page 681, Laws of 1889-90 as last amended by section 10, chapter 129, Laws of 1921 and RCW 87.03.215 are each amended to read as follows:

Said bonds and interest thereon and all payments due or to become due to the United States or the state of Washington under any contract between the district and the United States or the state of Washington accompanying which bonds of the district have not been deposited with the United States or the state of Washington, as in RCW 87.03.140 provided, shall be paid by revenue derived from an annual assessment upon the real property of the district, and all the real property in the district shall be and remain liable to be assessed for such payments until fully paid as hereinafter provided. And in addition to this provision and the other provisions herein made for the payment of said bonds and interest thereon as the same may become due, said bonds, or the contract with the United States or the state of Washington accompanying which bonds have not been deposited with the United States or the state of Washington, shall become a lien upon all the water rights and other property acquired by any irrigation district formed under the provisions of this chapter, and upon any canal or canals, ditch or ditches, flumes, feeders, storage reservoirs, machinery and other works and improvements acquired, owned or constructed by said irrigation district, and if default shall be made in the payment of the principal of said bonds or interest thereon, or any payment required by the contract with the United States, or the state of Washington, according to the terms thereof, the holder of said bonds, or any part thereof or the United States or the state of Washington as the case may be, shall have the right to enter upon and take possession of all the water rights, canals, ditches, flumes, feeders, storage reservoirs, machinery, property and improvements of said irrigation district,

and to hold and control the same, and enjoy the rents, issues and profits thereof, until the lien hereby created can be enforced in a civil action in the same manner and under the same proceedings as given in the foreclosure of a mortgage on real estate. This section shall apply to all bonds heretofore issued or any contract heretofore made with the United States, or which may hereafter be issued or made by any district: PROVIDED, That when any such contract made after the effective date of this 1981 act between any district and the United States or the state of Washington covers only the real property in a portion or portions of the district, all payments due or to become due to the United States or the state of Washington shall be paid by revenue derived from an annual assessment upon the real property only in that portion or portions of the district covered by the contract and the real property shall be and remain liable to be assessed for such payments until fully paid and any assessment lien which attaches thereto shall be the exclusive lien notwithstanding other liens provided for in this section. In the event of a contract between the district and the United States or the state of Washington accompanying which bonds of the district have not been deposited with the United States or the state of Washington as provided in RCW 87.03.140 and the contract covers real property in only a portion or portions of the district, the question of whether the district should enter the contract shall be submitted only to those qualified electors who hold title or evidence of title to real property within that portion or portions of the district and in the same manner as provided in RCW 87.03.200.

NEW SECTION. Sec. 17. Section 8, chapter 171, Laws of 1939 and RCW 87.03.365 are each repealed.

NEW SECTION. Sec. 18. This act shall take effect December 1, 1981, and shall apply to assessments made in 1981 and thereafter.

Passed the Senate April 25, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 210

[Substitute Senate Bill No. 3360]

PARK AND RECREATION SERVICE AREAS—PARK AND RECREATION DISTRICTS, REGULAR, EXCESS TAX LEVIES—ROAD DISTRICTS, EXCESS TAX LEVIES

AN ACT Relating to parks and recreation; amending section 1, chapter 218, Laws of 1963 as amended by section 1, chapter 76, Laws of 1965 ex. sess. and RCW 36.68.400; amending section 2, chapter 218, Laws of 1963 as amended by section 2, chapter 76, Laws of 1965 ex. sess. and RCW 36.68.410; amending section 3, chapter 218, Laws of 1963 and RCW 36.68.420; amending section 5, chapter 218, Laws of 1963 and RCW 36.68.440; amending section 6, chapter 218, Laws of 1963 and RCW 36.68.450; amending section 8, chapter 218, Laws of 1963 and RCW 36.68.470; amending section 9, chapter 218, Laws of

1963 as amended by section 38, chapter 195, Laws of 1973 1st ex. sess. and RCW 36.68-.480; amending section 10, chapter 218, Laws of 1963 and RCW 36.68.490; amending section 11, chapter 218, Laws of 1963 and RCW 36.68.500; amending section 13, chapter 218, Laws of 1963 as last amended by section 39, chapter 195, Laws of 1973 1st ex. sess. and RCW 36.68.520; amending section 14, chapter 218, Laws of 1963 and RCW 36.68-.530; amending section 16, chapter 218, Laws of 1963 and RCW 36.68.550; amending section 17, chapter 218, Laws of 1963 and RCW 36.68.560; amending section 18, chapter 218, Laws of 1963 and RCW 36.68.570; amending section 19, chapter 218, Laws of 1963 and RCW 36.68.580; amending section 21, chapter 218, Laws of 1963 and RCW 36.68-.600; amending section 36.69.140, chapter 4, Laws of 1963 as last amended by section 1, chapter 90, Laws of 1977 ex. sess. and RCW 36.69.140; amending section 84.52.052, chapter 15, Laws of 1961 as last amended by section 1, chapter 325, Laws of 1977 ex. sess. and RCW 84.52.052; adding a new section to chapter 36.68 RCW; adding a new section to chapter 36.69 RCW; repealing section 15, chapter 218, Laws of 1963 and RCW 36.68.540; and declaring an emergency.

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

Section 1. Section 1, chapter 218, Laws of 1963 as amended by section 1, chapter 76, Laws of 1965 ex. sess. and RCW 36.68.400 are each amended to read as follows:

Any county shall have the power to create ~~((county))~~ park and recreation service areas for the purpose of financing the acquisition, construction, improvement, maintenance or operation of neighborhood park, senior citizen activities centers and recreational facilities which shall be owned or leased by the county and administered as other county parks or shall be owned or leased and administered by a city or town. The service ~~((districts))~~ areas created as hereinafter set forth may finance any of the following park purposes: (1) Acquisition or lease of park sites and buildings; (2) construction of improvements upon county park allocated lands or city or town park lands which will promote leisure time and recreational activities of ~~((county))~~ residents on a neighborhood basis, including but not limited to the construction of field houses, swimming pools, tennis courts, playfields, and other facilities; ~~((the))~~ (3) maintenance of any ~~((county-owned))~~ park or recreational facility owned or leased by a county, city, or town, including the purchase of athletic equipment and supplies and the upkeep of park buildings, grounds and facilities; and ~~((to finance the cost of))~~ (4) engaging custodial, recreational and park program personnel at any ~~((county-owned))~~ park or recreational facility owned or leased by a county, city, or town. ~~((Local))~~ A park and recreation service area(s) shall be a quasi-municipal corporation, an independent taxing "authority" within the meaning of section 1, Article 7 of the Constitution, and a "taxing district(s)" within the meaning of section 2, Article 7 of the Constitution ~~((as amended by Amendment 17))~~.

A park and recreation service area 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.

The county legislative authority shall be the governing body of any park and recreation service area which is created within the county. The voters of

a park and recreation service area shall be all registered voters residing within the service area.

A multicounty park and recreation service area shall be governed as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW.

Sec. 2. Section 2, chapter 218, Laws of 1963 as amended by section 2, chapter 76, Laws of 1965 ex. sess. and RCW 36.68.410 are each amended to read as follows:

~~((Local))~~ Park and recreation service areas may be initiated in any unincorporated area of any county by resolution adopted by the ~~((board of))~~ county ~~((commissioners))~~ legislative authority or by a petition signed by ten percent of the registered voters within the proposed park and recreation service area. Incorporated areas may be included under RCW 36.68.610 and 36.68.620.

Sec. 3. Section 3, chapter 218, Laws of 1963 and RCW 36.68.420 are each amended to read as follows:

Any resolution or petition initiating a ~~((local))~~ proposed park and recreation service area shall set forth the boundaries of the service ~~((district))~~ area with certainty, describe the purpose or purposes for which the service area is to be formed, and contain an estimate of the initial cost of any capital improvements or services to be authorized in the service area.

"Initial costs" as used herein shall include the estimated cost during the first year of operation of:

- (1) Land to be acquired or leased for ~~((county))~~ neighborhood park purposes by the service area to establish a park or park facility specified in the resolution or petition;
- (2) Capital improvements specified in the objectives or purposes of the service area;
- (3) Forming the service area; and
- (4) Personnel, maintenance or operation of any ~~((county))~~ park facility within the service area as specified by the resolution or petition.

Sec. 4. Section 5, chapter 218, Laws of 1963 and RCW 36.68.440 are each amended to read as follows:

Upon accepting a petition to form a ~~((local))~~ park and recreation service area, or upon passage of a resolution to establish such a service area, the ~~((board of))~~ county ~~((commissioners))~~ legislative authority shall order a full investigation for the purpose or purposes of the proposed service area to determine the feasibility of forming the same and to determine the estimated initial costs involved in obtaining the objectives set forth in the petition or resolution. The ~~((board shall require that the))~~ reports on the feasibility and the cost of the proposed service area shall be made available to the ~~((board))~~ county legislative authority, and ~~((that))~~ copies of such reports shall be filed with the clerk of the ~~((board))~~ county legislative authority not

more than eighty days after the ~~((board))~~ county legislative authority first directs that the studies and reports be undertaken. The ~~((board))~~ county legislative authority shall also provide by resolution that within twenty days after receiving the reports a public hearing shall be held at the county seat or at some convenient location within the proposed service area. At least five days before the hearing, the ~~((board))~~ county legislative authority shall give notice of the hearing not less than twice in a legal newspaper of general circulation in the county. The notice shall describe the boundaries of the proposed service area, the purpose or purposes of the proposed service area, the estimated initial costs, indicate that the reports and other materials prepared at the order of the ~~((board))~~ county legislative authority are available in the office of the clerk of the ~~((board))~~ county legislative authority for the study and review of any interested party, and set the time, date and place of the hearing.

Sec. 5. Section 6, chapter 218, Laws of 1963 and RCW 36.68.450 are each amended to read as follows:

At the hearing, the ~~((board-of))~~ county ((commissioners)) legislative authority shall first provide for an explanation of the objectives of the proposed park and recreation service area and the estimated initial costs thereof. The ~~((board))~~ county legislative authority shall permit any resident or property owner of the proposed service area to appear and be heard, and may permit property owners in contiguous areas to include their property within the proposed service area in the event that they make their request for inclusion in writing. The ~~((board))~~ county legislative authority shall examine all reports on the feasibility of the proposed service area and its initial costs and may, if they deem it necessary, recess the hearing for not more than twenty days to obtain any additional information necessary to arrive at the findings provided for in RCW 36.68.420.

Sec. 6. Section 8, chapter 218, Laws of 1963 and RCW 36.68.470 are each amended to read as follows:

(1) Upon making findings under the provisions of RCW 36.68.460, the ~~((board-of))~~ county ((commissioners)) legislative authority shall, by resolution, order an election of the ~~((property-owners-or))~~ voters of the ~~((district))~~ proposed park and recreation service area to determine if the service area shall be formed. The ~~((commissioners))~~ county legislative authority shall in their resolution direct the county auditor to set the ~~((date-of-the))~~ election ~~((; the date to be not more than sixty days following the conclusion of the hearing and the making of findings as provided for in RCW 36.68.420 and 36.68.460))~~ to be held at the next general election or at a special election held for such purpose; describe the purposes of the proposed service area; set forth the estimated cost of any initial improvements or services to be financed by the service area should it be formed; describe the method of financing the initial improvements or services described in the resolution or

petition; and order that notice of election be published in a newspaper of general circulation in the county at least twice prior to the election date.

(2) A proposition to form a park and recreation service area shall be submitted to the voters of the proposed service area. Upon approval by a majority of the voters voting on the proposition, a park and recreation service area shall be established. The proposition submitted to the voters by the county auditor on the ballot shall be in substantially the following form:

FORMATION OF PARK AND RECREATION SERVICE AREA

Shall a park and recreation service area be established for the area described in a resolution of the legislative authority of county, adopted on the day of 19, to provide financing for neighborhood park facilities, improvements, and services?

Yes No

Sec. 7. Section 9, chapter 218, Laws of 1963 as amended by section 38, chapter 195, Laws of 1973 1st ex. sess. and RCW 36.68.480 are each amended to read as follows:

If the petition or resolution initiating the formation of the proposed park and recreation service area proposes that the initial improvements of services are to be financed by ~~((a special))~~ an annual excess levy or bond retirement levies, a special election for that purpose shall be conducted at the same election within the boundaries of the proposed service area. A proposition for an annual excess levy or bond retirement levies may also be submitted to the voters at any general or special election. ~~((All registered voters within the service area shall be eligible to vote on the proposition. The county auditor, for the purpose of the special election, may combine or divide precincts in order to provide the greatest convenience to voters of the service area.~~

~~The county auditor, in submitting the issue to the voters for their approval or rejection, shall submit and express two propositions on the ballot in substantially the following form:~~

~~(1) FORMATION OF LOCAL SERVICE AREA~~

~~Shall a county service area be established for the area described in a resolution of the board of commissioners of county, adopted on the day of 19, to provide financing for neighborhood park facilities, improvements and services?~~

~~Yes No~~

~~(2) SPECIAL LEVY (SPECIAL BOND ISSUE)~~

~~Shall the county commissioners, for the purposes of ". local service area No." or "(name of district) local service area of county", levy a general tax of dollars per thousand dollars of assessed value for one year upon taxable property within said~~

~~service area in excess of the constitutional and/or statutory tax limits for authorized purposes of the service area?~~

~~OR shall the county commissioners for the purposes of local park service area No. issue dollars of general obligation bonds for a period of not to exceed twenty years and levy a tax of approximately dollars per thousand dollars of assessed value upon all taxable property in said service area to pay the interest on and to retire said bonds; said levy to be excess of the constitutional and/or statutory tax limits?~~

~~Yes No))~~

Sec. 8. Section 10, chapter 218, Laws of 1963 and RCW 36.68.490 are each amended to read as follows:

In order for the ~~((service area to be established and the special))~~ annual excess tax levy proposition or bond retirement ((levy)) levies proposition to be approved, voters exceeding in number at least sixty percent of the number of voters who cast ballots for the office of county ~~((commissioner))~~ legislative authority within the park and recreation area, or within the proposed service area, in the last preceding general election ~~((of county commissioners))~~ for that office must cast ballots ~~((at the service area election and))~~ on the tax levy proposition, and of all the votes cast at the election at least sixty percent of said votes must ~~((favor the establishment of the service area and the levy of the special one-year tax or the special levy for the retirement of the specified bond issue))~~ approve the annual excess tax levy or the bond retirement levies.

Sec. 9. Section 11, chapter 218, Laws of 1963 and RCW 36.68.500 are each amended to read as follows:

If the formation of the service area is approved by the voters ~~((of the area under the provisions of RCW 36.68.480 and 36.68.490)),~~ the county ~~((commissioners))~~ legislative authority shall by resolution declare the service area to be formed and direct the county treasurer to be the treasurer of the service area. Expenditures of the service area shall be made upon warrants drawn by the county auditor pursuant to vouchers approved by the ~~((board of county commissioners))~~ governing body of the service area.

Sec. 10. Section 13, chapter 218, Laws of 1963 as last amended by section 39, chapter 195, Laws of 1973 1st ex. sess. and RCW 36.68.520 are each amended to read as follows:

A park and recreation service area shall not have power to levy an annual authorized levy, but it shall have the power to levy a tax upon the property included within the service ~~((district))~~ area in the manner prescribed ~~((for cities for the purpose of exceeding the limitations established))~~ by section 2, Article 7 of the Constitution and by RCW 84.52.052.

The special voted levy may be either for operating fund or for capital outlay, or for a cumulative reserve fund.

A service area may issue general obligation((s)) bonds for capital purposes only, not to exceed an amount, together with any outstanding general obligation indebtedness, equal to three-eighths of one percent of the value of the taxable property within the district, and may provide for the retirement thereof by levies in excess of dollar rate in accordance with the provisions of Article 7, section 2 of the Constitution and RCW 84.52.056: PROVIDED, That such districts may issue bonds equal to two and one-half percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015, when such bonds are approved by the voters of the district at a special election called for the purpose.

Sec. 11. Section 14, chapter 218, Laws of 1963 and RCW 36.68.530 are each amended to read as follows:

The ~~((board of county commissioners))~~ governing body of each park and recreation service area shall annually compile a budget for each service area in a form prescribed by the state division of municipal corporations for the ensuing calendar year which shall, to the extent that anticipated income is actually realized, constitute the appropriations for the service area. The budget may include an amount to accumulate a reserve for a stated capital purpose. In compiling the budget, all available funds and anticipated income shall be taken into consideration, including contributions or contractual payments from school districts, cities, or towns, county or any other governmental entity, gifts and donations, special tax levy, fees and charges, proceeds of bond issues, and cumulative reserve funds.

NEW SECTION. Sec. 12. There is added to chapter 36.68 RCW a new section to read as follows:

Park and recreation service areas may fund all or a portion of the salaries and benefits of county park employees who perform work on county park and recreation facilities within the service area and may fund all or a portion of the salaries and benefits of city or town park employees who perform work on city or town park and recreation facilities within the service area.

Sec. 13. Section 16, chapter 218, Laws of 1963 and RCW 36.68.550 are each amended to read as follows:

The county ~~((commissioners may establish))~~ legislative authority may allow admission fees or other direct charges ((to be)) which are paid by persons using county park facilities((, as hereinafter defined, which have been financed in whole or in part by a)) located within a park and recreation service area to be transferred to a park and recreation service area. Such direct charges to users may be made for the use of or admission to swimming pools, field houses, tennis and handball courts, bathhouses, swimming beaches, boat launching, storage or moorage facilities, ski lifts, picnic areas and other similar recreation facilities, and for parking lots used

in conjunction with such facilities. All funds collected under the provisions of this section shall be deposited to the fund of the service area established in the office of the county treasurer, to be disbursed under the service area budget as approved by the ~~((board))~~ governing body of the park and recreation service area.

Sec. 14. Section 17, chapter 218, Laws of 1963 and RCW 36.68.560 are each amended to read as follows:

The ~~((board))~~ county legislative authority may ~~((as with other county park properties and facilities, grant))~~ transfer the proceeds from concessions for food and other services ~~((: PROVIDED, That the proceeds from any concessions))~~ accruing to the county from park or park facilities which ~~((have been financed in part or wholly from service area funds shall be deposited))~~ are located in a park and recreation service area to the fund of the service area in the office of the county treasurer to be disbursed under the service area budget ~~((as approved by the board)).~~

Sec. 15. Section 18, chapter 218, Laws of 1963 and RCW 36.68.570 are each amended to read as follows:

~~((The board))~~ A park and recreation service area may reimburse ~~((from service funds))~~ the county for any charge incurred by the county current expense fund which is properly an expense of the service area, including reasonable administrative costs incurred by the offices of county treasurer and the county auditor in providing accounting, clerical or other services for the benefit of the service area. ~~((The board may provide for the payment of any personnel engaged in activities financed by service area funds from current expense or salary funds, and reimburse current expense or salary funds from service area funds.))~~ The ~~((board))~~ county legislative authority shall, where a county purchasing department has been established, provide for the purchase of all supplies and equipment for a park and recreation service area through the department.

Sec. 16. Section 19, chapter 218, Laws of 1963 and RCW 36.68.580 are each amended to read as follows:

Any park facility or park acquired, improved or otherwise financed in whole or in part by ~~((local))~~ park and recreation service area funds shall be owned by the county and/or the city or town in which the park or facility is located. The county may make expenditures from its current expense funds budgeted for park purposes for the maintenance, operation or capital improvement of any county park or park facility acquired, improved, or otherwise financed in whole or in part by park and recreation service area funds. Similarly, a city or town may make expenditures for any city or town park or park facility acquired, improved, or otherwise financed in whole or in part by park and recreation service area funds.

Sec. 17. Section 21, chapter 218, Laws of 1963 and RCW 36.68.600 are each amended to read as follows:

~~((The))~~ A county may exercise any of the powers enumerated in chapter 67.20 RCW with respect to any park and recreation facility financed in whole or part from ~~((local))~~ park and recreation service area funds.

NEW SECTION. Sec. 18. There is added to chapter 36.69 RCW a new section to read as follows:

A park and recreation district may impose a regular property tax levy in an amount equal to fifteen cents or less per thousand dollars of assessed value of property in the district in each year for five consecutive years when specifically authorized so to do by a majority of at least three-fifths of the voters thereof voting on the proposition to levy such additional tax submitted not more than twelve months prior to the date on which the proposed levy is to be made and not oftener than twice in such twelve month period, either at a special election or at the regular election of the district, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty per centum of the total votes cast in such district at the last preceding general election when the number of electors voting on the proposition does not exceed forty per centum of the total votes cast in such taxing district in the last preceding general election. In the event park and recreation districts are levying property taxes, which in combination with property taxes levied by other taxing districts result in taxes in excess of the one percent limitation provided for in Article 7, Section 1, of our state constitution, the park and recreation district property tax levy shall be reduced or eliminated before the property tax levies of other taxing districts are reduced.

Sec. 19. Section 36.69.140, chapter 4, Laws of 1963 as last amended by section 1, chapter 90, Laws of 1977 ex. sess. and RCW 36.69.140 are each amended to read as follows:

A park and recreation district shall ~~((not have power to levy a regular property tax levy, but it shall))~~ have the power to levy an excess levy upon the property included within the district, in the manner prescribed by Article VII, section 2, of the Constitution and by RCW 84.52.052. Such excess levy may be either for operating funds or for capital outlay, or for a cumulative reserve fund. A park and recreation district may issue general obligation bonds for capital purposes only, not to exceed an amount, together with any outstanding general obligation indebtedness equal to three-eighths of one percent of the value of the taxable property within such district, as the term "value of the taxable property" is defined in RCW 39.36.015(;;). A park and recreation district may additionally issue bonds equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015, when such bonds are approved by three-fifths of the voters of the district at a general or special election called for that purpose and may provide for the retirement thereof by levies in excess of dollar rate limitations in accordance with the provisions of RCW 84.52.056((:-PROVIDED, That)). When

authorized by the voters of the district, the district may issue interest bearing warrants payable out of and to the extent of excess levies authorized in the year in which the excess levy was approved.

Sec. 20. Section 84.52.052, chapter 15, Laws of 1961 as last amended by section 1, chapter 325, Laws of 1977 ex. sess. and RCW 84.52.052 are each amended to read as follows:

The limitations imposed by RCW 84.52.050 through 84.52.056, and RCW 84.52.043 shall not prevent the levy of additional taxes by any taxing district except school districts in which a larger levy is necessary in order to prevent the impairment of the obligation of contracts. Any county, metropolitan park district, park and recreation service area, park and recreation district (~~(in class AA counties and counties of the second, eighth and ninth class)~~), sewer district, water district, public hospital district, road district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city, or town may levy taxes at a rate in excess of the rate specified in RCW 84.52.050 through 84.52.056 and RCW 84.52.043, or RCW 84.55.010 through 84.55.050, when authorized so to do by the electors of such county, metropolitan park district, park and recreation service area, park and recreation district (~~(in class AA counties and counties of the second, eighth and ninth class)~~), sewer district, water district, public hospital district, road district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city, or town in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment ((59)) 64 and as thereafter amended, at a special or general election to be held in the year in which the levy is made.

A special election may be called and the time therefor fixed by the (~~(board of county commissioners or other)~~) county legislative authority, or council, board of commissioners, or other governing body of any metropolitan park district, park and recreation service area, park and recreation district (~~(in class AA counties and counties of the second, eighth and ninth class)~~), sewer district, water district, public hospital district, road district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city or town, 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. 21. 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. 22. Section 15, chapter 218, Laws of 1963 and RCW 36.68.540 are each repealed.

NEW SECTION. Sec. 23. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 25, 1981.

Passed the House April 24, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 211

[Engrossed Senate Bill No. 3362]

PORT DISTRICTS AND COUNTIES—REWARDS

AN ACT Relating to port districts and counties; and amending section 1, page 124, Laws of 1886 as last amended by section 1, chapter 53, Laws of 1979 ex. sess. and RCW 10.85.030.

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

Section 1. Section 1, page 124, Laws of 1886 as last amended by section 1, chapter 53, Laws of 1979 ex. sess. and RCW 10.85.030 are each amended to read as follows:

The legislative authority of any county in the state or a port commission, when in its opinion the public good requires it, is hereby authorized to offer and pay a suitable reward (~~(, not to exceed two hundred fifty dollars in any one case,)~~) to any person or persons for information leading to:

- (a) The arrest of a specified person or persons convicted of or charged with any criminal offense; or
- (b) The arrest and conviction of a person or persons committing a specified criminal offense.

In the event of crimes against county or port district property, including but not limited to road signs, vehicles, buildings, or any other type of county or port district property, the legislative authority of any county or a port commission may offer and pay a suitable reward (~~(, not to exceed two hundred fifty dollars in any one case,)~~) to any person or persons who shall furnish information leading to the arrest and conviction of any person of any

offense against this county or port district property, including but not limited to those offenses set forth in RCW 9A.48.070 through 9A.48.090, whether or not the offense is a felony, gross misdemeanor, or misdemeanor.

Passed the Senate March 9, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 212

[Substitute Senate Bill No. 3464]

NATURALLY-BASED PESTICIDES—RESEARCH—APPROPRIATIONS

AN ACT Relating to naturally-based pesticides; creating new sections; and making an appropriation.

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

NEW SECTION. Section 1. The department of agriculture shall contract with Washington State University for research:

(1) To identify specific natural based products that may have value as pesticides such as fish oil;

(2) To identify specific natural based products that may have value as biological control promoters such as fish fertilizer; and

(3) To determine the value and effectiveness of natural based products and biological control promoters in the control of pests.

NEW SECTION. Sec. 2. The department of agriculture shall review with research personnel at Washington State University to determine if pheromone or biological controls such as bacteria, viruses, and beneficial insects may be effective in the control of pests and should be included in the research.

NEW SECTION. Sec. 3. The department of agriculture and Washington State University shall jointly issue a written progress report by June 30, 1982, a preliminary written report by June 30, 1983, and a final report by October 30, 1983, about the studies and research conducted under sections 1 and 2 of this act.

NEW SECTION. Sec. 4. There is appropriated to the department of agriculture from the state general fund for the biennium ending June 30, 1983, the sum of thirty thousand dollars or so much thereof as may be necessary to conduct studies and research on projects identified in sections 1 and 2 of this act.

Passed the Senate March 30, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 213

[Substitute Senate Bill No. 3514]
COUNCILMEMBERS

AN ACT Relating to councilmembers; amending section 29.13.023, chapter 9, Laws of 1965 as amended by section 11, chapter 126, Laws of 1979 ex. sess. and RCW 29.13.023; amending section 29.13.024, chapter 9, Laws of 1965 as amended by section 12, chapter 126, Laws of 1979 ex. sess. and RCW 29.13.024; amending section 29.21.017, chapter 9, Laws of 1965 and RCW 29.21.017; amending section 4, chapter 223, Laws of 1953 as amended by section 26, chapter 171, Laws of 1974 ex. sess. and RCW 38.52.210; amending section 2, chapter 137, Laws of 1943 as amended by section 6, chapter 261, Laws of 1945 and RCW 41.24.060; amending section 6, chapter 203, Laws of 1963 and RCW 42.14.050; amending section 1, chapter 79, Laws of 1979 and RCW 43.06.300; adding a new section to Title 35 RCW; and adding a new section to chapter 35A.01 RCW.

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

NEW SECTION. Section 1. There is added to Title 35 RCW a new section to read as follows:

As used in this title, the term "councilman" or "councilmen" means councilmember or councilmembers.

NEW SECTION. Sec. 2. There is added to chapter 35A.01 RCW a new section to read as follows:

As used in this title, the term "councilman" or "councilmen" means councilmember or councilmembers.

Sec. 3. Section 29.13.023, chapter 9, Laws of 1965 as amended by section 11, chapter 126, Laws of 1979 ex. sess. and RCW 29.13.023 are each amended to read as follows:

All regular elections in first class cities having a mayor-council form of government whose charters provide for twelve ((~~councilmen~~)) councilmembers elected for a term of two years, two being elected from each of six wards, and for the election of a mayor, treasurer, and comptroller for terms of two years, shall be held biennially as provided in RCW 29.13.020. The term of each ((~~councilman~~)) councilmember, mayor, treasurer, and comptroller shall be four years and until his or her successor is elected and qualified and assumes office in accordance with RCW 29.04.170. The terms of the ((~~councilmen~~)) councilmembers shall be so staggered that six ((~~councilmen~~)) councilmembers shall be elected to office at each regular election.

Sec. 4. Section 29.13.024, chapter 9, Laws of 1965 as amended by section 12, chapter 126, Laws of 1979 ex. sess. and RCW 29.13.024 are each amended to read as follows:

All regular elections in first class cities having a mayor-council form of government whose charters provide for seven ((~~councilmen~~)) councilmembers, one to be elected from each of six wards and one at large,

for a term of two years, and for the election of a mayor, comptroller, treasurer and attorney for two year terms, shall be held biennially as provided in RCW 29.13.020. The terms of the six ~~((councilmen))~~ councilmembers to be elected by wards shall be four years and until their successors are elected and qualified and the term of the ~~((councilman))~~ councilmember to be elected at large shall be two years and until their successors are elected and qualified. The terms of the ~~((councilmen))~~ councilmembers shall be so staggered that three ward ~~((councilmen))~~ councilmembers and the ~~((councilman))~~ councilmember at large shall be elected at each regular election. The term of the mayor, attorney, treasurer, and comptroller shall be four years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170.

Sec. 5. Section 29.21.017, chapter 9, Laws of 1965 and RCW 29.21.017 are each amended to read as follows:

Not less than ten days before the time for filing declarations of candidacy for ~~((councilmen))~~ councilmembers in cities or towns operating under the mayor-council or council-manager form of government, except the position of ~~((councilman-at-large))~~ councilmember-at-large assigned a two year term in cities of the third class, the city clerk shall designate the positions to be filled by consecutive number, commencing with one. The positions so designated shall be dealt with as separate offices for all election purposes.

The provisions of this section shall be the exclusive method of nominating and electing ~~((councilmen))~~ councilmembers for all cities and towns the charter provisions of any city notwithstanding.

Sec. 6. Section 4, chapter 223, Laws of 1953 as amended by section 26, chapter 171, Laws of 1974 ex. sess. and RCW 38.52.210 are each amended to read as follows:

(1) In each local organization for emergency services established by the county commissioners in accordance with the provisions of RCW 38.52.070, there is hereby created and established a compensation board for the processing of claims as provided in this chapter. The compensation board shall be composed of one member of the board of county commissioners selected by the county commissioners of the county who will serve as ~~((chairman))~~ the chair of the compensation board; the county director of emergency services; the prosecuting attorney; the emergency services coordinator for medical and health services; and the county auditor who will serve as secretary of the compensation board.

(2) In each local organization for emergency services established by cities and towns in accordance with RCW 38.52.070, there is hereby created and established a compensation board for the processing of claims as provided in this chapter. The compensation board shall be composed of the mayor; the city director of emergency services; one ~~((councilman))~~ councilmember or commissioner selected by the council or the commission;

the city attorney or corporation counsel; and the emergency services coordinator of medical and health services. The ((councilman)) councilmember or commissioner so selected shall serve as ((chairman)) the chair of the compensation board and the director of emergency services shall serve as secretary of the board.

Sec. 7. Section 2, chapter 137, Laws of 1943 as amended by section 6, chapter 261, Laws of 1945 and RCW 41.24.060 are each amended to read as follows:

In every municipal corporation maintaining a regularly organized fire department there is hereby created and established a board of trustees for the administration of this chapter. Such board shall consist of the mayor, city clerk or comptroller, and one ((councilman)) councilmember of such municipality, the chief of the fire department, and one member of the fire department to be elected by the members of such fire department for a term of one year and annually thereafter. Where a municipality is governed by a board, the ((chairman)) chair, one member of the board and the secretary or clerk thereof shall serve as members of said board in lieu of the mayor, clerk or comptroller and ((councilman)) councilmember.

Sec. 8. Section 6, chapter 203, Laws of 1963 and RCW 42.14.050 are each amended to read as follows:

In the event that the executive head of any city or town is unavailable by reason of enemy attack to exercise the powers and discharge the duties of ((his)) the office, then those members of the city or town council or commission available for duty shall by majority vote select one of their number to act as the executive head of such city or town. In the event enemy attack reduces the number of city or town ((councilmen)) councilmembers or commission members, then those members available for duty shall have full power to act by majority vote of those present.

Sec. 9. Section 1, chapter 79, Laws of 1979 and RCW 43.06.300 are each amended to read as follows:

There is hereby created in the executive office of the governor a state criminal justice planning agency to be known as the governor's council on criminal justice appointed by and subject to the jurisdiction of the governor.

The council shall be composed of no more than thirty members. No less than one-half of the council shall consist of individuals serving as members of county legislative authorities, ((mayors/councilmen)) mayors/councilmembers, judges, prosecuting attorneys, sheriffs, and police chiefs and at least one representative from each of these six groups shall be appointed plus the president of the Washington association of sheriffs and police chiefs: PROVIDED, That the total number of such individuals on the council may be reduced by the governor to the extent required to achieve compliance with federal laws or regulations which condition federal grants upon a particular composition of the council.

Members of the council shall be reimbursed for travel expenses incurred while attending official meetings of the council in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

As used in RCW 43.06.310 through 43.06.330, "council" means the governor's council on criminal justice, "crime" means crimes committed by both adult and juvenile offenders, and "division" means the division of criminal justice.

Passed the Senate March 16, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 214

[Senate Bill No. 3532]

MOTOR VEHICLE LICENSE RENEWAL—REGISTRATION YEAR

AN ACT Relating to vehicle licenses; and amending section 1, chapter 118, Laws of 1975 1st ex. sess. and RCW 46.16.006.

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

Section 1. Section 1, chapter 118, Laws of 1975 1st ex. sess. and RCW 46.16.006 are each amended to read as follows:

(1) The term "registration year" for the purposes of chapters 46.16, 82.44, and 82.50 RCW shall mean the effective period of a vehicle license issued by the department. Such year shall commence at 12:01 a.m. on the date of the calendar year designated by the department and shall end at 12:01 a.m. on the same date of the next succeeding calendar year. If a vehicle license previously issued in this state has been expired for more than thirty days and is renewed with a different registered owner, a new registration year is deemed to commence upon the date the expired license is renewed in order that the renewed license be useable for a full twelve-month period.

(2) Each registration year may be divided into twelve registration months. Each registration month shall commence on the day numerically corresponding to the day of the calendar month on which the registration year begins, and shall terminate on the numerically corresponding day of the next succeeding calendar month.

(3) Each registration year may be divided into four registration quarters, each consisting of three registration months. The first quarter shall commence with registration month one.

(4) Where the term "last day of the month" is utilized in chapters 46.16, 82.44, and 82.50 RCW in lieu of a specified day of any calendar month it shall mean the last day of such calendar month or months irrespective of the numerical designation of that day.

(5) In the event the final day of a registration year, quarter, or month falls on a Saturday, Sunday, or legal holiday, such period shall extend through the end of the next business day.

Passed the Senate March 18, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 215

[Engrossed Senate Bill No. 3580]

DEPARTMENT OF TRANSPORTATION—BID QUALIFYING FINANCIAL INFORMATION—PUBLIC INSPECTION

AN ACT Relating to department of transportation records; and adding a new section to chapter 47.28 RCW.

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

NEW SECTION. Section 1. There is added to chapter 47.28 RCW a new section to read as follows:

The department of transportation shall not be required to make available for public inspection and copying financial information supplied by any person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for highway construction or improvement as required by RCW 47.28.070.

Passed the Senate April 2, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 216

[Substitute Senate Bill No. 3630]

RECLAMATION PROJECTS—WATER RIGHT DETERMINATION PROCEEDINGS, APPROPRIATION

AN ACT Relating to the state reclamation act; amending section 4, chapter 104, Laws of 1959 as amended by section 3, chapter 51, Laws of 1972 ex. sess. and RCW 89.16.040; adding a new section to chapter 89.16 RCW; making an appropriation; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 89.16 RCW a new section to read as follows:

In addition to the powers provided in RCW 89.16.050, the department of ecology is authorized and empowered to:

(1) Conduct surveys, studies, investigations, and water right examinations for proposed reclamation projects or the rehabilitation of existing reclamation projects that may be funded fully or partially from the receipts of the sale of bonds issued by the state of Washington.

(2) Support the preparation for and administration of proceedings, provided in RCW 90.03.110 or 90.44.220, or both, pertaining to river systems or other water bodies that are associated with existing or proposed reclamation projects.

Funds of the account established by RCW 89.16.020 may, as appropriated by the legislature, be used in relation to the powers provided in this section, notwithstanding any other provisions of chapter 89.16 RCW that may be to the contrary.

Sec. 2. Section 4, chapter 104, Laws of 1959 as amended by section 3, chapter 51, Laws of 1972 ex. sess. and RCW 89.16.040 are each amended to read as follows:

From the moneys appropriated from the reclamation account there shall be paid, upon vouchers approved by the director of ecology, the administrative expenses of the director under this chapter and such amounts as are found necessary for the investigation and survey of reclamation projects proposed to be financed in whole or in part by the director, and such amounts as may be authorized by him for the reclamation of lands in diking, diking improvement, drainage, drainage improvement, diking and drainage, diking and drainage improvement, irrigation and irrigation improvement districts, and such other districts as are authorized by law for the reclamation or development of waste or undeveloped lands or the rehabilitation of existing reclamation projects, and all such districts and improvement districts shall, for the purposes of this chapter be known as reclamation districts.

NEW SECTION. Sec. 3. For the biennium ending June 30, 1983, there is appropriated to the department of ecology from the reclamation revolving account a sum of four hundred thousand dollars for use in processing water right determination proceedings, initiated pursuant to RCW 90.03.110, pertaining to the Yakima river and its tributaries.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 27, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 217

[Senate Bill No. 3639]

STATE AUDITOR—AUDITS, OFFICE OF FINANCIAL MANAGEMENT,
FINANCIAL STATEMENTS

AN ACT Relating to the state auditor; and amending section 1, chapter 17, Laws of 1975-'76 2nd ex. sess. as amended by section 92, chapter 151, Laws of 1979 and RCW 43.09.310.

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

Section 1. Section 1, chapter 17, Laws of 1975-'76 2nd ex. sess. as amended by section 92, chapter 151, Laws of 1979 and RCW 43.09.310 are each amended to read as follows:

The state auditor, through the division of departmental audits, shall ~~((make a post-audit of every state department at such reasonable))~~ annually audit the state-wide combined financial statements prepared by the office of financial management and make post-audits of state agencies. Post-audits of state agencies shall be made at such periodic intervals as ((he shall)) is determined ((but in each case an audit shall be conducted every two years: PROVIDED, That for any state department whose biennial appropriation is less than six hundred thousand dollars, such interval may exceed two years, but shall not exceed five years)) by the state auditor. Audits of combined financial statements shall include determinations as to the validity and accuracy of accounting methods, procedures and standards utilized in their preparation, as well as the accuracy of the financial statements themselves. A report shall be made of each such audit and post-audit upon completion thereof, and one copy shall be transmitted to the governor, one to the director of financial management, one to the attorney general, one to the state department audited, one to the legislative budget committee, one each to the standing committees on ways and means of the house and senate, one to the chief clerk of the house, one to the secretary of the senate, and at least one shall be kept on file in the office of the state auditor. For purposes of reporting the annual audit of state-wide combined financial statements, "state department audited" refers solely to the office of financial management.

Passed the Senate March 30, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 218

[Senate Bill No. 3730]

CITIES AND TOWNS—INVESTMENT OF FUNDS

AN ACT Relating to cities and towns; and amending section 3, chapter 33, Laws of 1969 ex. sess. as amended by section 2, chapter 11, Laws of 1975 1st ex. sess. and RCW 35.39.034.

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

Section 1. Section 3, chapter 33, Laws of 1969 ex. sess. as amended by section 2, chapter 11, Laws of 1975 1st ex. sess. and RCW 35.39.034 are each amended to read as follows:

Moneys thus determined available for this purpose may be invested on an individual fund basis or may, unless otherwise restricted by law be commingled within one common investment portfolio for ~~((the mutual benefit of all participating funds: PROVIDED, That if such moneys are commingled in a common investment portfolio, all income derived therefrom shall be apportioned among the various participating funds in direct proportion to the amount of money invested by each))~~ investment. All income derived from such investment shall be apportioned and used for the benefit of the various participating funds or for the benefit of the general or current expense fund as the governing body of the city of town shall determine by ordinance or resolution: PROVIDED, That funds derived from the sale of general obligation bonds or revenue bonds or similar instruments of indebtedness shall be invested, or used in such manner as the initiating ordinances, resolutions, or bond covenants may lawfully prescribe.

Any excess or inactive funds on hand in the city treasury not otherwise invested ~~((for the specific benefit of any particular fund)), or required to be invested by this section, as now or hereafter amended,~~ may be invested by the city treasurer in United States government bonds, notes, bills, certificates of indebtedness, or interim financing warrants of a local improvement district which is within the protection of the local improvement guaranty fund law for the benefit of the general or current expense fund.

All previous or outstanding investments of city or town funds for the benefit of the city's or town's general or current expense fund which have been or could be made in accordance with the provisions of this section, as now or hereafter amended, are declared valid.

Passed the Senate March 23, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 219

[Engrossed Senate Bill No. 3740]
STATE INVESTMENT BOARD

AN ACT Relating to state investments; amending section 2, chapter 3, Laws of 1981 and RCW 43.____; amending section 4, chapter 3, Laws of 1981 and RCW 43.____; amending section 10, chapter __ (House Bill No. 1610), Laws of 1981 and RCW 43.____; amending section 11, chapter __ (House Bill No. 1610), Laws of 1981 and RCW 43.____; amending section 16, chapter __ (House Bill No. 1610), Laws of 1981 and RCW 43.____; providing an effective date; and declaring an emergency.

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

Section 1. Section 2, chapter 3, Laws of 1981 and RCW 43.____ are each amended to read as follows:

There is hereby created the state investment board to consist of fourteen members to be appointed as provided in this section.

(1) One member who is an active member of the public employees' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be one year.

(2) One member who is an active member of the law enforcement officers' and fire fighters' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be two years.

(3) One member who is an active member of the teachers' retirement system and has been an active member for at least five years. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(4) The state treasurer.

(5) A member of the state house of representatives. This member shall be appointed by the speaker of the house of representatives.

(6) A member of the state senate. This member shall be appointed by the president of the senate.

(7) One member who is a retired member of a state retirement system shall be appointed by the governor, subject to confirmation by the senate. The initial term of appointment shall be three years.

(8) The director of the department of labor and industries.

(9) The director of the department of retirement systems.

(10) Five nonvoting members appointed by the state investment board who are considered experienced and qualified in the field of investments.

The legislative members shall serve terms of two years. The initial legislative members appointed to the board shall be appointed no sooner than January ~~((12, 1981))~~ 10, 1983. The position of a legislative member on the board shall become vacant at the end of that member's term on the board or whenever the member ceases to be a member of the senate or house of representatives from which the member was appointed.

After the initial term of appointment, all other members of the state investment board, except ex officio members, shall serve terms of three years and shall hold office until successors are appointed. Members' terms, except for ex officio members, shall commence on January 1 of the year in which the appointments are made.

Members may be reappointed for additional terms. Appointments for vacancies shall be made for the unexpired terms in the same manner as the original appointments. Any member may be removed from the board for cause by the member's respective appointing authority.

Sec. 2. Section 4, chapter 3, Laws of 1981 and RCW 43.____ are each amended to read as follows:

(1) A quorum to conduct the business of the state investment board consists of at least ~~((five))~~ four voting members of the board before January 10, 1983, and five voting members thereafter. No action may be taken by the board without the affirmative vote of four members before January 10, 1983, and five members thereafter.

(2) The state investment board shall meet at least quarterly at such times as it may fix. The board shall elect a chairperson and vice chairperson annually: PROVIDED, That the legislative members are not eligible to serve as chairperson.

Sec. 3. Section 10, chapter __ (House Bill No. 1610), Laws of 1981 and RCW 43.____ are each amended to read as follows:

The state investment board shall maintain appropriate offices and employ such personnel as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, ~~((the state))~~ investment officers, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such employment shall be subject to confirmation of the state finance committee: PROVIDED, That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding terms. Compensation levels for the investment officers employed by the investment board shall be established by the state personnel board.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1,

1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in this 1980 act shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by this 1980 act shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981.

Sec. 4. Section 11, chapter __ (House Bill No. 1610), Laws of 1981 and RCW 43.__. __ are each amended to read as follows:

The state investment board may make appropriate rules and regulations for the performance of its duties. The board shall establish investment policies and procedures designed exclusively to maximize return at a prudent level of risk. The board shall adopt rules to ensure that its members perform their functions in compliance with chapter 42.18 RCW. Rules adopted by the board shall be adopted pursuant to chapter 34.04 RCW.

Sec. 5. Section 16, chapter __ (House Bill No. 1610), Laws of 1981 and RCW 43.__. __ are each amended to read as follows:

The state investment board shall be funded from the ~~((investment reserve account created by RCW 43.84.090))~~ earnings of the funds managed, proportional to the value of the assets of each fund managed, subject to legislative appropriation.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except sections 1 and 2 of this act shall take effect July 1, 1981.

Passed the Senate March 24, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 220

[Senate Bill No. 3745]

STATE LIBRARY—NEWSPAPER DEPOSITORY

AN ACT Relating to the state library; and adding a new section to chapter 27.04 RCW.

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

NEW SECTION. Section 1. There is added to chapter 27.04 RCW a new section to read as follows:

The state library shall be the depository for newspapers published in the state of Washington, thus providing a central location for a valuable historical record for scholarly, personal, and commercial reference and circulation.

Passed the Senate March 30, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 221

[Substitute Senate Bill No. 3777]

PROPORTIONAL REGISTRATION OF VEHICLES

AN ACT Relating to proportionally licensed vehicles; amending section 19, chapter 106, Laws of 1963 as last amended by section 4, chapter 149, Laws of 1979 ex. sess. and RCW 46.85.190; and adding new sections to chapter 46.85 RCW.

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

Section 1. Section 19, chapter 106, Laws of 1963 as last amended by section 4, chapter 149, Laws of 1979 ex. sess. and RCW 46.85.190 are each amended to read as follows:

Any owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of four years following the preceding year or period upon which ~~((said))~~ the application is based. These records shall be complete and shall include, but not be limited to, the following: Copies of prorational registration applications and supplements for all jurisdictions in which the fleet is prorated; proof of proportional or full registration with other jurisdictions; vehicle license or trip permits; temporary proration authorization permits; weight certificates indicating the unladen, ready for the road, weight of each vehicle in the fleet; periodic summaries of mileage by fleet and by individual vehicles; individual trip reports, driver's daily logs, or other source documents maintained for each individual trip which provide trip dates, points of origin and destinations, total miles traveled, miles traveled in each jurisdiction, routes traveled, vehicle equipment number, driver's full name, and all other information pertinent to each trip. Upon request of the department, the owner shall make such records available to the department~~((;))~~ at its designated office for audit as to accuracy of records, computations, and payments ~~((and assessment of deficiencies or allowances for credit. If the department determines that the applicant should have registered more vehicles in this state under the provisions of this chapter the department may deny him the right of any further benefits by reason of any reciprocal agreement or declaration until the fees, interest, and penalties for such additional vehicle or vehicles which should have been registered, have been paid. The fees, interest, and penalties determined to be due and owing under~~

~~the provisions of this paragraph shall be a lien upon all the property of the applicant, and such lien shall attach at the time the audit report has been mailed to such applicant by the department, and shall have the effect of an execution duly levied on such property and shall so remain until said additional fees, interest, and penalties so determined, are paid, or a sufficient amount of such property sold for the payment thereof).~~ The department shall assess and collect any unpaid fees and taxes found to be due the state and provide credits or refunds for overpayments as determined in accordance with formulas and other requirements prescribed in this chapter. If the owner fails to maintain complete records as required by this section, the department shall attempt to reconstruct or reestablish such records. However, if the department is unable to do so and the missing or incomplete records involve mileages accrued by vehicles while they are part of the fleet, the department may assess an amount not to exceed the difference between the proportional fees and taxes paid and one hundred percent of the fees and taxes. Further, if the owner fails to maintain complete records as required by this section, or if the department determines that the owner should have registered more vehicles in this state under the provisions of this chapter, the department may deny the owner the right of any further benefits provided by this chapter until any final audit assessment under this chapter has been satisfied.

The department may audit the records of any owner and may make arrangements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any such owner. No assessment for deficiency or claim for credit may be made for any period for which records are no longer required. Any ~~((sums))~~ fees, taxes, penalties, or interest found to be due and owing the state upon audit shall bear interest ((of one)) at twelve percent per ((month)) annum from the ((date when they should have been paid)) end of the calendar year in which the deficiency is incurred until the date of ((actual)) payment. If the audit discloses a deliberate and wilful intent to evade the requirements of payment under RCW ~~((46.85.110 and))~~ 46.85.120, a penalty of ten percent shall also be assessed.

If the audit discloses that an overpayment to the state in excess of ~~((twenty=))~~ five dollars has been made, the department shall certify such overpayment to the state treasurer who shall issue a warrant for such overpayment to the vehicle operator. Overpayments shall bear interest at the rate of four percent per annum from the end of the calendar year in which the overpayment is incurred until the date of payment.

~~((All carriers registered under the provisions of this chapter shall maintain detailed mileage records on an individual vehicle basis. Such operating records shall be prepared for each trip and shall include dates, origin and destination points, total miles traveled, miles traveled in each state, vehicle equipment number, driver's full name, and all other information pertinent to the particular trip.))~~

NEW SECTION. Sec. 2. An owner of proportionally registered vehicles against whom an assessment is made under the provisions of RCW 46.85-.190 may petition for a reassessment thereof within thirty days after service upon the owner of the proportionally registered vehicles of notice thereof. If such petition is not filed within such thirty-day period, the amount of the assessment becomes final at the expiration thereof.

If a petition for reassessment is filed within the thirty-day period, the department shall reconsider the assessment and, if such petitioner has so requested in his petition, shall grant such petitioner an oral hearing and give such petitioner ten days notice of the time and place thereof. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment becomes final thirty days after service upon the petitioner of notice thereof.

Every assessment made by the department becomes due and payable at the time it becomes final and if not paid to the department when due and payable, there shall be added thereto a penalty of ten percent of the amount of the assessment.

Any notice of assessment, reassessment, oral hearing, or decision required by this section shall be served personally or by mail; if by mail, service shall be deemed to have been accomplished on the date such notice was deposited in the United States mail, postage prepaid, addressed to the owner of the proportionally registered vehicles at his address as it appears in the records of the department.

No injunction or writ of mandate or other legal or equitable process may be issued in any suit, action, or proceeding in any court against any officer of the state to prevent or enjoin the collection under this chapter of any fee or tax or any amount of fee or tax required to be collected, except as specifically provided for in chapter 34.04 RCW.

NEW SECTION. Sec. 3. If an owner of proportionally registered vehicles liable for the remittance of fees and taxes imposed by this chapter for which an assessment has become final fails to pay such fees and taxes, the amount thereof, including any interest, penalty, or addition to such fees and taxes together with any costs that may accrue in addition thereto, constitutes a lien in favor of the state upon all franchises, property, and rights to property, whether such property is employed by such person for personal or business use or is in the hands of a trustee, or receiver, or assignee for the benefit of creditors, from the date the fees and taxes were due and payable until the amount of the lien is paid or the property sold in payment thereof. The lien has priority over any lien or encumbrance whatsoever, except the lien of other state taxes having priority by law, and except that such lien is not valid as against any bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached prior to the time the department has filed and recorded notice of such lien as provided in this chapter.

In order to avail itself of the lien created by this section, the department shall file with any county auditor a statement of claim and lien specifying the amount of delinquent fees and taxes, penalties, and interest claimed by the department. From the time of filing for record, the amount required to be paid constitutes a lien upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by such person in the county. Any lien as provided in this section may also be filed in the office of the secretary of state. Filing in the office of the secretary of state is of no effect, however, until the lien or a copy thereof has been filed with the county auditor in the county where the property is located. When a lien is filed in compliance with this section and with the secretary of state, such filing has the same effect as if the lien had been duly filed for record in the office of the auditor in each county of this state.

NEW SECTION. Sec. 4. If an owner of proportionally registered vehicles for which an assessment has become final is delinquent in the payment of an obligation imposed under this chapter, the department may give notice of the amount of the delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to such owner or owing any debts to such owner, at the time of the receipt by them of such notice. Thereafter, a person so notified shall neither transfer nor make other disposition of such credits, personal property, or debts until the department consents to a transfer or other disposition. A person so notified shall, within twenty days after receipt of the notice, advise the department of any and all such credits, personal property, or debts in their possession, under their control or owing by them, as the case may be, and shall forthwith deliver such credits, personal property, or debts to the department or its duly authorized representative to be applied to the indebtedness involved.

If a person fails to answer the notice within the time prescribed by this section, it is lawful for the court upon application of the department and after the time to answer the notice has expired, to render judgment by default against such person for the full amount claimed by the department in the notice to withhold and deliver, together with costs.

NEW SECTION. Sec. 5. Whenever the owner of proportionally registered vehicles is delinquent in the payment of an obligation imposed under this chapter, and such delinquency continues after notice and demand for payment by the department, the department shall proceed to collect the amount due from such owner in the following manner: The department shall seize any property subject to the lien of such fees, taxes, penalties, and interest and thereafter sell it at public auction to pay the obligation and any and all costs that may have been incurred on account of the seizure and sale. Notice of the intended sale and the time and place thereof shall be given to the delinquent owner and to all persons appearing of record to have an interest in such property. The notice shall be given in writing at least ten

days before the date set for the sale by registered or certified mail addressed to the owner as appearing in the records of the department and, in the case of any person appearing of record to have an interest in such property, addressed to such person at his last known residence or place of business. In addition, the notice shall be published at least ten days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper in such county, the notice shall be posted in three public places in the county for a period of ten days. The notice shall contain a description of the property to be sold, a statement of the amount due hereunder, the name of the owner of the proportionally registered vehicles, and the further statement that unless such amount is paid on or before the time fixed in the notice the property will be sold in accordance with law.

The department shall then proceed to sell the property in accordance with law and the notice, and shall deliver to the purchaser a bill of sale or deed which vests title in the purchaser. If upon any such sale the moneys received exceed the amount due to the state hereunder from the delinquent owner, the excess shall be returned to the delinquent owner and his receipt obtained therefor. The department may withhold payment of any such excess to the delinquent owner if any person having an interest in or lien upon the property has filed with the department their notice of such lien or interest prior to the sale pending determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the delinquent owner is not available, the department shall deposit such excess with the state treasurer as trustee for the delinquent owner.

NEW SECTION. Sec. 6. Whenever any assessment has become final in accordance with the provisions of this chapter, the department may file with the clerk of any county within the state a warrant in the amount of fees, taxes, penalties, interest, and a filing fee of five dollars. The clerk of the county wherein the warrant is filed shall immediately designate a superior court cause number for such warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant the name of the delinquent owner of proportionally registered vehicles mentioned in the warrant, the amount of the fees, taxes, penalties, interest, and filing fee, and the date when such warrant was filed. The aggregate amount of such warrant as docketed constitutes a lien upon the title to, and interest in all real and personal property of named person against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of the clerk. Such warrant so docketed is sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law in the case of civil judgment, wholly or partially unsatisfied. The clerk of the court is entitled

to a filing fee of five dollars, which shall be added to the amount of the warrant.

NEW SECTION. Sec. 7. Whenever an owner of proportionally registered vehicles is delinquent in the payment of an obligation under this chapter the department may transmit notices of the delinquency to the attorney general who shall at once proceed to collect by appropriate legal action the amount due the state from the delinquent owner.

In a suit brought to enforce the rights of the state under this chapter, a certificate by the department showing the delinquency is prima facie evidence of the amount of the obligation, of the delinquency thereof, and of compliance by the department with all provisions of this chapter relating to such obligation.

NEW SECTION. Sec. 8. The foregoing remedies of the state in this chapter are cumulative, and no action taken by the department may be construed to be an election on the part of the state or any of its officers to pursue any remedy under this chapter to the exclusion of any other remedy provided for in this chapter.

NEW SECTION. Sec. 9. The department may initiate and conduct audits and investigations as may be reasonably necessary to establish the existence of any alleged violations of or noncompliance with the provisions of this chapter or any rules issued hereunder.

For the purpose of any audit, investigation, or proceeding under this chapter the director or any designee of the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, paper, correspondence, memoranda, agreements, or other documents or records which the department deems relevant or material to the inquiry.

In case of contumacy or refusal to obey a subpoena issued to any person, any court of competent jurisdiction upon application by the department, may issue to that person an order requiring him to appear before the director or the officer designated by him to produce testimony or other evidence touching the matter under audit, investigation, or in question. Failure to obey an order of the court may be punishable by contempt.

NEW SECTION. Sec. 10. Whenever a person has been required to pay a fee or tax pursuant to this chapter which amounts to an overpayment of five dollars or more, such person is entitled to a refund of the entire amount of such overpayment, regardless of whether or not a refund of the overpayment has been requested. Nothing in this subsection precludes anyone from applying for a refund of such overpayment if the overpayment is less than five dollars. Conversely, if the department or its agents has failed to charge and collect the full amount of fees or taxes pursuant to this chapter, which underpayment is in the amount of five dollars or more, the department shall

charge and collect such additional amount as will constitute full payment of the fees or taxes due.

NEW SECTION. Sec. 11. Judicial review and appeals under this chapter shall be governed by the Administrative Procedure Act, chapter 34.04 RCW.

NEW SECTION. Sec. 12. Sections 2 through 11 of this act shall be added to chapter 46.85 RCW.

Passed the Senate April 2, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 222

[Substitute Senate Bill No. 3778]

RECIPROCAL AND PROPORTIONAL REGISTRATION OF VEHICLES— INTERSTATE COMMERCIAL VEHICLES, SINGLE CAB CARDS

AN ACT Relating to motor vehicles; amending section 2, chapter 106, Laws of 1963 and RCW 46.85.020; amending section 3, chapter 106, Laws of 1963 as last amended by section 1, chapter 92, Laws of 1977 ex. sess. and RCW 46.85.030; amending section 12, chapter 106, Laws of 1963 as last amended by section 1, chapter 115, Laws of 1973 and RCW 46.85.120; amending section 13, chapter 106, Laws of 1963 and RCW 46.85.130; amending section 5, chapter 51, Laws of 1971 and RCW 46.85.135; amending section 14, chapter 106, Laws of 1963 as amended by section 2, chapter 134, Laws of 1979 and RCW 46.85.140; amending section 22, chapter 106, Laws of 1963 and RCW 46.85.220; amending section 28, chapter 106, Laws of 1963 and RCW 46.85.280; amending section 29, chapter 106, Laws of 1963 as amended by section 116, chapter 32, Laws of 1967 and RCW 46.85.290; amending section 82.44.020, chapter 15, Laws of 1961 as last amended by section 230, chapter 158, Laws of 1979 and RCW 82.44.020; amending section 82.44-.050, chapter 15, Laws of 1961 as amended by section 3, chapter 199, Laws of 1963 and RCW 82.44.050; amending section 82.44.060, chapter 15, Laws of 1961 as last amended by section 233, chapter 158, Laws of 1979 and RCW 82.44.060; repealing section 23, chapter 106, Laws of 1963, section 115, chapter 32, Laws of 1967 and RCW 46.85.230; repealing section 24, chapter 106, Laws of 1963 and RCW 46.85.240; repealing section 25, chapter 106, Laws of 1963, section 99, chapter 136, Laws of 1979 ex. sess. and RCW 46.85.250; repealing section 26, chapter 106, Laws of 1963 and RCW 46.85.260; repealing section 2, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.010; repealing section 3, chapter 94, Laws of 1967 ex. sess., section 200, chapter 158, Laws of 1979 and RCW 46.86.020; repealing section 4, chapter 94, Laws of 1967 ex. sess., section 201, chapter 158, Laws of 1979 and RCW 46.86.030; repealing section 5, chapter 94, Laws of 1967 ex. sess., section 1, chapter 42, Laws of 1975 1st ex. sess. and RCW 46.86.040; repealing section 6, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.050; repealing section 7, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.060; repealing section 8, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.070; repealing section 9, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.080; repealing section 10, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.090; repealing section 11, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.100; repealing section 12, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.110; repealing section 13, chapter 94, Laws of 1967 ex. sess., section 2, chapter 42, Laws of 1975 1st ex. sess. and RCW 46.86.120; repealing section 14, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.130; and repealing section 7, chapter 143, Laws of 1971 ex. sess. and RCW 46.86.140.

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

Section 1. Section 2, chapter 106, Laws of 1963 and RCW 46.85.020 are each amended to read as follows:

~~((As used in this chapter:))~~ The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial vehicle" means any vehicle which is operated in more than one state and used for the transportation of persons for hire, compensation, or profit, or designed or used primarily for the transportation of property.

(2) "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.

(3) "Owner" means a person who holds the legal title to a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof 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 in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner shall be deemed to be such person in whom is vested right of possession or control.

(4) "Properly registered(~~(⁽⁻⁾)~~)," as applied to place of registration, means:

(a) The jurisdiction where the person registering the vehicle has his legal residence(~~(⁽⁻⁾)~~); or

(b) In the case of a commercial vehicle, the jurisdiction in which it is registered if the commercial enterprise in which such 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 such place of business, and, the vehicle has been assigned to such place of business(~~(⁽⁻⁾)~~); or

(c) 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 said jurisdiction.

In case of doubt or dispute as to the proper place of registration of a vehicle, the department shall make the final determination, but in making such determination, may confer with departments of the other jurisdictions affected.

(5) "Fleet" means three or more commercial vehicles: PROVIDED, That the reciprocity commission may require proportional registration and licensing of a fleet of less than three vehicles whenever in its judgment the interests of this state will be best served and protected thereby.

(6) The words "department," "motor vehicle," "person," and "vehicle" ~~((shall))~~ each have the meanings ascribed to them, respectively, by RCW ~~((46.04.680))~~ 46.04.690, 46.04.320, 46.04.405, and 46.04.670.

(7) "Preceding year" means a period of twelve consecutive months fixed by the department which period shall be within the sixteen months immediately preceding the commencement of the registration or license year for which proportional registration is sought; and the department in fixing such period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(8) "Registration year" means the period from January 1st through December 31st of each calendar year.

Sec. 2. Section 3, chapter 106, Laws of 1963 as last amended by section 1, chapter 92, Laws of 1977 ex. sess. and RCW 46.85.030 are each amended to read as follows:

(1) The reciprocity commission, hereby created, shall consist of the director of ~~((motor vehicles))~~ licensing or a designee, the chief of the Washington state patrol or a designee, a designee of the state ~~((highway))~~ transportation commission, and, ex officio, the chairman and vice chairman of the legislative transportation committee~~((;))~~ or their duly designated representatives. ~~((Members of the western interstate highway policy committee from the state of Washington shall be advisory members of the reciprocity commission, and may attend meetings and conferences of the commission in such capacity, but shall not vote as members thereof.))~~ The department shall provide such assistance and facilities to the commission as it may require. The members of the commission shall receive no additional compensation for their services except that they shall be allowed reimbursement for travel expenses incurred in the performance of their official duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended to be paid from funds made available for the use of the commission. The commission shall have the authority to execute agreements, arrangements, or declarations to carry out the provisions of this chapter.

(2) The reciprocity commission may enter into a multistate proportional registration agreement which prescribes a different definition of any terms defined in chapter 46.85 RCW. The agreement definition shall control unless appropriate exception is taken thereto.

If the reciprocity commission enters into a multistate proportional registration agreement which prescribes a different procedure for vehicle identification, the agreement procedures shall control.

If the reciprocity commission enters into a multistate proportional registration agreement which requires this state to perform acts in a quasi agency relationship, the ~~((reciprocity commission))~~ department may collect

and forward applicable registration fees and applications to other jurisdictions on behalf of the applicant or on behalf of another jurisdiction and may take such other action as will facilitate the administration of such agreement.

If the reciprocity commission enters into a multistate proportional registration agreement which prescribes procedures applicable to vehicles not specifically described in chapter 46.85 RCW, such as but not limited to "owner-operator" or "rental" vehicles, it shall promulgate rules accomplishing the procedures prescribed in such agreement.

If the reciprocity commission enters into a multistate proportional registration agreement which prohibits the collection of minimum fees or taxes provided for in this chapter or elsewhere for the ownership or operation of motor vehicles, the prohibitions contained in the agreement shall control.

It is the purpose and intent of this subsection to facilitate the membership in the International Registration Plan and at the same time allow the reciprocity commission to continue to participate in such agreements and compacts as may be necessary and desirable in addition to the International Registration Plan(~~(- PROVIDED, That prior to the reciprocity commission entering into the International Registration Plan, the commission, with the assistance of the department of motor vehicles, shall conduct a fiscal impact study and report the findings of the study to the legislative transportation committee by October 15, 1977)).~~

Sec. 3. Section 12, chapter 106, Laws of 1963 as last amended by section 1, chapter 115, Laws of 1973 and RCW 46.85.120 are each amended to read as follows:

(1) Any owner engaged in (~~(operating)~~) interstate operation of one or more fleets may, in lieu of registration of vehicles under the provisions of chapter 46.16 RCW and payment of (~~(excise)~~) taxes and fees imposed by chapter 82.44 RCW and RCW 82.38.075, register and license each fleet for operation in this state by filing (~~(an)~~) a prorate application with the department which shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(a) Total fleet miles. This shall be the total number of miles operated in all jurisdictions during the preceding year by the motor vehicles in such fleet during said year.

(b) In-state miles. This shall be the total number of miles operated in this state during the preceding year by the motor vehicles in such fleet during said year.

(c) A description and identification of each vehicle of such fleet which is to be operated in this state during the registration year for which proportional fleet registration is requested.

(2) The application for each fleet shall, at the time and in the manner required by the department, be supported by fee payment computed as follows:

(a) Divide the sum of the in-state miles by total fleet miles.

(b) Determine the total amount necessary under the provisions referred to in subsection (1) of this section to register each and every vehicle in the fleet for which registration is requested, based on the regular annual fees or applicable fees for the unexpired portion of the registration year.

(c) Multiply the sum obtained under subsection (2)(b) hereof by the fraction obtained under subsection (2)(a) hereof.

(3) The applicant for proportional registration of any fleet, the nonmotor vehicles of which are operated in jurisdictions in addition to those in which the applicant's fleet motor vehicles are operated, may state such nonmotor vehicles separately in his application and compute and pay the fees therefor in accordance with such separate statement, as to which "total miles" shall be the total miles operated in all jurisdictions during the preceding year.

(4) In no event shall the ~~((total))~~ proportional fee payment be less than a minimum of five dollars per motor truck, truck tractor, or auto stage, and three dollars per vehicle of any other type.

Sec. 4. Section 13, chapter 106, Laws of 1963 and RCW 46.85.130 are each amended to read as follows:

(1) The department, upon acceptance and approval of a prorate application, shall register the vehicles so described and identified and may issue a license plate or plates, or a distinctive sticker, or other suitable identification device, for each vehicle described in the application upon payment of the appropriate fees for such application and for the stickers or devices issued. A fee of two dollars shall be paid for each license plate, sticker, or device issued for each proportionally registered vehicle. A registration card shall be issued for each proportionally registered vehicle. Such registration card shall, in addition to the information required by RCW 46.12.050, bear upon its face the number of the license~~((sticker))~~ plate or other device issued ~~((for))~~ to such proportionally registered vehicle and shall be carried in such vehicles at all times or, in the case of a combination, in the vehicle supplying the motive power.

(2) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for interstate or intrastate movement or operation, no such vehicle shall be operated in interstate or intrastate commerce in this state unless the owner thereof has been granted interstate operating authority by the interstate commerce commission in the case of interstate operations or intrastate operating authority by the Washington utility and transportation commission in the case of intrastate operations and unless said vehicle is being operated in conformity with such authority.

(3) The department may issue temporary proration authorization permits to qualifying operators for the operation of vehicles pending issuance of

license identification. A fee of one dollar plus a one dollar filing fee shall be collected for each permit issued. The permit fee shall be deposited in the motor vehicle fund, and the filing fee shall be distributed pursuant to RCW 46.01.140. The department shall have the authority to adopt rules and regulations for use and issuance of the permits.

(4) The department may refuse to issue any license or permit authorized by subsections (1) or (3) of this section to any person: (a) Who formerly held any type of license or permit issued by the department pursuant to chapter 46.16, 46.85, 82.36, 82.37, or 82.38 RCW which has been revoked for cause, which cause has not been removed; or (b) who is a subterfuge for the real party in interest whose license or permit issued by the department pursuant to chapter 46.16, 46.85, 82.36, 82.37, or 82.38 RCW and has been revoked for cause, which cause has not been removed; or (c) who, as an individual licensee, or officer, director, owner, or managing employee of a nonindividual licensee, has had a license or permit issued by the department pursuant to chapter 46.16, 46.85, 82.36, 82.37, or 82.38 RCW which has been revoked for cause, which cause has not been removed; or (d) who has an unsatisfied debt to the state assessed under either chapter 46.16, 46.85, 82.36, 82.37, 82.38, or 82.44 RCW.

(5) The department may revoke the license or permit authorized by subsections (1) or (3) of this section issued to any person for any of the grounds constituting cause for denial of licenses or permits set forth in subsection (4) of this section.

(6) Before such refusal or revocation under subsections (4) or (5) of this section, the department shall grant the applicant a hearing and shall grant him at least ten days written notice of the time and place thereof.

Sec. 5. Section 5, chapter 51, Laws of 1971 and RCW 46.85.135 are each amended to read as follows:

In addition to all other fees and taxes, a fee based upon the number of vehicles listed for registration purposes on each ((application or supplemental application for)) reciprocal or proportional registration ((of vehicles)) application shall be ((accompanied by an application fee, in addition to all other fees, of)) collected. This fee shall be five dollars for nine or ((less)) fewer vehicles, ten dollars for ten through twenty-four vehicles, and fifteen dollars for twenty-five or more vehicles.

Sec. 6. Section 14, chapter 106, Laws of 1963 as amended by section 2, chapter 134, Laws of 1979 and RCW 46.85.140 are each amended to read as follows:

The right to the privilege and benefits of proportional registration of fleet vehicles extended by this chapter, or by any contract, agreement, arrangement, or declaration made under the authority of this chapter, shall be subject to the conditions that (1) each fleet vehicle proportionally registered under the authority of this chapter also shall be fully or proportionally registered in at least one other jurisdiction during the period for which it is

proportionally registered in this state and (2) a fleet shall consist of the same vehicles in each jurisdiction in which the fleet is proportionally registered.

Sec. 7. Section 22, chapter 106, Laws of 1963 and RCW 46.85.220 are each amended to read as follows:

The department may enter into agreements with other ~~((states))~~ jurisdictions on behalf of the state of Washington for the purpose of facilitating the administration of this chapter. In addition it may conclude arrangements or agreements with other ~~((states))~~ jurisdictions for the exchange of information for audit and enforcement activities in connection with such proportional registration. The department may adopt and promulgate such rules and regulations as it shall deem necessary to effectuate and administer the provisions of RCW 46.85.110 and 46.85.120, and the registration of fleet vehicles under said sections shall be subject to the rights, terms, and conditions granted or contained in any applicable agreement made by the department under the authority of this section.

Sec. 8. Section 28, chapter 106, Laws of 1963 and RCW 46.85.280 are each amended to read as follows:

Each reciprocity identification plate shall be valid ~~((until the expiration date of the current and valid vehicle license issued by the state or other jurisdiction wherein such vehicle is licensed))~~ throughout the registration year in which it was issued: PROVIDED, That such identification plate shall become invalid upon the termination of any reciprocal agreement between this state and the state or jurisdiction wherein such vehicle is licensed.

Sec. 9. Section 29, chapter 106, Laws of 1963 as amended by section 116, chapter 32, Laws of 1967 and RCW 46.85.290 are each amended to read as follows:

All special reciprocity identification plates shall be obtained by the director in the manner prescribed in RCW 46.16.230 and shall be issued by the director or his authorized agent upon application in the form prescribed in RCW 46.16.040. One reciprocity identification plate shall be issued for each vehicle. The fee therefor shall be two dollars plus a filing fee of ~~((fifty cents))~~ one dollar. All funds collected under this section shall be transmitted to the state treasurer and deposited in the motor vehicle fund.

Sec. 10. Section 82.44.020, chapter 15, Laws of 1961 as last amended by section 230, chapter 158, Laws of 1979 and RCW 82.44.020 are each amended to read as follows:

(1) An excise tax is imposed for the privilege of using in the state any motor vehicle, except those operated under reciprocal agreements, the provisions of RCW 46.16.160 as now or hereafter amended, or dealer's licenses. The annual amount of such excise shall be two percent of the fair market value of such vehicle.

(2) From and after August 1, 1978, and until August 1, 2008, an additional excise tax is imposed, in addition to any other tax imposed by this section, for the privilege of using in the state any such motor vehicle, and the annual amount of such additional excise shall be two-tenths of one percent of the fair market value of such vehicle.

(3) The department of licensing and county auditors shall collect the additional tax imposed by subsection (2) of this section for any registration year for the months of that registration year in which such additional tax is effective, and in the same manner and at the same time as the tax imposed by subsection (1) of this section.

(4) In no case shall the total tax be less than two dollars except for proportionally registered vehicles.

Sec. 11. Section 82.44.050, chapter 15, Laws of 1961 as amended by section 3, chapter 199, Laws of 1963 and RCW 82.44.050 are each amended to read as follows:

Whenever a person applies to the county auditor for a license for a motor vehicle which does not appear upon the schedule, the applicant shall apply to the county assessor of his county for computation of the amount of excise tax due. Upon any such application the assessor shall appraise the vehicle at its fair market value from such automotive guidebooks or listings or other information as he may have available and ascertain the amount of excise tax by applying to such appraisal the rate ~~((of two percent))~~ prescribed in RCW 82.44.020, and thereupon the applicant shall be given a certificate showing the excise tax payable under this chapter.

Sec. 12. Section 82.44.060, chapter 15, Laws of 1961 as last amended by section 233, chapter 158, Laws of 1979 and RCW 82.44.060 are each amended to read as follows:

The excise tax hereby imposed shall be due and payable to the department of licensing or its agents at the time of registration of a motor vehicle. Whenever an application is made to the department of licensing or its agents for a license for a motor vehicle there shall be collected, in addition to the amount of the license fee or renewal license fee, the amount of the excise tax imposed by this chapter prorated to comply with the effective date of the annual schedule prepared pursuant to RCW 82.44.040, and no dealer's license or license plates, and no license or license plates for a motor vehicle shall be issued unless such tax is paid in full. The excise tax hereby imposed shall be collected for each registration year: **PROVIDED**, That the excise tax upon a motor vehicle licensed for the first time in this state after the last day of any registration month shall only be levied for the remaining months of the registration year including the month in which the motor vehicle is being licensed: **PROVIDED FURTHER**, That the tax shall in no case be less than two dollars except for proportionally registered vehicles.

A motor vehicle shall be deemed licensed for the first time in this state when such vehicle was not previously licensed by this state for the registration year immediately preceding the registration year in which the application for license is made or when the vehicle has been registered in another jurisdiction subsequent to any prior registration in this state.

No additional tax shall be imposed under this chapter upon any vehicle upon the transfer of ownership thereof if the tax imposed with respect to such vehicle has already been paid for the registration year or fraction of a registration year in which transfer of ownership occurs.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

(1) Section 23, chapter 106, Laws of 1963, section 115, chapter 32, Laws of 1967 and RCW 46.85.230;

(2) Section 24, chapter 106, Laws of 1963 and RCW 46.85.240;

(3) Section 25, chapter 106, Laws of 1963, section 99, chapter 136, Laws of 1979 ex. sess. and RCW 46.85.250;

(4) Section 26, chapter 106, Laws of 1963 and RCW 46.85.260;

(5) Section 2, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.010;

(6) Section 3, chapter 94, Laws of 1967 ex. sess., section 200, chapter 158, Laws of 1979 and RCW 46.86.020;

(7) Section 4, chapter 94, Laws of 1967 ex. sess., section 201, chapter 158, Laws of 1979 and RCW 46.86.030;

(8) Section 5, chapter 94, Laws of 1967 ex. sess., section 1, chapter 42, Laws of 1975 1st ex. sess. and RCW 46.86.040;

(9) Section 6, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.050;

(10) Section 7, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.060;

(11) Section 8, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.070;

(12) Section 9, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.080;

(13) Section 10, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.090;

(14) Section 11, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.100;

(15) Section 12, chapter 94, Laws of 1967 ex. sess. and RCW 46.86.110;

(16) Section 13, chapter 94, Laws of 1967 ex. sess., section 2, chapter 42, Laws of 1975 1st ex. sess. and RCW 46.86.120;

(17) Section 14, chapter 94, Laws of 1967 ex. sess. and RCW 46.86-.130; and

(18) Section 7, chapter 143, Laws of 1971 ex. sess. and RCW 46.86.140.

Passed the Senate April 2, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 223

[Engrossed Senate Bill No. 3834]

TITLE INSURANCE AGENTS—LICENSURE

AN ACT Relating to title insurers; and adding new sections to chapter 48.29 RCW.

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

NEW SECTION. Section 1. There is added to chapter 48.29 RCW a new section to read as follows:

To be licensed as agent of a title insurer, the applicant must own or lease and maintain a complete set of tract indexes of the county or counties in which such agent will do business.

NEW SECTION. Sec. 2. There is added to chapter 48.29 RCW a new section to read as follows:

Title insurance agents shall be exempt from the provisions of RCW 48.17.090(2) and 48.17.180(1) which otherwise require that each individual empowered to exercise the authority of a licensed firm or corporation must be separately licensed.

Passed the Senate March 30, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 224

[Engrossed Substitute Senate Bill No. 3867]

AIR QUALITY MAINTENANCE—CONTROL PROGRAM, BUBBLE CONCEPT

AN ACT Relating to air pollution control; and amending section 3, chapter 193, Laws of 1973 1st ex. sess. and RCW 70.94.155.

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

Section 1. Section 3, chapter 193, Laws of 1973 1st ex. sess. and RCW 70.94.155 are each amended to read as follows:

(1) As used in subsection (3) of this section, the term "bubble" means an air pollution control system which permits aggregate measurements of allowable emissions, for a single category of pollutant, for emissions points from a specified emissions-generating facility or facilities. Individual point source emissions levels from such specified facility or facilities may be modified provided that the aggregate limit for the specified sources is not exceeded.

(2) Whenever any regulation relating to emission standards or other requirements for the control of emissions is adopted which provides for compliance with such standards or requirements no later than a specified time after the date of adoption of the regulation, the appropriate activated air

pollution control authority or, if there be none, the department of ecology shall, by regulatory order, issue to air contaminant sources subject to the standards or requirements, schedules of compliance setting forth timetables for the achievement of compliance as expeditiously as practicable, but in no case later than the time specified in the regulation. Interim dates in such schedules for the completion of steps of progress toward compliance shall be as enforceable as the final date for full compliance therein.

(3) Wherever requirements necessary for the attainment of air quality standards or, where such standards are not exceeded, for the maintenance of air quality can be achieved through the use of a control program involving the bubble concept, such program may be authorized by a regulatory order or orders issued to the air contaminant source or sources involved. Any such order shall restrict total emissions within the bubble to no more than would otherwise be allowed in the aggregate for all emitting processes covered. The orders provided for by this subsection shall be issued by the department or the authority with jurisdiction. If the bubble involves inter-jurisdictional approval, concurrence in the total program must be secured from each regulatory entity concerned.

Passed the Senate March 30, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 225

[Senate Bill No. 3872]

TREE FRUIT RESEARCH COMMISSION, BEEF COMMISSION, COMMODITY COMMISSIONS—PERSONAL SERVICES CONTRACTS, CIVIL SERVICE, BUDGET AND ACCOUNTING, EXEMPTIONS

AN ACT Relating to commodity commissions; amending section 3, chapter 191, Laws of 1974 ex. sess. and RCW 39.29.030; amending section 1, chapter 11, Laws of 1972 ex. sess. as last amended by section 14, chapter 87, Laws of 1980 and RCW 41.06.070; and amending section 43.88.240, chapter 8, Laws of 1965 and RCW 43.88.240.

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

Section 1. Section 3, chapter 191, Laws of 1974 ex. sess. and RCW 39.29.030 are each amended to read as follows:

This chapter shall not apply to the Washington state apple advertising commission, the Washington state fruit commission, the Washington tree fruit research commission, the Washington state beef commission, the Washington state dairy products commission, or any agricultural commodity commission created under the provisions of chapters 15.65 and 15.66 RCW and exempted from the budget and accounting system by chapter 43.88 RCW except for special provisions concerning budget submissions and audits.

Sec. 2. Section 1, chapter 11, Laws of 1972 ex. sess. as last amended by section 14, chapter 87, Laws of 1980 and RCW 41.06.070 are each amended to read as follows:

The provisions of this chapter do not apply to:

(1) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature;

(2) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(3) Officers, academic personnel, and employees of state institutions of higher education, the state board for community college education, and the higher education personnel board;

(4) The officers of the Washington state patrol;

(5) Elective officers of the state;

(6) The chief executive officer of each agency;

(7) In the departments of employment security, fisheries, social and health services, the director and his confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his confidential secretary, and his statutory assistant directors;

(8) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(a) All members of such boards, commissions, or committees;

(b) If the members of the board, commission, or committee serve on a part time basis and there is a statutory executive officer: (i) The secretary of the board, commission, or committee; (ii) the chief executive officer of the board, commission, or committee; and (iii) the confidential secretary of the chief executive officer of the board, commission, or committee;

(c) If the members of the board, commission, or committee serve on a full time basis: (i) The chief executive officer or administrative officer as designated by the board, commission, or committee; and (ii) a confidential secretary to the chairman of the board, commission, or committee;

(d) If all members of the board, commission, or committee serve ex officio: (i) The chief executive officer; and (ii) the confidential secretary of such chief executive officer;

(9) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(10) Assistant attorneys general;

(11) Commissioned and enlisted personnel in the military service of the state;

(12) Inmate, student, part time, or temporary employees, and part time professional consultants, as defined by the state personnel board or the board having jurisdiction;

(13) The public printer or to any employees of or positions in the state printing plant;

(14) Officers and employees of the Washington state fruit commission;

(15) Officers and employees of the Washington state apple advertising commission;

(16) Officers and employees of the Washington state dairy products commission;

(17) Officers and employees of the Washington tree fruit research commission;

(18) Officers and employees of the Washington state beef commission;

(19) Officers and employees of any commission formed under the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

~~((18))~~ (20) Officers and employees of the state wheat commission formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

~~((19))~~ (21) Officers and employees of agricultural commissions formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

~~((20))~~ (22) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules and regulations adopted by the state personnel board pursuant to RCW 41.06.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension, or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part time agency vendors employed by the liquor control board when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise, or services as a self-sustaining private retail business;

~~((21))~~ (23) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

~~((22))~~ (24) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling

program operations of an agency or a major administrative division thereof, the personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred seventy-five for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The state personnel board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted pursuant to the provisions of this subsection, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (10) through ~~((+9))~~ (21) of this section, shall be determined by the state personnel board.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights:

If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Sec. 3. Section 43.88.240, chapter 8, Laws of 1965 and RCW 43.88.240 are each amended to read as follows:

This chapter shall not apply to the Washington state apple advertising commission, the Washington state fruit commission, the Washington tree fruit research commission, the Washington state beef commission, the Washington state dairy products commission, or any agricultural commodity commission created under the provisions of chapters 15.65 and 15.66 RCW; PROVIDED, That all such commissions shall submit estimates and such other necessary information as may be required for the development of the budget and shall also be subject to audit by the appropriate state auditing agency or officer.

Passed the Senate March 30, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 226

[Engrossed Substitute Senate Bill No. 3945]

COLUMBIA RIVER GORGE—GOVERNOR'S SELECT COMMITTEE

AN ACT Relating to the Columbia River Gorge; and creating new sections.

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

NEW SECTION. Section 1. The legislature finds that the Columbia River Gorge area provides the citizens of this state with unique aesthetic, recreational, and historic benefits through the area's diversity of scenic beauty, variety of life-forms, and significant role in the history of the nation, this region, and this state. The legislature, therefore, declares that the preservation of special characteristics of the Columbia River Gorge beginning at the western-most boundary of the Columbia River Gorge as described in RCW 43.97.090 and extending easterly to include all of Section 17 and the west halves of Sections 9 and 4 in Township 2 North, Range 13 East, and any other area designated by law is a public purpose.

It is the intent of the legislature to authorize the establishment of a select committee to examine, in detail, the unique characteristics contributing to the scenic, natural, and historical value of the area. It is further the intent of the legislature that the committee herein established explore the range of uses of the area that are consistent with preserving the sensitive characteristics of the Columbia River Gorge area. The legislature also recognizes the importance of preserving the property interests of area residents, maintaining decision-making at the local level to the maximum extent possible, and supporting economic development activities compatible with the objectives of preservation of the unique values of the Gorge.

NEW SECTION. Sec. 2. There is hereby created a Governor's Select Committee on the Columbia River Gorge to thoroughly examine the need to protect and preserve the special and unique scenic, natural, and historic features of the Gorge area and to make specific recommendations to the governor and the legislature as to how such preservation can be carried out most effectively, expeditiously, and with the maximum local involvement and decision-making consistent with agreed objectives.

NEW SECTION. Sec. 3. The Governor's Select Committee shall be composed of the following:

(1) Two members from the Washington Columbia River Gorge Commission including the chairman, appointed by the governor;

(2) One county commissioner from each of the counties in the Columbia River Gorge area appointed by the respective county commissioners;

(3) One member representing the governor, appointed by the governor, who shall be the chairman of the committee;

(4) One member from the state senate who shall be a nonvoting member, appointed by the president of the senate, serving from a district in which the Gorge is located;

(5) Two members from the house of representatives who shall be nonvoting members appointed by the speaker of the house of representatives, serving from a district in which the Gorge is located; and

(6) One member from the public at large appointed by the governor.

NEW SECTION. Sec. 4. The select committee on the Columbia River Gorge shall have the following responsibilities to:

- (1) Undertake a comprehensive analysis of the management alternatives available to the states of Washington and Oregon regarding the preservation of the Columbia River Gorge;
- (2) Elicit the views of all interested parties and individuals during the analysis of management options;
- (3) Prepare an inventory of sensitive lands which contain intrinsic value and develop a classification system for such lands;
- (4) Coordinate with the Columbia River Gorge Commission in the carrying out of the committee's responsibilities under this section, including the identification of sensitive lands indicated in subsection (3) of this section;
- (5) Coordinate the committee's study with affected and interested federal agencies, state agencies, local government agencies, other public entities, and private groups and individuals; and
- (6) The committee shall report its findings and recommendations including findings and recommendations about a preferred alternative approach to the management and protection of the Gorge area to the governor and the legislature no later than December 1, 1981.

NEW SECTION. Sec. 5. The committee is authorized to work with any similar committee established by the Oregon legislature or executive action by the governor which has similar responsibilities and duties. Cooperation and coordination between the Governor's Select Committee on the Columbia River Gorge and any similar committee established in Oregon shall be maximized in order to determine how a unified approach to carrying out gorge preservation objectives can be achieved.

Passed the Senate April 26, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 227

[Senate Bill No. 4027]

SALMON CHARTER BOAT DECKHANDS—SALMON ROE SALES

AN ACT Relating to deckhands of salmon charter boats; amending section 75.04.070, chapter 12, Laws of 1955 and RCW 75.04.070; adding a new section to chapter 75.12 RCW; and adding a new section to chapter 75.28 RCW.

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

NEW SECTION. Section 1. There is added to chapter 75.12 RCW a new section to read as follows:

A deckhand on a licensed salmon charter boat may sell salmon roe taken from fish caught for personal use, subject to rules of the director and the following conditions:

- (1) The salmon shall be taken while fishing on the charter boat;
- (2) The roe is the property of the angler until the roe is given to the deckhand. The charter boat's passengers shall be notified of this fact by the deckhand;
- (3) The roe shall be sold to a licensed wholesale dealer; and
- (4) The deckhand shall be licensed as provided in section 2 of this act and shall have the license in possession whenever salmon roe is sold.

NEW SECTION. Sec. 2. There is added to chapter 75.28 RCW a new section to read as follows:

A deckhand license authorizes a crew member on a licensed salmon charter boat to sell salmon roe as provided in section 1 of this act. The fee for this license is ten dollars.

Sec. 3. Section 75.04.070, chapter 12, Laws of 1955 and RCW 75.04-.070 are each amended to read as follows:

"Personal use"—The taking or possession of food fish or shellfish "for personal use" means taking or fishing for food fish and shellfish by angling or by such other means and with such gear as the director may authorize for fishing for personal use, or possessing the same for the use of the person fishing for, taking, or possessing the same and not for sale or barter, except as provided in section 1 of this 1981 act.

Passed the Senate March 30, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 228

[Engrossed Senate Bill No. 4034]

PROPERTY TAX REFUNDS—BASIS, FUNDING

AN ACT Relating to property tax refunds; amending section 84.69.020, chapter 15, Laws of 1961 as last amended by section 21, chapter 291, Laws of 1975 1st ex. sess. and RCW 84.69.020; amending section 84.69.120; adding a new section to chapter 84.55; and adding a new section.

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

Section 1. Section 84.69.020, chapter 15, Laws of 1961 as last amended by section 21, chapter 291, Laws of 1975 1st ex. sess. and RCW 84.69.020 are each amended to read as follows:

On order of the board of county commissioners or other county legislative authority of any county, ad valorem taxes paid before or after delinquency shall be refunded if they were:

- (1) Paid more than once; or

- (2) Paid as a result of manifest error in description; or
- (3) Paid as a result of a clerical error in extending the tax rolls; or
- (4) Paid as a result of other clerical errors in listing property; or
- (5) Paid with respect to improvements which did not exist on assessment date; or
- (6) Paid under levies or statutes adjudicated to be illegal or unconstitutional; or
- (7) Paid as a result of mistake, inadvertence, or lack of knowledge by any person exempted from paying real property taxes or a portion thereof pursuant to RCW 84.36.381 through 84.36.389, as now or hereafter amended; or
- (8) Paid or overpaid as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee or by any person paying the same or paid as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee or by any person paying the same with respect to real property in which the person paying the same has no legal interest; or
- (9) Paid on the basis of an assessed valuation which was appealed to the county board of equalization and ordered reduced by the board; or
- (10) Paid on the basis of an assessed valuation which was appealed to the state board of tax appeals and ordered reduced by the board: PROVIDED, That the amount refunded under subsections (9) and (10) shall only be for the difference between the tax paid on the basis of the appealed valuation and the tax payable on the valuation adjusted in accordance with the board's order((-)); or
- (11) Paid as a state property tax levied upon county assessed property, the assessed value of which has been established by the state board of tax appeals for the year of such levy: PROVIDED, HOWEVER, That the amount refunded shall only be for the difference between the state property tax paid and the amount of state property tax which would, when added to all other property taxes within the one percent limitation of Article VII, section 2 (Amendment 59) of the state Constitution equal one percent of the assessed value established by the board; or
- (12) Paid on the basis of an assessed valuation which was adjudicated to be unlawful or excessive: PROVIDED, That the amount refunded shall be for the difference between the amount of tax which was paid on the basis of the valuation adjudged unlawful or excessive and the amount of tax payable on the basis of the assessed valuation determined as a result of the proceeding.

No refunds under the provisions of this section shall be made because of any error in determining the valuation of property, except as authorized in subsections (9), (10), ~~((and))~~ (11), and (12).

Sec. 2. Section 84.69.120, chapter 15, Laws of 1961 and RCW 84.69-.120 are each amended to read as follows:

If the board of county commissioners rejects a claim or fails to act within six months from the date of filing of a claim for refund in whole or in part, the person who paid the taxes, his guardian, executor, or administrator may within one year after the date of ~~((payment of the claimed refund amount))~~ the filing of the claim commence an action in the superior court against the county to recover the taxes which the board of county commissioners have refused to refund.

NEW SECTION. Sec. 3. There is added to chapter 84.55 RCW a new section to read as follows:

The provisions of this chapter shall not apply to a levy, or that portion of a levy, made by or for a taxing district for the purpose of funding a property tax refund paid or to be paid pursuant to the provisions of chapters 84.68 or attributable to a property tax refund paid or to be paid pursuant to the provisions of chapter 84.69 RCW.

NEW SECTION. Sec. 4. Section 1 (12) of the amendatory act applies to only those taxes which first become due and payable subsequent to January 1, 1981: PROVIDED, HOWEVER, That this section shall not apply to any taxes which were paid under protest and which were timely paid.

Passed the Senate April 26, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 229

[Senate Bill No. 4080]

MOTOR VEHICLES—TONNAGE LICENSE—MONTHLY PERMIT FEE

AN ACT Relating to motor vehicles; and amending section 1, chapter 196, Laws of 1975 1st ex. sess. as amended by section 21, chapter 64, Laws of 1975-'76 2nd ex. sess. and RCW 46.44.160.

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

Section 1. Section 1, chapter 196, Laws of 1975 1st ex. sess. as amended by section 21, chapter 64, Laws of 1975-'76 2nd ex. sess. and RCW 46.44.160 are each amended to read as follows:

~~((In the case of seasonal))~~ When vehicles for which licensed tonnage has been purchased on a monthly or quarterly basis pursuant to RCW 46.16-.135 or 46.85.120 as now or hereafter amended, then the additional tonnage provided for in RCW 46.44.095 may be purchased on a monthly or a quarterly basis: PROVIDED, That the total additional tonnage purchased under ~~((each section or both sections combined))~~ RCW 46.44.095 is not less than six thousand pounds. The fee for ~~((such))~~ a monthly permit shall be one-twelfth the amount charged for a corresponding twelve-month period, and the fee for a quarterly permit shall be one-fourth the amount charged for a

corresponding twelve-month permit, and shall further be reduced by one-twelfth for each full calendar month of the quarter that ~~((shall have))~~ has elapsed at the time the quarterly permit is purchased. In addition, a fee of five dollars shall be charged for each monthly or quarterly permit issued hereunder.

The quarterly periods covered by this section shall be registration quarters consisting of three registration months. The first quarter shall commence with registration month one.

~~(("Seasonal vehicles" as used in this section shall mean vehicles or a combination of vehicles engaged exclusively in end or belly dump truck service, transportation of logs, transportation of specialized underwater exploration equipment for hydroelectric projects, transportation of unprocessed agricultural commodities from farm to place of first processing, and transportation of farm and orchard supplies:))~~

Passed the Senate March 30, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 230

[Substitute Senate Bill No. 4095]

CORPORATIONS—LICENSE AND FILING FEES

AN ACT Relating to license and filing fees for corporations; amending section 51, chapter 16, Laws of 1979 and RCW 23A.32.073; amending section 52, chapter 16, Laws of 1979 and RCW 23A.32.075; amending section 135, chapter 53, Laws of 1965 as last amended by section 13, chapter 99, Laws of 1980 and RCW 23A.40.020; amending section 82, chapter 235, Laws of 1967 as amended by section 5, chapter 163, Laws of 1969 ex. sess. and RCW 24.03.405; amending section 90, chapter 120, Laws of 1969 ex. sess. as amended by section 2, chapter 70, Laws of 1973 and RCW 24.06.450; and adding a new section to chapter 23A.40 RCW.

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

Section 1. Section 51, chapter 16, Laws of 1979 and RCW 23A.32.073 are each amended to read as follows:

A foreign corporation doing an intrastate business or seeking to do an intrastate business in the state of Washington shall qualify so to do in the manner prescribed in this title and shall pay for the privilege of so doing the filing and license fees prescribed in this title for domestic corporations, including the same fees as are prescribed in chapter 23A.40 RCW for the filing of articles of incorporation of a domestic corporation, except that the minimum filing fee shall be one hundred dollars, exclusive of any surcharge or other fee. The fees are to be computed upon the portion of capital stock of such corporation represented or to be represented in the state of Washington, to be ascertained by comparing the value in money of its entire property and capital with the value in money of its property and capital in,

or to be brought into, and used in this state. Any corporation that employs an increased amount of its capital stock within the state shall pay fees at the same rate upon such increase, and whenever such increase is made such corporation shall file with the secretary of state, a statement showing the amount of such increase. Before any foreign corporation shall be authorized to do intrastate business in the state of Washington it shall file with the secretary of state upon a blank form to be furnished for that purpose under the oath of its president, secretary, treasurer, superintendent or managing agent in this state, a statement showing the following facts:

(1) The number of shares of capital stock of the company and the par value of each share, and if such shares have no par value, then the value of the assets represented by nonpar shares.

(2) The portion of the capital stock of the company which is represented and/or to be represented, employed and/or to be employed in its business transacted or to be transacted in the state of Washington.

(3) The value of the property in or to be brought into, and the amount of capital to be used by the company in the state of Washington and the value of the property and capital owned and/or used by the company outside of the state of Washington.

(4) Such other facts as the secretary of state may require.

From the facts thus reported, and such other additional information as the secretary of state may require, the secretary of state shall determine the amount of capital or the proportionate amount of the capital stock of the company represented by its property and business in the state of Washington and upon which the fees prescribed herein are payable.

Sec. 2. Section 52, chapter 16, Laws of 1979 and RCW 23A.32.075 are each amended to read as follows:

All foreign corporations doing intrastate business, or hereafter seeking to do intrastate business in this state shall pay for the privilege of doing such intrastate business in this state the same fees as are prescribed for domestic corporations for annual license fees, except that the minimum annual license fee shall be one hundred dollars, exclusive of any surcharge or other fee. Such fees shall be computed upon the proportion of the capital stock represented or to be represented by its property and business in this state to be ascertained by comparing the entire volume of business with the volume of intrastate business in this state. Any such corporation that shall employ an increased amount of its capital stock within this state shall pay license fees upon such increase in the same proportion as provided for payment of license fees by domestic corporations. Such corporations shall file with the secretary of state a statement showing the amount of such increase and shall forthwith pay to the secretary of state the increased license fee brought about by such increased use of capital represented by its property and business in this state. All fees shall be paid on or before the first day of July of each and every year.

Sec. 3. Section 135, chapter 53, Laws of 1965 as last amended by section 13, chapter 99, Laws of 1980 and RCW 23A.40.020 are each amended to read as follows:

The secretary of state shall charge and collect for:

- (1) Filing articles of amendment and issuing a certificate of amendment, ten dollars;
- (2) Filing restated articles of incorporation, ten dollars;
- (3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, fifteen dollars;
- (4) Filing an application to reserve a corporate name, ten dollars;
- (5) Filing a notice of transfer of a reserved corporate name, five dollars;
- (6) Filing a statement of change of address of registered office, revocation, resignation, change of registered agent, or any combination, of these, two dollars;
- (7) Filing a statement of the establishment of a series of shares, ten dollars;
- (8) Filing a statement of cancellation of shares, ten dollars;
- (9) Filing a statement of reduction of stated capital, ten dollars;
- (10) Filing a statement of intent to dissolve, (~~five dollars~~) no fee;
- (11) Filing a statement of revocation of voluntary dissolution proceedings, five dollars;
- (12) Filing articles of dissolution, (~~five dollars~~) no fee;
- (13) Filing a certificate by a foreign corporation of the appointment of an agent residing in this state, or a certificate of the revocation of the appointment of such registered agent, or filing a notice of resignation by a registered agent, two dollars;
- (14) Filing an application of a foreign corporation for a certificate of authority to transact business in this state and issuing a certificate of authority, five dollars;
- (15) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, five dollars;
- (16) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, ten dollars;
- (17) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, fifteen dollars;
- (18) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, (~~five~~) two dollars;
- (19) Filing an annual report, five dollars;
- (20) Filing any other statement or report, five dollars;
- (21) Such other filings as are provided for by this title.

NEW SECTION. Sec. 4. There is added to chapter 23A.40 RCW a new section to read as follows:

The secretary of state may, where exigent or mitigating circumstances are presented, waive penalty fees and reinstate to full active status any licensed corporation previously in good standing which would otherwise be penalized or lose its active status. Any corporation desiring to seek relief under this section shall, within fifteen days of discovery by corporate officials of the missed filing or lapse, notify the secretary of state in writing. The notification shall include the name and mailing address of the corporation, the corporate officer to whom correspondence should be sent, and a statement under oath by a responsible corporate officer, setting forth the nature of the missed filing or lapse, the circumstances giving rise to the missed filing or lapse, and the relief sought. Upon receipt of the notice, the secretary of state shall investigate the circumstances of the missed filing or lapse. If the secretary of state is satisfied that sufficient exigent or mitigating circumstances exist, that the corporation has demonstrated good faith and a reasonable attempt to comply with the applicable corporate license statutes of this state, that disproportionate harm would occur to the corporation if relief were not granted, and that relief would not be contrary to the public interest expressed in this title, the secretary may issue an order allowing relief from the penalty stating the basis for the relief and specifying any terms and conditions of the relief. If the secretary of state determines the request does not comply with the requirements for relief, the secretary shall issue an order denying the requested relief and stating the reasons for the denial. Any denial of relief by the secretary of state is final and is not appealable. The secretary of state shall keep records of all requests for relief and the disposition of the requests. The secretary of state shall annually report to the legislature the number of relief requests received in the preceding year and a summary of the secretary's disposition of the requests.

Sec. 5. Section 82, chapter 235, Laws of 1967 as amended by section 5, chapter 163, Laws of 1969 ex. sess. and RCW 24.03.405 are each amended to read as follows:

The secretary of state shall charge and collect for:

- (1) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars.
- (2) Filing articles of amendment and issuing a certificate of amendment, ten dollars.
- (3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, ten dollars.
- (4) Filing a statement of change of address of registered office or change of registered agent, or both, one dollar.
- (5) Filing articles of dissolution, (~~five dollars~~) no fee.
- (6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, twenty dollars.

(7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, five dollars.

(8) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

(9) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

(10) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, ((~~five~~)) two dollars.

(11) Filing a certificate by a foreign corporation of the appointment of a registered agent, one dollar.

(12) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent, one dollar.

(13) Filing any other statement or report, including an annual report, of a domestic or foreign corporation, one dollar.

Sec. 6. Section 90, chapter 120, Laws of 1969 ex. sess. as amended by section 2, chapter 70, Laws of 1973 and RCW 24.06.450 are each amended to read as follows:

The secretary of state shall charge and collect for:

(1) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars.

(2) Filing articles of amendment and issuing a certificate of amendment, ten dollars.

(3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, ten dollars.

(4) Filing a statement of change of address of registered office or change of registered agent, or both, one dollar.

(5) Filing articles of dissolution, ((~~five dollars~~)) no fee.

(6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, twenty dollars.

(7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, five dollars.

(8) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

(9) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

(10) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, ((~~five~~)) two dollars.

(11) Filing a certificate by a foreign corporation of the appointment of a registered agent, one dollar.

(12) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent, one dollar.

(13) Filing any other statement or report, including an annual report, of a domestic or foreign corporation, one dollar.

Passed the Senate April 24, 1981.

Passed the House April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 231

[Engrossed Senate Bill No. 4205]

FISHERIES FACILITIES—BOND ISSUE

AN ACT Relating to the support of state government; providing for the planning, acquisition, construction, remodeling, improving, and equipping of fisheries facilities; providing for the financing thereof by the issuance of bonds and anticipation notes; creating new sections; and declaring an emergency.

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

NEW SECTION. Section 1. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of six million five hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by sections 1 through 6 of this act may be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

NEW SECTION. Sec. 2. When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in section 1 of this act, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes."

NEW SECTION. Sec. 3. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and/or the bond anticipation notes provided for in sections 1 and 2 of this act, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due.

NEW SECTION. Sec. 4. The proceeds from the sale of the bonds and/or bond anticipation notes authorized in sections 1 through 6 of this act, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund in the state treasury. All of these proceeds shall be used exclusively for the purposes specified in sections 1 through 6 of this act and for the payment of the expenses incurred in connection with the sale and issuance of the bonds and bond anticipation notes.

NEW SECTION. Sec. 5. The 1977 fisheries bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and interest on the bonds authorized to be issued under sections 1 through 6 of this act.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. Sec. 6. The bonds authorized in sections 1 through 5 of this act shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

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, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 26, 1981.

Passed the House April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 232

[Engrossed Substitute Senate Bill No. 4206]

INSTITUTIONS OF HIGHER EDUCATION—BUILDINGS AND FACILITIES—
BOND ISSUE

AN ACT Relating to institutions of higher education, including the community college system; providing for the acquisition, construction, remodeling, furnishing, and equipping of certain state buildings and facilities for institutions of higher education and the financing thereof by the issuance of bonds; creating new sections; and declaring an emergency.

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

NEW SECTION. Section 1. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, including facilities for the community college system, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight million one hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by this section may be offered for sale without prior legislative appropriation.

NEW SECTION. Sec. 2. Each bond shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due.

NEW SECTION. Sec. 3. The proceeds from the sale of the bonds authorized in sections 1 through 5 of this act, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in sections 1 through 5 of this act and for the payment of the expenses incurred in connection with the sale and issuance of the bonds.

NEW SECTION. Sec. 4. The state higher education bond retirement fund of 1977 in the state treasury shall be used for the purpose of the payment of principal of and interest on the bonds authorized to be issued under sections 1 through 5 of this act.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on the payment date.

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. 5. The bonds authorized in sections 1 through 4 of this act shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

NEW SECTION. Sec. 6. 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. 7. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 26, 1981.

Passed the House April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 233

[Substitute Senate Bill No. 4210]

UNIVERSITY OF WASHINGTON HOSPITAL—CAPITAL IMPROVEMENTS— BOND ISSUE

AN ACT Relating to institutions of higher education; providing for the acquisition, construction, remodeling, furnishing, and equipping of certain state buildings and facilities for institutions of higher education and the financing thereof by the issuance of bonds; providing ways and means of payment of the bonds; creating new sections; and declaring an emergency.

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

NEW SECTION. Section 1. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the institutions of higher education and capital improvements consisting of land acquisition, construction, remodeling, furnishing, and equipping of the hospital and related facilities for the University of Washington, the state finance committee is authorized to issue from time to time general obligation bonds of the state of Washington in the sum of eighty-six million dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by this section may be offered for sale without prior legislative appropriation.

NEW SECTION. Sec. 2. Each bond shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due.

NEW SECTION. Sec. 3. The proceeds from the sale of the bonds authorized in sections 1 through 9 of this act, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the board of regents or board of trustees of any of the state institutions of higher education may direct the state treasurer to deposit therein, shall be deposited in the higher education construction account of the general fund.

NEW SECTION. Sec. 4. Subject to legislative appropriation, all proceeds of the bonds authorized in sections 1 through 9 of this act shall be administered and expended by the boards of regents or the boards of trustees of the state institutions of higher education exclusively for the purposes specified in sections 1 through 9 of this act and for the payment of the expenses incurred in connection with the sale and issuance of such bonds.

NEW SECTION. Sec. 5. The higher education bond retirement fund of 1979 shall be used for the purpose of the payment of principal of and interest on the bonds authorized to be issued under sections 1 through 9 of this act.

Upon completion of the projects for which appropriations have been made by the legislature, any proceeds of the bonds authorized by sections 1 through 9 of this act remaining in the higher education construction account shall be transferred by the state treasurer upon authorization of the board of regents or the board of trustees of each institution, as appropriate, to the higher education bond retirement fund of 1979 to reduce the transfer or transfers required by section 6 of this act.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the higher education bond retirement fund of 1979 an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. Sec. 6. On or before June 30th of each year the state finance committee shall determine the relative shares of the principal and interest payments determined under section 5 of this act, exclusive of deposit interest credit, attributable to each of the institutions of higher education in proportion to the principal amount of bonds issued under sections 1 through 9 of this act for purposes of funding projects for each institution. On each date on which any interest or principal and interest payment is

due, the board of regents or the board of trustees of each institution of higher education shall cause the amount so computed to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury: **PROVIDED**, That the amount of such principal and interest attributable to any hospital-related project at the University of Washington shall be paid out of the appropriate local hospital account.

NEW SECTION. Sec. 7. The bonds authorized by sections 1 through 9 of this act shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

NEW SECTION. Sec. 8. The bonds authorized by sections 1 through 9 of this act shall be issued only after an officer designated by the board of regents or board of trustees of each institution of higher education receiving an appropriation from the higher education construction account has certified, based upon his estimates of future tuition income and other factors, that an adequate balance will be maintained in that institution's building account or capital projects account to enable the board to meet the requirements of section 6 of this act during the life of the bonds to be issued: **PROVIDED**, That with respect to any hospital-related project at the University of Washington, it shall be certified, based on estimates of the hospital's adjusted gross revenues and other factors, that an adequate balance will be maintained in that institution's local hospital account to enable the board to meet the requirements of section 6 of this act during the life of the bonds to be issued.

NEW SECTION. Sec. 9. No provision of sections 1 through 9 of this act shall be deemed to repeal, override, or limit any provision of RCW 28B.15.210, 28B.15.310, 28B.15.401, 28B.20.700 through 28B.20.745, 28B.30.700 through 28B.30.780, or 28B.35.700 through 28B.35.790, nor any provision or covenant of the proceedings of the board of regents or board of trustees of any state institution of higher education hereafter taken in the issuance of its revenue bonds secured by a pledge of its general tuition fees and/or other revenues mentioned within such statutes. The obligation of the board to make the transfers provided for in section 6 of this act, chapters 28B.14C and 28B.14D RCW, and RCW 28B.20.727 shall be subject and subordinate to the lien and charge of any revenue bonds hereafter issued against general tuition fees and/or other revenues pledged to pay and secure such bonds, and on the moneys in the building account, capital project account, the individual institutions of higher education bond retirement funds and the University of Washington hospital local fund.

NEW SECTION. Sec. 10. 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. 11. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 26, 1981.

Passed the House April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 234

[Engrossed Substitute Senate Bill No. 4211]

SOCIAL AND HEALTH SERVICES FACILITIES—CAPITAL IMPROVEMENTS—BOND ISSUE

AN ACT Relating to the support of state government; providing for the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities; providing for the financing thereof by the issuance of bonds; creating new sections; and declaring an emergency.

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

NEW SECTION. Section 1. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred million eight hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by sections 1 through 6 of this act may be offered for sale without prior legislative appropriation.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due.

NEW SECTION. Sec. 2. As used in sections 1 through 6 of this act, the term "social and health services facilities" shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the state social and health services construction account in the general fund by the capital appropriations act, or subsequent capital appropriations acts.

NEW SECTION. Sec. 3. The proceeds from the sale of bonds authorized by sections 1 through 6 of this act shall be deposited in the state social and health services construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in sections 1 through 6 of this act and for the payment of expenses incurred in the issuance and sale of the bonds.

NEW SECTION. Sec. 4. The proceeds from the sale of the bonds authorized in sections 1 through 6 of this act and deposited in the state social and health services construction account in the general fund shall be administered by the secretary of social and health services.

NEW SECTION. Sec. 5. The state general obligation bond retirement fund shall be used for the purpose of the payment of interest on and retirement of the bonds authorized to be issued by sections 1 through 6 of this act.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 6. The bonds authorized by sections 1 through 5 of this act shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

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, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 26, 1981.

Passed the House April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 235

[Engrossed Substitute Senate Bill No. 4212]

LEGISLATURE, ELECTIVE OFFICIALS, AGENCIES—CAPITAL IMPROVEMENTS—BOND ISSUE

AN ACT Relating to state government; providing for the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities; providing for the financing thereof by the issuance of bonds; creating new sections; and declaring an emergency.

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

NEW SECTION. Section 1. For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking facilities, and such other buildings, facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the legislature, for other elective officials, and such other state agencies as may be necessary, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eleven million two hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by sections 1 through 6 of this act may be offered for sale without prior legislative appropriation.

NEW SECTION. Sec. 2. The proceeds from the sale of bonds authorized by sections 1 through 6 of this act shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in sections 1 through 6 of this act and for the payment of expenses incurred in the issuance and sale of the bonds.

NEW SECTION. Sec. 3. The principal proceeds from the sale of the bonds deposited in the state building construction account of the general fund shall be administered by the state department of general administration, subject to legislative appropriation.

NEW SECTION. Sec. 4. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by sections 1 through 6 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. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under sections 1 through 6 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.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate

proceeding require the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 5. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in sections 1 through 6 of this act, and sections 1 through 6 of this act shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. Sec. 6. The bonds authorized in sections 1 through 5 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. 7. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 26, 1981.

Passed the House April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 236

[Engrossed Senate Bill No. 4213]

OUTDOOR RECREATIONAL AREAS AND FACILITIES—BOND ISSUE

AN ACT Relating to state government; providing for the acquisition and development of outdoor recreational areas and facilities; providing for the financing thereof by the issuance of bonds; creating new sections; and declaring an emergency.

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

NEW SECTION. Section 1. For the purpose of providing funds for the acquisition and development of outdoor recreational areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of thirteen million four hundred thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by sections 1 through 7 of this act may be offered for sale without prior legislative appropriation.

NEW SECTION. Sec. 2. The proceeds from the sale of the bonds authorized by sections 1 through 7 of this act shall be deposited in the outdoor recreation account of the general fund in the state treasury and shall be used exclusively for the purposes specified in sections 1 through 7 of this act and for the payment of expenses incurred in the issuance and sale of the bonds.

NEW SECTION. Sec. 3. The proceeds from the sale of the bonds deposited in the outdoor recreation account of the general fund shall be allocated to the interagency committee for outdoor recreation as grants to public bodies for the acquisition and development of outdoor recreational areas and facilities within the jurisdiction of the agencies, departments, or public bodies or to any agency or department of the state of Washington, subject to legislative appropriation. The interagency committee for outdoor recreation may use or permit the use of any funds derived from the sale of the bonds authorized under sections 1 through 7 of this act as matching funds in any case where federal, local, or other funds are made available on a matching basis for projects within the purposes of sections 1 through 7 of this act.

NEW SECTION. Sec. 4. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by sections 1 through 7 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. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under sections 1 through 7 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.

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. 5. As used in sections 1 through 7 of this act, the phrase "acquisition and development of outdoor recreational areas and facilities" shall be liberally construed and shall include, but shall not be limited to, acquisition of fee simple or any lesser interests in land and the development of outdoor areas and facilities. Swimming pools constructed with proceeds from these bonds may be enclosed at the sponsor's expense. The preservation of land or water areas in an unspoiled or undeveloped state shall be among the alternatives permissible under sections 1 through 7 of this act.

As used in sections 1 through 7 of this act, the term "public body" means any political subdivision, taxing district, or municipal corporation of the state of Washington and those Indian tribes now or hereafter recognized

as Indian tribes by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants from the state of Washington.

NEW SECTION. Sec. 6. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in sections 1 through 7 of this act, and sections 1 through 7 of this act shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. Sec. 7. The bonds authorized in sections 1 through 6 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. 8. 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. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 26, 1981.

Passed the House April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 237

[Substitute Senate Bill No. 4214]

COMMUNITY COLLEGES—BUILDING CONSTRUCTION—BOND ISSUE

AN ACT Relating to community colleges; authorizing the issuance and sale of state general obligation bonds to fund community college capital projects; providing ways and means for the payment of the bonds; creating new sections; repealing section 9, chapter 226, Laws of 1979 ex. sess. and RCW 28B.59C.090; and declaring an emergency.

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

NEW SECTION. Section 1. For the purpose of financing the construction, reconstruction, erection, equipping, maintenance, demolition, and major alteration of buildings and other capital assets owned by the state board for community college education in the name of the state of Washington, and the acquisition of sites, rights of way, easements, improvements, or appurtenances in relation thereto as determined by the legislature in its capital appropriations act, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seven million three hundred thousand dollars, or so much thereof as may be required, to finance such projects, and all costs incidental thereto. No bonds authorized

by sections 1 through 7 of this act may be offered for sale without prior legislative appropriation.

NEW SECTION. Sec. 2. Each bond shall state that it is a general obligation of the state of Washington, shall contain a pledge of the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain the state's unconditional promise to pay the principal and interest as the same shall become due.

NEW SECTION. Sec. 3. The proceeds from the sale of the bonds authorized in sections 1 through 7 of this act, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account in the state general fund.

NEW SECTION. Sec. 4. Subject to legislative appropriation, all principal proceeds of the bonds authorized in sections 1 through 7 of this act shall be administered by the college board exclusively for the purposes specified in sections 1 through 7 of this act and for the payment of the expenses incurred in connection with their sale and issuance.

NEW SECTION. Sec. 5. The 1975 community college capital construction bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds authorized to be issued under sections 1 through 7 of this act.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. Sec. 6. (1) On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from general tuition fees and other moneys deposited therein, to the extent the fees and moneys are available, 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 sections 1 through 7 of this act. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw this amount, to the extent available, from the community college capital projects account and deposit it in the state general fund.

(2) The state treasurer shall make withdrawals from the community college capital projects account for deposit in the general fund of amounts equal to debt service payments on state general obligation bonds issued for community college purposes pursuant to Title 28B RCW only to the extent that funds are or become actually available in the account from time to time. Any unpaid debt service payments shall be a continuing obligation against the community college capital projects account until paid. Beginning with the 1979-1981 biennium, the state board for community college education need not accumulate any specific amount in the community college capital projects account for purposes of these withdrawals by the state treasurer.

NEW SECTION. Sec. 7. The bonds authorized in sections 1 through 6 of this act shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

NEW SECTION. Sec. 8. 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. 9. Section 9, chapter 226, Laws of 1979 ex. sess. and RCW 28B.59C.090 are each repealed.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 26, 1981.

Passed the House April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 238

[Substitute Senate Bill No. 4275]

RAINIER SCHOOL—TRANSFER

AN ACT Relating to transfer of state assets; amending section 72.01.140, chapter 28, Laws of 1959 as amended by section 149, chapter 141, Laws of 1979 and RCW 72.01.140; adding a new section to chapter 72.01 RCW; adding new sections to chapter 28B.30 RCW; creating new sections; making an appropriation; declaring an emergency; and providing an effective date.

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

Section 1. Section 72.01.140, chapter 28, Laws of 1959 as amended by section 149, chapter 141, Laws of 1979 and RCW 72.01.140 are each amended to read as follows:

The secretary shall:

(1) Make a survey, investigation, and classification of the lands connected with the state institutions under his control, and determine which thereof are of such character as to be most profitably used for agricultural, horticultural, dairying, and stock raising purposes, taking into consideration the costs of making them ready for cultivation, the character of the soil, its depth and fertility, the number of kinds of crops to which it is adapted, the local climatic conditions, the local annual rainfall, the water supply upon the land or available, the needs of all state institutions for the food products that can be grown or produced, and the amount and character of the available labor of inmates at the several institutions;

(2) Establish and carry on suitable farming operations at the several institutions under his control;

(3) Supply the several institutions with the necessary food products produced thereat;

(4) Exchange with, or furnish to, other institutions, food products at the cost of production;

(5) Sell and dispose of surplus food products produced.

This section shall not apply to the Rainier school for which cognizance of farming operations has been transferred to Washington State University by section 2 of this 1981 act.

NEW SECTION. Sec. 2. There is added to chapter 72.01 RCW a new section to read as follows:

The secretary of social and health services shall transfer on the effective date of this act cognizance and control of all real property and improvements thereon owned by the state at the Rainier school, used for agricultural purposes, other than the school buildings and school grounds, to Washington State University for use as a dairy/forage research facility established pursuant to section 4 of this act.

All livestock and the supplies, equipment, implements, documents, records, papers, vehicles, appropriations, tangible property, and other items used in the dairy operation or production of forage shall also be transferred to the university.

NEW SECTION. Sec. 3. There is added to chapter 28B.30 RCW a new section to read as follows:

Washington State University shall assume cognizance of all real property, improvements thereon, livestock, equipment, supplies, and other items transferred by the secretary of social and health services pursuant to section 2 of this act.

The secretary of social and health services and the university may negotiate for a division of services and expenses related to road maintenance, water, and sewer services and buildings and grounds included in the transfer pursuant to section 2 of this act or on other matters concerning this transfer. Any differences which cannot be agreed upon shall be resolved by the

office of financial management and certify the same to the state agencies concerned.

NEW SECTION. Sec. 4. There is added to chapter 28B.30 RCW a new section to read as follows:

(1) Washington State University shall establish and operate a dairy/forage and agricultural research facility at the Rainier school farm.

(2) Local funds generated through operation of this facility shall be managed in a revolving fund, established herewith, by the university. This fund shall consist of all moneys received in connection with the operation of the facility and any moneys appropriated to the fund by law. The state treasurer shall be custodian of the fund. Disbursements from the revolving fund shall be on authorization of the president of the university or the president's designee. In order to maintain an effective expenditure and revenue control, this fund, to be known as the dairy/forage facility revolving fund, shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

(3) In the event state funding is not sufficient to operate the dairy cattle herd, the university is authorized to lease the herd, together with the land necessary to maintain the same, for such period and upon such terms as the university board of regents shall deem proper.

NEW SECTION. Sec. 5. The enactment of this act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which is already in existence on the effective date of this act.

NEW SECTION. Sec. 6. Nothing in this act shall be construed as affecting any existing rights except as to the agencies referred to, nor as affecting any pending actions, activities, proceedings, or contracts, nor affect the validity of any act performed by such agency or any employee thereof prior to the effective date of this act.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1981.

Passed the Senate April 26, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 239

[Substitute Senate Bill No. 4309]

NONHIGH SCHOOL DISTRICT STUDENTS—SCHOOL ATTENDANCE

AN ACT Relating to nonhigh school districts; and adding a new section to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.56 RCW.

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

NEW SECTION. Section 1. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.56 RCW a new section to read as follows:

(1) In cases where high school students resident in a nonhigh school district are to be educated in a high school district, the board of directors of the nonhigh school district shall, by mutual agreement with the serving district(s), designate the high school serving district or districts which its high school students shall attend.

(2) Students residing in a nonhigh school district shall be allowed to attend a high school other than in the designated serving district referred to in subsection (1) of this section: **PROVIDED**, That the nonhigh school board of directors shall not be required to contribute to building programs in any such high school district. Contribution shall be made only to those high school districts which are designated by the local nonhigh school board of directors for attendance by their high school students. The nonhigh school district shall be subject to the capital fund aid provisions contained in this chapter with respect to the designated high school serving district(s).

Passed the Senate March 30, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 240

[Substitute Senate Bill No. 4319]

CLERK OF THE BOARD OF COUNTY COMMISSIONERS

AN ACT Relating to local government; and amending section 36.32.110, chapter 4, Laws of 1963 and RCW 36.32.110.

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

Section 1. Section 36.32.110, chapter 4, Laws of 1963 and RCW 36.32-.110 are each amended to read as follows:

The county auditor shall be the clerk of the board of county commissioners(~~;~~and) unless the board of county commissioners designates one of

its employees to serve as clerk who shall attend its meetings and keep a record of its proceedings.

Passed the Senate March 30, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 241

[Engrossed Senate Bill No. 4348]

FINANCIAL INSTITUTIONS—EXAMINATION FUNDS

AN ACT Relating to financial institutions; adding new sections to chapter 43.19 RCW; providing an effective date; and declaring an emergency.

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

NEW SECTION. Section 1. There is created a local fund known as the "banking examination fund" which shall consist of all moneys received by the division of banking and which shall be used for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the proper maintenance of the division. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director or general administration or the supervisor of banking or the director's or supervisor's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

NEW SECTION. Sec. 2. There is created a local fund known as the "savings and loan associations and credit unions examination fund" which shall consist of all moneys received by the division of savings and loan associations and which shall be used for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the proper maintenance of the division. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of general administration or the supervisor of savings and loan associations or the director's or supervisor's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

NEW SECTION. Sec. 3. Section 1 and 2 of this act are each added to chapter 43.19 RCW.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect July 1, 1981.

Passed the Senate April 2, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 242

[Senate Bill No. 4363]

STATE INVESTMENT FUNDS

AN ACT Relating to state funds; amending section 16, chapter 3, Laws of 1981 and RCW 43.____; amending section 43.84.090, chapter 8, Laws of 1965 as last amended by section 1, chapter 123, Laws of 1975-'76 2nd ex. sess. and RCW 43.84.090; amending section 43.79.330, chapter 8, Laws of 1965 as last amended by section 3, chapter 32, Laws of 1980 and RCW 43.79.330; creating a new section; providing effective dates; and declaring an emergency.

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

Section 1. Section 16, chapter 3, Laws of 1981 and RCW 43.____ are each amended to read as follows:

(1) The state investment board shall be funded from the ((investment reserve account created by RCW 43.84.090)) earnings of the funds managed by the state investment board, proportional to the value of the assets of each fund, subject to legislative appropriation.

(2) There is established within the general fund a state investment board expense account from which shall be paid the operating expenses of the state investment board. Prior to November 1 of each even-numbered year, the state investment board shall determine and certify to the state treasurer and the office of financial management the value of the various funds managed by the investment board in order to determine the proportional liability of the funds for the operating expenses of the state investment board. Pursuant to appropriation, the state treasurer is authorized to transfer such moneys from the various funds managed by the investment board to the state investment board expense account as are necessary to pay the operating expenses of the investment board.

Sec. 2. Section 43.84.090, chapter 8, Laws of 1965 as last amended by section 1, chapter 123, Laws of 1975-'76 2nd ex. sess. and RCW 43.84.090 are each amended to read as follows:

Twenty percent of all income received from such investments shall be ((set aside in a reserve account: PROVIDED, That the legislature may appropriate such amounts from this account as may be necessary to pay operating expenses of the state treasurer for the servicing of investments and outstanding bonded indebtedness of the state and for operating expenses of the state finance committee and the state building authority, and may

~~transfer further amounts from the reserve account to the general fund on a periodic basis.~~

~~Investments purchased for more or less than par shall be amortized to obtain the true amount of income, and the amortized value of the principal; at any time, shall be the cost of the security plus or minus such portion of the income as has been assigned to principal.~~

~~Any loss sustained by selling investments for less than the amortized value of the principal may be charged to the reserve fund. Any profits obtained from selling investments for more than the amortized value of the principal shall be considered as income. All income other than that set aside in the reserve fund shall be credited to the deposit interest account)) deposited in the state general fund.~~

Sec. 3. Section 43.79.330, chapter 8, Laws of 1965 as last amended by section 3, chapter 32, Laws of 1980 and RCW 43.79.330 are each amended to read as follows:

All moneys to the credit of the following state funds on the first day of August, 1955, and all moneys thereafter paid to the state treasurer for or to the credit of such funds, are hereby transferred to the following accounts in the state general fund, the creation of which is hereby authorized:

- (1) Capitol building construction fund moneys, to the capitol building construction account;
- (2) Cemetery fund moneys, to the cemetery account;
- (3) Feed and fertilizer fund moneys, to the feed and fertilizer account;
- (4) Forest development fund moneys, to the forest development account;
- (5) Harbor improvement fund moneys, to the harbor improvement account;
- (6) ~~((Investment reserve fund moneys, to the investment reserve account;~~
- ~~(7))~~ Millersylvania Park current fund moneys, to the Millersylvania Park current account;
- ~~((8))~~ (7) Puget Sound pilotage fund moneys, to the Puget Sound pilotage account;
- ~~((9))~~ (8) Real estate commission fund moneys, to the real estate commission account;
- ~~((10))~~ (9) Reclamation revolving fund moneys, to the reclamation revolving account;
- ~~((11))~~ (10) University of Washington building fund moneys, to the University of Washington building account; and
- ~~((12))~~ (11) State College of Washington building fund moneys, to the Washington State University building account.

NEW SECTION. Sec. 4. The investment reserve account is hereby abolished. All moneys in the investment reserve account on the effective date of this act shall be deposited in the general fund.

NEW SECTION. Sec. 5. Sections 1, 2, and 4 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981. Section 3 of this act shall take effect September 1, 1981.

Passed the Senate April 20, 1981.

Passed the House April 25, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 243

[Substitute Senate Bill No. 3254]

VOTERS AND CANDIDATES PAMPHLETS—TAPED, BRAILLE TRANSCRIPTS

AN ACT Relating to voters and candidates pamphlets; adding a new section to chapter 29.80 RCW; and adding a new section to chapter 29.81 RCW.

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

NEW SECTION. Section 1. There is added to chapter 29.80 RCW a new section to read as follows:

The secretary of state shall mail without charge taped transcripts of the candidates' pamphlet to any requesting blind person or organization representing the blind. Braille transcripts may also be mailed by the secretary of state to such persons or organizations. Availability of these transcripts shall be publicized by the secretary of state through public service announcements and other appropriate means.

NEW SECTION. Sec. 2. There is added to chapter 29.81 RCW a new section to read as follows:

The secretary of state shall mail without charge taped transcripts of the voters' pamphlet to any requesting blind person or organization representing the blind. Braille transcripts may also be mailed by the secretary of state to such persons or organizations. Availability of these transcripts shall be publicized by the secretary of state through public service announcements and other appropriate means.

Passed the Senate March 16, 1981.

Passed the House April 21, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 244

[Substitute House Bill No. 178]

WASHINGTON CENTER FOR THE PERFORMING ARTS AND THE PANTAGES
THEATRE—STATE AND LOCAL MATCHING FUNDS

AN ACT Relating to the Washington center for the performing arts and the Pantages Theatre; and amending section 1, chapter 260, Laws of 1979 ex. sess. and RCW 43.31.956.

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

Section 1. Section 1, chapter 260, Laws of 1979 ex. sess. and RCW 43.31.956 are each amended to read as follows:

For the purpose of providing matching funds for the planning, design, construction, renovation, furnishing, and landscaping of a regionally based performing arts facility, to be known as "the Washington center for the performing arts" facility located in Thurston county within the area of the city of Olympia, and for the purpose of providing matching funds for the restoration and renovation of "the Pantages theatre" facility located in Pierce county within the area of the city of Tacoma, the state finance committee is directed and authorized to issue general obligation bonds of the state of Washington in the sum of three million dollars, or so much thereof as may be required to finance that portion of the grant by the state for the projects as provided by law: PROVIDED, That one million five hundred thousand dollars shall be allocated for the Washington center for the performing arts, to be built or renovated on ((unimproved)) real estate provided by the city of Olympia as a ((multitheatre)) performing arts recreational facility for the people of the state of Washington: AND PROVIDED FURTHER, That one million five hundred thousand dollars shall be allocated for the renovation and restoration of the "Pantages theatre" as a performing arts recreational facility for the people of the state of Washington.

No bonds may be issued for the Washington center for the performing arts unless matching funds are provided or secured from the federal government ((or)), private sources, or any other sources available including funds available pursuant to chapter 67.28 RCW in the amount of one million five hundred thousand dollars for the Washington center for the performing arts and the city of Olympia provides ((unimproved)) real estate for the site of the facility.

No bonds may be issued for the Pantages theatre unless matching funds are provided or secured from the federal government ((or)), private sources, or any other sources available including funds available pursuant to chapter 67.28 RCW in the amount of one million five hundred thousand dollars for the Pantages theatre.

No bonds authorized by this section shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged

within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The state finance committee is authorized to prescribe the form of the bonds, the time of sale of all or any portion or portions of the bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds.

Passed the House April 23, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 245

[Senate Bill No. 3375]

DRIVER'S LICENSE—FEE, RENEWAL, MONEYS DISTRIBUTION, TEST

AN ACT Relating to driver's licenses; amending section 11, chapter 121, Laws of 1965 ex. sess. as last amended by section 3, chapter 191, Laws of 1975 1st ex. sess. and RCW 46.20.161; amending section 17, chapter 121, Laws of 1965 ex. sess. as last amended by section 4, chapter 191, Laws of 1975 1st ex. sess. and RCW 46.20.181; amending section 4, chapter 25, Laws of 1965 as last amended by section 3, chapter 63, Laws of 1979 and RCW 46.68.041; amending section 46.20.130, chapter 12, Laws of 1961 as last amended by section 2, chapter 232, Laws of 1967 and RCW 46.20.130; declaring an emergency; and providing an effective date.

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

Section 1. Section 11, chapter 121, Laws of 1965 ex. sess. as last amended by section 3, chapter 191, Laws of 1975 1st ex. sess. and RCW 46.20.161 are each amended to read as follows:

The department (~~shall~~), upon receipt of a fee of (~~six~~) fourteen dollars, which includes the fee for the required photograph, shall issue to every applicant qualifying therefor a driver's license, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee.

Sec. 2. Section 17, chapter 121, Laws of 1965 ex. sess. as last amended by section 4, chapter 191, Laws of 1975 1st ex. sess. and RCW 46.20.181 are each amended to read as follows:

Every driver's license shall expire on the ~~((second))~~ fourth anniversary of the licensee's birthdate following the issuance of such license: PROVIDED, That during the period July 1, 1981, through and including June 30, 1983, the department shall implement a system of staggering the renewal periods of currently licensed drivers so as to make approximately one-half of such renewals for a two-year period and the other one-half for a four-year period. Every such license shall be renewable on or before its expiration upon application prescribed by the department and the payment of a fee of ~~((six))~~ fourteen dollars, or of seven dollars in the case of those being renewed for only two years. These fees include the fee for the required photograph.

Sec. 3. Section 4, chapter 25, Laws of 1965 as last amended by section 3, chapter 63, Laws of 1979 and RCW 46.68.041 are each amended to read as follows:

(1) The department shall forward all funds accruing under the provisions of chapter 46.20 RCW together with a proper identifying, detailed report to the state treasurer who shall deposit such moneys to the credit of the highway safety fund except as otherwise provided in this section.

(2) One dollar and forty cents of each fee collected for a temporary instruction permit shall be deposited in the traffic safety education account in the general fund.

(3) Out of each fee of ~~((six))~~ fourteen dollars collected for a driver's license, the sum of ~~((four))~~ ten dollars and ~~((ten))~~ twenty cents shall be deposited in the highway safety fund, and ~~((one))~~ three dollars and ~~((ninety))~~ eighty cents shall be deposited in the general fund.

Out of each fee of seven dollars collected for any two-year license renewal during the period July 1, 1981, through June 30, 1983, the sum of five dollars and ten cents shall be deposited in the highway safety fund and one dollar and ninety cents shall be deposited in the general fund.

Sec. 4. Section 46.20.130, chapter 12, Laws of 1961 as last amended by section 2, chapter 232, Laws of 1967 and RCW 46.20.130 are each amended to read as follows:

The director shall prescribe the content of the driver licensing examination and the manner of conducting the examination, which shall include but is not limited to:

(1) A test of the applicant's eyesight~~((:))~~ and his ability to see, understand, and follow highway signs regulating, warning, and directing traffic~~((; and his))~~;

(2) A test of the applicant's knowledge of traffic laws and his ability to understand and follow the directives of lawful authority, given in the English language, orally or graphically, that regulate, warn, and direct traffic in accordance with the traffic laws of this state;

~~((2))~~ (3) An actual demonstration of his ability to operate a motor vehicle in such a manner as not to jeopardize the safety of persons or property; and

~~((3))~~ (4) Such further examination as the director deems necessary (a) to determine whether any facts exist which would bar the issuance of a vehicle operator's license under chapters 46.20, 46.21 and 46.29 RCW, and (b) to determine the applicant's fitness to operate a motor vehicle safely on the highways; and

~~((4))~~ (5) In addition to the foregoing, when the applicant desires to drive a motorcycle, as defined in RCW 46.04.330, or a motor-driven cycle, as defined in RCW 46.04.332, the applicant shall also demonstrate his ability to operate such motorcycle or motor-driven cycle in such a manner as not to jeopardize the safety of persons or property.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981.

Passed the Senate April 26, 1981.

Passed the House April 25, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 246

[Substitute House Bill No. 520]

COMMUNITY COLLEGES—COURSES—SHARED FUNDING—STATE BOARD TREASURER

AN ACT Relating to community colleges; amending section 28B.15.500, chapter 223, Laws of 1969 ex. sess. as last amended by section 5, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.500; amending section 28B.50.090, chapter 223, Laws of 1969 ex. sess. as last amended by section 20, chapter 151, Laws of 1979 and RCW 28B.50.090; amending section 6, chapter 14, Laws of 1979 as amended by section 11, chapter 226, Laws of 1979 ex. sess. and RCW 28B.50.140; creating new sections; adding a new section to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.50 RCW; and declaring an emergency.

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

Section 1. Section 28B.15.500, chapter 223, Laws of 1969 ex. sess. as last amended by section 5, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.500 are each amended to read as follows:

General tuition fees, operating fees and services and activities fees at each community college other than at summer quarters shall be as follows:

(1) For full time resident students, for the 1977-78 academic year the total of general tuition and operating fees shall be two hundred and forty dollars, and for the 1978-79 academic year, and thereafter, the total of general tuition and operating fees shall be two hundred and fifty-five dollars: PROVIDED, That the general tuition fee for such academic years and

each academic year thereafter shall be one hundred and twenty-four dollars and fifty cents.

(2) For full time nonresident students, for each academic year of the 1977-79 biennium, and thereafter, the total of general tuition and operating fees shall be one thousand one hundred and thirty-seven dollars: PROVIDED, That the general tuition fee for such academic years and each academic year thereafter shall be three hundred and ninety-four dollars and fifty cents.

(3) The boards of trustees of each of the state community colleges shall charge and collect equally from each of the students registering at the particular institution and included in subsections (1) and (2) hereof a services and activities fee which for each academic year shall not exceed fifty-one dollars.

(4) Tuition, operating fees and services and activities fees consistent with the above schedule will be fixed by the state board for community colleges for summer school students.

The board of trustees shall charge such fees for part time students, ungraded courses, noncredit courses, community service courses, and short courses as it, in its discretion, may determine, not inconsistent with the rules and regulations of the state board for community college education.

Sec. 2. Section 28B.50.090, chapter 223, Laws of 1969 ex. sess. as last amended by section 20, chapter 151, Laws of 1979 and RCW 28B.50.090 are each amended to read as follows:

The college board shall have general supervision and control over the state system of community colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers, duties and responsibilities:

(1) Review the budgets prepared by the community college boards of trustees, prepare a single budget for the support of the state system of community colleges and adult education, and submit this budget to the governor as provided in RCW 43.88.090; the coordinating council shall assist with the preparation of the community college budget that has to do with vocational education programs;

(2) Establish guidelines for the disbursement of funds; and receive and disburse such funds for adult education and maintenance and operation and capital support of the community college districts in conformance with the state and district budgets, and in conformance with chapter 43.88 RCW;

(3) Ensure, through the full use of its authority:

(a) that each community college district shall offer thoroughly comprehensive educational, training and service programs to meet the needs of both the communities and students served by combining, with equal emphasis, high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature;

and adult education: PROVIDED, That notwithstanding any other provisions of this chapter, a community college shall not be required to offer a program of vocational–technical training, when such a program as approved by the coordinating council for occupational education is already operating in the district;

(b) that each community college district shall maintain an open–door policy, to the end that no student will be denied admission because of the location of his residence or because of his educational background or ability; that, insofar as is practical in the judgment of the college board, curriculum offerings will be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body: PROVIDED, That the administrative officers of a community college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, he would not be competent to profit from the curriculum offerings of the community college, or would, by his presence or conduct, create a disruptive atmosphere within the community college not consistent with the purposes of the institution;

(4) Prepare a comprehensive master plan for the development of community college education and training in the state; and assist the office of financial management in the preparation of enrollment projections to support plans for providing adequate community college facilities in all areas of the state;

(5) Define and administer criteria and guidelines for the establishment of new community colleges or campuses within the existing districts;

(6) Establish criteria and procedures for modifying district boundary lines consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended and in accordance therewith make such changes as it deems advisable;

(7) Establish minimum standards to govern the operation of the community colleges with respect to:

(a) qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education,

(b) internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW,

(c) the content of the curriculums and other educational and training programs, and the requirement((;)) for degrees and ((diplomas)) certificates awarded by the colleges,

(d) standard admission policies,

(e) eligibility of courses to receive state fund support;

(8) Establish and administer criteria and procedures for all capital construction including the establishment, installation, and expansion of facilities within the various community college districts;

(9) Encourage innovation in the development of new educational and training programs and instructional methods; coordinate research efforts to this end; and disseminate the findings thereof;

(10) Exercise any other powers, duties and responsibilities necessary to carry out the purposes of this chapter;

(11) Authorize the various community colleges to offer programs and courses in other districts when it determines that such action is consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended;

(12) Notwithstanding any other law or statute regarding the sale of state property, sell or exchange and convey any or all interest in any community college real and personal property, except such property as is received by a community college district in accordance with RCW 28B.50.140(8), when it determines that such property is surplus or that such a sale or exchange is in the best interests of the community college system;

(13) Notwithstanding the provisions of subsection (12) of this section, may receive such gifts, grants, conveyances, devises, and bequests of real or personal property from private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community college programs and may sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

The college board shall have the power of eminent domain.

Sec. 3. Section 6, chapter 14, Laws of 1979 as amended by section 11, chapter 226, Laws of 1979 ex. sess. and RCW 28B.50.140 are each amended to read as follows:

Each community college board of trustees:

(1) Shall operate all existing community colleges and vocational-technical institutes in its district;

(2) Shall create comprehensive programs of community college education and training and maintain an open-door policy in accordance with the provisions of RCW 28B.50.090(3);

(3) Shall employ for a period to be fixed by the board a college president for each community college, a director for each vocational-technical institute or school operated by a community college, a district president, if deemed necessary by the board, in the event there is more than one college and/or separated institute or school located in the district, members of the

faculty and such other administrative officers and other employees as may be necessary or appropriate and fix their salaries and duties;

(4) May establish, under the approval and direction of the college board, new facilities as community needs and interests demand;

(5) May establish or lease, operate, equip and maintain dormitories, food service facilities, bookstores and other self-supporting facilities connected with the operation of the community college;

(6) May, with the approval of the college board, borrow money and issue and sell revenue bonds or other evidences of indebtedness for the construction, reconstruction, erection, equipping with permanent fixtures, demolition and major alteration of buildings or other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances, for dormitories, food service facilities, and other self-supporting facilities connected with the operation of the community college in accordance with the provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

(7) May establish fees and charges for the facilities authorized hereunder, including reasonable rules and regulations for the government thereof, not inconsistent with the rules and regulations of the college board; each board of trustees operating a community college may enter into agreements, subject to rules and regulations of the college board, with owners of facilities to be used for housing regarding the management, operation, and government of such facilities, and any board entering into such an agreement may:

(a) Make rules and regulations for the government, management and operation of such housing facilities deemed necessary or advisable; and

(b) Employ necessary employees to govern, manage and operate the same;

(8) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community college programs as specified by law and the regulations of the state college board; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(9) May establish and maintain night schools whenever in the discretion of the board of trustees it is deemed advisable, and authorize classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for community college purposes;

(10) May make rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the community college district;

(11) Shall prescribe, with the assistance of the faculty, the course of study in the various departments of the community college or colleges under its control, and publish such catalogues and bulletins as may become necessary;

(12) May grant to every student, upon graduation or completion of a course of study, a suitable diploma, nonbaccalaureate degree or certificate;

(13) Shall enforce the rules and regulations prescribed by the state board for community college education for the government of community colleges, students and teachers, and promulgate such rules and regulations and perform all other acts not inconsistent with law or rules and regulations of the state board for community college education as the board of trustees may in its discretion deem necessary or appropriate to the administration of community college districts: PROVIDED, That such rules and regulations shall include, but not be limited to, rules and regulations relating to housing, scholarships, conduct at the various community college facilities, and discipline: PROVIDED, FURTHER, That the board of trustees may suspend or expel from community colleges students who refuse to obey any of the duly promulgated rules and regulations;

(14) May, by written order filed in its office, delegate to the president or district president any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised in the name of the district board;

(15) May perform such other activities consistent with this chapter and not in conflict with the directives of the college board;

(16) Notwithstanding any other provision of law, may offer educational services on a contractual basis other than the tuition and fee basis set forth in chapter 28B.15 RCW for a special fee to private or governmental entities, consistent with rules and regulations adopted by the state board for community college education: PROVIDED, That the whole of such special fee shall go to the college district and be not less than the full instructional costs of such services: PROVIDED FURTHER, That enrollments generated hereunder shall not be counted toward the official enrollment level of the college district for state funding purposes;

(17) Notwithstanding any other provision of law, may offer educational services (~~((to an adult correctional facility operated by the department of social and health services))~~) on a contractual basis (~~((during the 1979-81 biennium))~~), charging tuition and fees as set forth in chapter 28B.15 RCW, counting such enrollments for state funding purposes, and may additionally charge a special supplemental fee when necessary to cover the full instructional costs of such services: PROVIDED, That such contracts shall be subject to review by the state board for community college education and to

such rules as the state board may adopt for that purpose in order to assure that the sum of the supplemental fee and the normal state funding shall not exceed the projected total cost of offering the educational service: PROVIDED FURTHER, That enrollments generated by courses offered on the basis of contracts requiring payment of a share of the normal costs of the course will be discounted to the percentage provided by the college;

(18) Shall be authorized to pay dues to any association of trustees that may be formed by the various boards of trustees; such association may expend any or all of such funds to submit biennially, or more often if necessary, to the governor and to the legislature, the recommendations of the association regarding changes which would affect the efficiency of such association; and

(19) Shall perform any other duties and responsibilities imposed by law or rule and regulation of the state board.

NEW SECTION. Sec. 4. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.50 RCW a new section to read as follows:

The state board for community college education shall appoint a treasurer who shall be the financial officer of the board, who shall make such vendor payments and salary payments for the entire community college system as authorized by the state board, and who shall hold office during the pleasure of the board. All moneys received by the state board and not required to be deposited elsewhere, shall be deposited in a depository selected by the board, which moneys shall be subject to the budgetary and audit provisions of law applicable to state agencies. The depository selected by the state board shall conform to the collateral requirements required for the deposit of other state funds. Disbursement shall be made by check signed by the treasurer. The treasurer shall render a true and faithful account of all moneys received and paid out by him or her and shall give bond for the faithful performance of the duties of his or her office in such amount as the board requires: PROVIDED, That the board shall pay the fee for any such bonds.

NEW SECTION. Sec. 5. This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 6. If any provision of this amendatory 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 23, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 247

[Substitute House Bill No. 570]

INSURANCE POLICY LOAN INTEREST RATES

AN ACT Relating to insurance; amending section .23.08, chapter 79, Laws of 1947 as amended by section 1, chapter 250, Laws of 1977 ex. sess. and RCW 48.23.080; amending section .23.12, chapter 79, Laws of 1947 and RCW 48.23.120; adding a new section to chapter 48.23 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. Section 1. The purpose of this act is to permit and set guidelines for life insurers to include in life insurance policies issued after the effective date of this act a provision for periodic adjustment of policy loan interest rates.

NEW SECTION. Sec. 2. There is added to chapter 48.23 RCW a new section to read as follows:

(1) As used in this section, "published monthly average" means:

(a) The "Moody's Corporate Bond Yield Average – Monthly Average Corporates" as published by Moody's Investors Service, Incorporated or any successor thereto; or

(b) If the "Moody's Corporate Bond Yield Average – Monthly Average Corporates" is no longer published, a substantially similar average, established by rule issued by the commissioner.

(2) Policies issued on or after the effective date of this act shall provide for policy loan interest rates by containing:

(a) A provision permitting a maximum interest rate of not more than eight percent per annum; or

(b) A provision permitting an adjustable maximum interest rate established from time to time by the life insurer as permitted by law.

(3) The rate of interest charged on a policy loan made under (2)(b) of this section shall not exceed the higher of the following:

(a) The published monthly average for the calendar month ending two months before the date on which the rate is determined; or

(b) The rate used to compute the cash surrender values under the policy during the applicable period plus one percent per annum.

(4) If the maximum rate of interest is determined pursuant to (2)(b) of this section, the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy.

(5) The maximum rate for each policy shall be determined at regular intervals at least once every twelve months, but not more frequently than once in any three-month period. At the intervals specified in the policy:

(a) The rate being charged may be increased whenever such increase as determined under subsection (3) of this section would increase that rate by one-half of one percent or more per annum; and

(b) The rate being charged shall be reduced whenever such reduction as determined under subsection (3) of this section would decrease that rate by one-half of one percent or more per annum.

(6) The life insurer shall:

(a) Notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;

(b) Notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in (c) of this subsection;

(c) Send to policyholders with loans reasonable advance notice of any increase in the rate; and

(d) Include in the notices required in this subsection the substance of the pertinent provisions of subsections (2) and (4) of this section.

(7) The substance of the pertinent provisions of subsections (2) and (4) of this section shall be set forth in the policies to which they apply.

(8) The loan value of the policy shall be determined in accordance with RCW 48.23.080, but no policy shall terminate in a policy year as the sole result of change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.

(9) For purposes of this section:

(a) The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of a policy;

(b) The term "policy loan" includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due;

(c) The term "policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer; and

(d) The term "policy" includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.

(10) No other provision of law shall apply to policy loan interest rates unless made specifically applicable to such rates.

Sec. 3. Section .23.08, chapter 79, Laws of 1947 as amended by section 1, chapter 250, Laws of 1977 ex. sess. and RCW 48.23.080 are each amended to read as follows:

(1) There shall be a provision that after three full years' premiums have been paid thereon, the insurer at any time, while the policy is in force, will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a rate of interest provided (~~for in paragraph (c) of this~~

subsection)) in this chapter as now or hereafter amended, a sum to be determined as follows:

(a) If such policy is issued prior to the operative date of RCW 48.23-.350, the sum, including any interest paid in advance but not beyond the end of the current policy year, shall be equal to or at the option of the owner of the policy less than, the reserve at the end of the current policy year on the policy and on any dividend additions thereto, less a sum not more than two and one-half percent of the amount insured by the policy and of any dividend additions thereto. The policy may contain a provision by which the insurer reserves the right to defer the making of the loan, except when made to pay premiums, for a period not exceeding six months after the date of application therefor.

(b) If such policy is issued on or after such operative date, the sum, including any interest to the end of the current policy year shall not exceed the cash surrender value at the end of the current policy year, as required by RCW 48.23.350.

(c) (i) The policy shall contain (A) a provision that policy loans shall bear interest at a specified rate not exceeding six percent per annum, or (B) a provision that policy loans shall bear interest at a variable of not less than four nor more than eight percent per annum.

(ii) The variable rate shall not be changed more frequently than once per year and no change may exceed one percent per annum except reductions. The insurer shall give at least thirty days' notice to the policy owner or the owner's designee of any changes in the interest rate.

(iii) The provisions of (c)(i) and (c)(ii) of this subsection shall apply only in policies in existence prior to August 1, 1981.

(2) Such policy shall further provide that the insurer may deduct from such loan value any existing indebtedness on the policy (unless such indebtedness has already been deducted in determining the cash surrender value) and any unpaid balance of the premium for the current policy year; and that if the loan is made or repaid on a date other than the anniversary of the policy, the insurer shall be entitled to interest for the portion of the current policy year at the rate of interest specified in the policy.

(3) Such policy may further provide that if the interest on the loan is not paid when due, it shall be added to the existing indebtedness and shall bear interest at the same rate; and that if and when the total indebtedness on the policy, including interest due or accruing, equals or exceeds the amount of the loan value thereof which would otherwise exist at such time, the policy shall terminate in full settlement of such indebtedness and become void; except, that it shall be stipulated in the policy that no such termination shall be effective prior to the expiration of at least thirty days after notice of the pendency of the termination was mailed by the insurer to the insured and the assignee, if any, at their respective addresses last of record with the insurer.

(4) The insurer shall provide in any policy issued on or after the operative date of RCW 48.23.350 that the making of any loan, other than a loan to pay premiums, may be deferred for not exceeding six months after the application for the loan has been received by it.

Sec. 4. Section .23.12, chapter 79, Laws of 1947 and RCW 48.23.120 are each amended to read as follows:

There shall be a provision that the policy may be reinstated at any time within three years after the date of default in the payment of any premium, unless the policy has been surrendered for its cash value, or the period of any extended insurance provided by the policy has expired, upon evidence of insurability satisfactory to the insurer and the payment of all overdue premiums, and payment (or, within the limits permitted by the then cash values of the policy, reinstatement) of any other indebtedness to the insurer upon the policy with interest as to ~~((both))~~ premiums ~~((and indebtedness))~~ at a rate not exceeding six percent per annum compounded annually.

NEW SECTION. Sec. 5. This act shall take effect August 1, 1981, and shall not apply to any insurance contract before that date.

Passed the House April 2, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 248

[House Bill No. 615]

COUNTY SCHOOL FUNDS DISTRIBUTION

AN ACT Relating to certain school accounts; creating new sections; and repealing section 7, chapter 124, Laws of 1972 ex. sess. and RCW 28A.44.120.

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

NEW SECTION. Section 1. Section 7, chapter 124, Laws of 1972 ex. sess. and RCW 28A.44.120 are each hereby repealed.

NEW SECTION. Sec. 2. Any county treasurer having a fund balance in an account effected by section 1 of this 1981 act shall distribute those funds to school districts within that county on the effective date of this 1981 act.

NEW SECTION. Sec. 3. Any distribution of funds by the county treasurer to school districts shall be in accordance with section 4 of this 1981 act and shall be certified by the educational service district superintendent serving the largest number of school districts in the county. A distribution schedule shall be provided to each appropriate county treasurer twenty days before distribution of funds is to take place by the appropriate educational service district superintendent.

NEW SECTION. Sec. 4. For counties with nonhigh school districts, distribution of funds shall be on a proportional per pupil basis, based on the final average annual headcount of the preceding school year for each nonhigh school district in the county. For counties with no nonhigh school districts, the distribution shall be on a proportional per pupil basis, based on the final average annual headcount of the preceding school year for all school districts in the county.

NEW SECTION. Sec. 5. In the event that additional moneys should accrue to the accounts abolished in section 1 of this 1981 act, such moneys shall be distributed, within sixty days of receipt, in accordance with sections 3 and 4 of this 1981 act.

Passed the House March 30, 1981.

Passed the Senate April 24, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 249

[House Bill No. 616]

SCHOOL CODE MANUAL—COPY DISTRIBUTION

AN ACT Relating to the powers and duties of the superintendent of public instruction; and amending section 28A.03.030, chapter 223, Laws of 1969 ex. sess. as last amended by section 17, chapter 75, Laws of 1977 and RCW 28A.03.030.

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

Section 1. Section 28A.03.030, chapter 223, Laws of 1969 ex. sess. as last amended by section 17, chapter 75, Laws of 1977 and RCW 28A.03-.030 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state.

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools.

(3) To prepare and have printed such forms, registers, courses of study, rules and regulations for the government of the common schools, questions prepared for the examination of persons as provided for in RCW 28A.04.120(7), and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents.

(4) To travel, without neglecting his other official duties as superintendent of public instruction, for the purpose of attending educational meetings

or conventions, of visiting schools, of consulting educational service district superintendents or other school officials.

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system and which shall be sold at approximate actual cost of publication and distribution per volume to all other public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules and regulations related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount.

(6) To act as ex officio president and the chief executive officer of the state board of education.

(7) To hold, annually, a convention of the educational service district superintendents of the state at such time and place as he may deem convenient, for the discussion of questions pertaining to supervision and the administration of the school laws and such other subjects affecting the welfare and interests of the common schools as may be brought before it. Said convention shall continue in session at the option of the superintendent of public instruction. It shall be the duty of every educational service district superintendent in this state to attend said convention during its entire session, and any educational service district superintendent who attends the convention shall be reimbursed for traveling and subsistence expenses as provided in RCW 28A.21.130 in attending said convention.

(8) To file all papers, reports and public documents transmitted to him by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in his office, and his official acts, may, or upon request, shall be certified by him and attested by his official seal, and when so certified shall be evidence of the papers or acts so certified to.

(9) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report of such facts arranged in such manner as he may prescribe, and he shall furnish forms for such reports; and it is hereby made the duty of every president, manager or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct.

(10) To keep in his office a record of all teachers receiving certificates to teach in the common schools of this state.

(11) To issue certificates as provided by law.

(12) To keep in his office at the capital of the state, all books and papers pertaining to the business of his office, and to keep and preserve in his office

a complete record of statistics, as well as a record of the meetings of the state board of education.

(13) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to him in writing by any educational service district superintendent, or that may be submitted to him by any other person, upon appeal from the decision of any educational service district superintendent; and he shall publish his rulings and decisions from time to time for the information of school officials and teachers; and his decision shall be final unless set aside by a court of competent jurisdiction.

(14) To administer oaths and affirmations in the discharge of his official duties.

(15) To deliver to his successor, at the expiration of his term of office, all records, books, maps, documents and papers of whatever kind belonging to his office or which may have been received by him for the use of his office.

(16) To perform such other duties as may be required by law.

Passed the House March 30, 1981.

Passed the Senate April 24, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 250

[Substitute House Bill No. 650]

SCHOOL DISTRICT BOARDS—FUNDS

AN ACT Relating to school districts; amending section 28A.51.010, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 170, Laws of 1980 and RCW 28A.51.010; amending section 4, chapter 115, Laws of 1980 and RCW 28A.58.035; amending section 2, chapter 243, Laws of 1975 1st ex. sess. as amended by section 1, chapter 80, Laws of 1975-'76 2nd ex. sess. and RCW 28A.58.0461; adding a new section to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW; and making an effective date.

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

****Section 1. Section 28A.51.010, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 170, Laws of 1980 and RCW 28A.51.010 are each amended to read as follows:***

The board of directors of any school district may borrow money and issue negotiable coupon bonds therefor for the purpose of:

- (1) Funding outstanding indebtedness or bonds theretofore issued; or***
- (2) For the purchase of sites for all buildings, playgrounds, physical education and athletic facilities and structures authorized by law ((or necessary or proper to carry out the functions of a school district)); or***
- (3) For erecting all buildings authorized by law, including but not limited to those mentioned in ((subparagraph)) subsection (2) ((immediately above or***

~~necessary or proper to carry out the functions of a school district, and providing the necessary furniture, apparatus, or equipment therefor)) of this section; or~~

~~(4) For improving the energy efficiency of school district buildings and/or installing systems and components to utilize renewable and/or inexhaustible energy resources; or~~

~~(5) For major and minor structural changes and structural additions to buildings, structures, facilities, heating systems and sites ((necessary or proper to carrying out the functions of the school district)); or~~

~~(6) Providing the necessary initial equipment, furniture, to be utilized in the capital facilities described in subsections (2) through (5) of this section; or~~

~~(7) For special assessments for capital improvements, including but not limited to streets, curbs, water mains, drainage, and sidewalks; or~~

~~(8) For normal and necessary costs of acquisition, construction, and supervising construction of items enumerated in subsections (2) through (5) of this section; or~~

~~(9) For any or all of these purposes.~~

~~Neither the amount of money borrowed nor bonds issued therefor shall exceed the limitation of indebtedness prescribed by chapter 39.36 RCW, as now or hereafter amended.~~

~~Bonds may be issued only when authorized by the vote of the qualified electors of the district as provided by law.~~

~~The bonds so issued shall be in such form, for such terms, bear such interest, be sold in such manner, and be payable and redeemable, as the board of directors shall determine in accordance with this chapter and chapter 39.44 RCW.~~

*Section 1 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 2. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW a new section to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1) A general fund for maintenance and operation of the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(2) A building reserve fund shall be established. Money to be deposited into the building reserve fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.58.035, and proceeds from the sale of real property as authorized by RCW 28A.58.0461.

Money legally deposited into the building reserve fund may be used for:

(a) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(b) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(c) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with building reserve fund money.

(d) Transfer to the building and capital projects fund.

(3) A building and capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the building and capital projects fund so established. Money to be deposited into the building and capital projects fund shall include but not be limited to bond proceeds, proceeds from excess levies authorized by RCW 84.52-.053, state apportionment proceeds as authorized by RCW 28A.41.143, earnings from building fund investments as authorized by RCW 28A.58-.435 and 28A.58.440, and transfers from the building reserve fund.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.51-.010, except that accrued interest paid for bonds shall be deposited in the bond interest and redemption fund.

Money legally deposited into the building and capital projects fund from other sources may be used for the purposes described in RCW 28A.51.010, and for the purposes of:

(a) Major renovation, including the replacement of facilities and systems where periodical repairs are no longer economical. Major renovation and replacement shall include but shall not be limited to roofing, heating and ventilating systems, floor covering, and electrical systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

Sec. 3. Section 2, chapter 243, Laws of 1975 1st ex. sess. as amended by section 1, chapter 80, Laws of 1975-'76 2nd ex. sess. and RCW 28A.58-.0461 are each amended to read as follows:

The proceeds from any sale of school district real property by a board of directors shall be ~~((used solely for the purposes of school district bond retirement, real property improvements, the equipping or furnishing of school district buildings or grounds, or the acquisition of improved or unimproved~~

real property. ~~PROVIDED, That such acquisition shall be made only in contemplation of using such improved or unimproved real property for school district purposes)) deposited to the bond interest and redemption fund and/or the building reserve fund.~~

Sec. 4. Section 4, chapter 115, Laws of 1980 and RCW 28A.58.035 are each amended to read as follows:

Each school district's board of directors shall deposit moneys derived from the lease, rental or occasional use of surplus school property into the district's building reserve fund except for moneys required to be expended for general maintenance, utility, insurance costs, and any other costs associated with the lease or rental of such property, which moneys shall be deposited in the district's general fund.

NEW SECTION. Sec. 5. The effective date of this amendatory act shall be September 1, 1981.

Passed the House April 25, 1981.

Passed the Senate April 24, 1981.

Approved by the Governor May 18, 1981, with the exception of Section 1, which is vetoed.

Filed in Office of Secretary of State May 18, 1981.

Note: Governor's explanation of veto is as follows:

"I am returning herewith without my approval as to Section 1, Substitute House Bill No. 650 entitled:

"AN ACT Relating to school districts."

Section 1 of the bill removes the phrase "necessary or proper to carry out the functions of a school district." As a result, school districts could not use funds to finance any school facility for which there is not specific authority in law. Surprisingly, without this phrase there is no other law that gives school districts definite authority to acquire and construct the broad range of facilities required to carry out many essential school district functions. Without the authority of the "necessary and proper" phrase, school districts may not be able to finance construction of school buildings through the issuance of bonds.

With the exception of Section 1, which I have vetoed, the remainder of Substitute House Bill No. 650 is approved."

CHAPTER 251

[Substitute Senate Bill No. 3024]

WANAPUM INDIANS (SOKULK)—CEREMONIAL, SUBSISTENCE FISHERY

AN ACT Relating to the relief of the Sokulk Indians by providing for their fishing in designated areas; adding a new section to chapter 75.12 RCW; and creating a new section.

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

NEW SECTION. Section 1. The legislature finds that the Sokulk Indians, otherwise known as the Wanapum band of Indians, have made a significant effort to maintain their traditional tribal culture, including the

activity of taking salmon for ceremonial and subsistence purposes. The legislature further finds that previously the state has encouraged ceremonial and subsistence fishing by the Wanapums by chapter 210, Laws of 1939 and other permission. Therefore, the intent of the legislature in enacting section 2 of this act is to recognize the cultural importance of salmon fishing to only the Wanapum Indians by authorizing these people a ceremonial and subsistence fishery, while also preserving the state's ability to conserve and manage the salmon resource.

NEW SECTION. Sec. 2. There is added to chapter 75.12 RCW a new section to read as follows:

The department is authorized to issue permits to members of the Wanapum band of Indians to take salmon for ceremonial and subsistence purposes. The department shall establish the areas in which the permits are valid and shall regulate the times for and manner of taking the salmon: **PROVIDED**, That nothing in this act shall be construed to create a right to fish for commercial purposes.

Passed the Senate April 24, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 252

[Engrossed Senate Bill No. 3372]

TELEPHONE OR TELEGRAPH SERVICE—FRAUD

AN ACT Relating to fraud in obtaining telephone or telegraph service; amending section 1, chapter 114, Laws of 1955 as last amended by section 1, chapter 42, Laws of 1977 ex. sess. and RCW 9.45.240; and prescribing penalties.

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

Section 1. Section 1, chapter 114, Laws of 1955 as last amended by section 1, chapter 42, Laws of 1977 ex. sess. and RCW 9.45.240 are each amended to read as follows:

(1) Every person who, with intent to evade the provisions of any order of the Washington utilities and transportation commission or of any tariff, rule, or regulation lawfully filed with said commission by any telephone or telegraph company, or with intent to defraud, obtains telephone or telegraph service from any telephone or telegraph company through the use of a false or fictitious name or telephone number or the unauthorized use of the name or telephone number of another, or through any other trick, deceit, or fraudulent device, shall be guilty of a misdemeanor (~~PROVIDED; HOWEVER, That~~). If the value of the telephone or telegraph service which any person obtains in violation of this section during a period of ninety days exceeds (~~seventy-five~~):

(a) Fifty dollars in the aggregate, then such person shall be guilty of a gross misdemeanor(~~(. PROVIDED FURTHER, That as to)~~);

(b) Two hundred fifty dollars in the aggregate, then such person shall be guilty of a class C felony.

However, for any act which constitutes a violation of both this subsection and subsection (2) of this section the provisions of subsection (2) of this section shall be exclusive.

(2) Every person who:

(a) Makes, possesses, sells, gives, or otherwise transfers to another an instrument, apparatus, or device with intent to use it or with knowledge or reason to believe it is intended to be used to avoid any lawful telephone or telegraph toll charge or to conceal the existence or place of origin or destination of any telephone or telegraph message; or

(b) Sells, gives, or otherwise transfers to another plans or instructions for making or assembling an instrument, apparatus, or device described in subparagraph (a) of this subsection with knowledge or reason to believe that they may be used to make or assemble such instrument, apparatus, or device shall be guilty of a felony.

Passed the Senate March 17, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 253

[Engrossed Senate Bill No. 3866]

STATE CAPITOL HISTORICAL ASSOCIATION AND MUSEUM

AN ACT Relating to the state capitol historical association and museum; amending section 1, chapter 44, Laws of 1941 as amended by section 1, chapter 62, Laws of 1965 ex. sess. and RCW 27.36.010; amending section 3, chapter 44, Laws of 1941 and RCW 27.36.020; amending section 2, chapter 44, Laws of 1941 as amended by section 2, chapter 62, Laws of 1965 ex. sess. and RCW 27.36.030; amending section 4, chapter 44, Laws of 1941 as amended by section 3, chapter 57, Laws of 1979 ex. sess. and RCW 27.36.040; amending section 5, chapter 44, Laws of 1941 as last amended by section 16, chapter 75, Laws of 1977 and RCW 27.36.050; and adding a new section to chapter 27.36 RCW.

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

Section 1. Section 1, chapter 44, Laws of 1941 as amended by section 1, chapter 62, Laws of 1965 ex. sess. and RCW 27.36.010 are each amended to read as follows:

The state capitol historical association, a corporation existing under and by virtue of the laws of the state of Washington, be, and the same is hereby, ~~((created))~~ designated a trustee of the state of Washington for the intent and purposes ~~((hereinafter mentioned))~~ in this section:

It shall be the duty of the ~~((said))~~ association

~~((1) To collect books, maps, charts, papers, relics and other materials illustrative of the history of this state, and, in particular, of the progress and development of the territorial capitol and the state capitol at Olympia;~~

~~(2) To procure from pioneers authentic narratives of the experiences and of incidents relating to the early settlement of this state;~~

~~(3) To shelf, store and safely keep such books, maps, charts, papers, relics and other historical material now or hereafter to come into its possession;~~

~~(4) To catalog the collections of said association for the convenient reference of persons having occasion to consult the same;~~

~~(5) To keep the museum display rooms open at reasonable hours for the reception of citizens and visitors, without charge;~~

~~(6) To engage in cultural and educational activities;~~

~~(7) To display items of interest to the people of the state, including but not limited to scientific, industrial, agricultural, commercial, and cultural exhibits;~~

~~(8) To engage in the sale of various articles which are consistent with the basic purposes of the state capitol museum to visitors to the museum;~~

~~(9) To dispose of items which are no longer of historical value to the museum or of interest to the patrons of the museum:))~~

(1) To collect, catalog, preserve, and interpret objects, manuscripts, sites, photographs, and other materials illustrative of the history of this state, including the progress and development of the capitol city;

(2) To operate the state capitol historical museum and to keep the museum open, without an admission fee, at reasonable hours for the reception of citizens and visitors;

(3) To assist and encourage historical studies and museum interpretative efforts throughout the state, including those of private nonprofit organizations and those of city, county, and state agencies;

(4) Engage in cultural, artistic, and educational activities, including classes, exhibits, seminars, conferences, publications, and other public programs as long as such activities are related to the basic purposes of the association;

(5) To engage in the sale of various articles which are related to the basic purpose of the association;

(6) To plan for and conduct celebrations of significant events in the history of the capital city and the state of Washington and to give assistance to and coordinate with state, county, and other local historical associations and societies in planning and conducting celebrations;

(7) To engage in appropriate fund raising activities for the purpose of increasing the self-support of the association.

NEW SECTION. Sec. 2. There is added to chapter 27.36 RCW a new section to read as follows:

The association shall retain all those powers established by the association's incorporation as a nonprofit corporation under chapter 24.03 RCW not explicitly prohibited by this chapter. The association may act in any manner that does not frustrate the purposes under RCW 27.36.010, as now or hereafter amended.

Sec. 3. Section 3, chapter 44, Laws of 1941 and RCW 27.36.020 are each amended to read as follows:

The building and grounds designated as Block 2, Grainger's Addition to the City of Olympia, County of Thurston, acquired by the state under senate joint resolution No. 18, session of 1939, is hereby designated a part of the state capitol, to be known as the state capitol historical museum. This structure is to be used ~~((for purposes of housing said historical relics, documents and material as are now owned by the state and housed at the state capitol, and also such additional historical relics, documents and material which shall hereafter be acquired by the state for addition to the state capitol historical museum, and also such historical collections which are now owned or shall hereafter be acquired by the state capitol historical association))~~ to house and interpret the collection of the association. This section does not limit the association's use of other structures.

Sec. 4. Section 2, chapter 44, Laws of 1941 as amended by section 2, chapter 62, Laws of 1965 ex. sess. and RCW 27.36.030 are each amended to read as follows:

The ~~((books, maps, charts, papers, relics and other historical material))~~ objects, sites, manuscripts, photographs, and other materials now or hereafter acquired by ~~((said))~~ the association shall be held by ~~((said))~~ the association in trust for the use and benefit of the people of the state of Washington and shall be housed at the state capitol museum: PROVIDED, That the board of trustees of ~~((said))~~ the association ~~((are))~~ is hereby authorized to ~~((loan items to and receive on loan items from various public and private museums and agencies))~~ accept on loan or lend objects of historical interest: PROVIDED FURTHER, That the board of trustees of ~~((said))~~ the association may ~~((exchange items with other public and private museums and agencies except in those instances where the items belonging to the museum were received with a restriction as to their use or disposition))~~ sell, exchange, divest itself of, or refuse to accept items which do not enhance the collection.

Sec. 5. Section 4, chapter 44, Laws of 1941 as amended by section 3, chapter 57, Laws of 1979 ex. sess. and RCW 27.36.040 are each amended to read as follows:

The secretary of state and the ~~((state superintendent of public instruction))~~ governor or the governor's designee shall be ex officio members of the board of trustees of said state capitol historical association, and as such are

hereby authorized and empowered to vote upon all questions coming before such board for its action.

Sec. 6. Section 5, chapter 44, Laws of 1941 as last amended by section 16, chapter 75, Laws of 1977 and RCW 27.36.050 are each amended to read as follows:

There shall be appointed by the state capitol historical association, with the consent of the governor, a person to be designated as director of the state capitol museum, whose duties shall be:

- (1) To designate arrangements and locations of the various collections and historical material in the state capitol museum;
- (2) To administer the affairs of the museum under the policies established by the board of trustees; ~~((and))~~
- (3) To perform such other duties and functions as may be delegated to him by the board of trustees; and
- (4) To employ personnel and prescribe the duties of the personnel as may be necessary to implement the purposes of this chapter and the directions of the board of trustees.

Passed the Senate April 24, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 254

[Substitute Senate Bill No. 3890]

DISHONORED CHECKS

AN ACT Relating to commercial paper; amending section 1, chapter 23, Laws of 1967 ex. sess. as amended by section 1, chapter 62, Laws of 1969 and RCW 62A.3-515; amending section 2, chapter 62, Laws of 1969 and RCW 62A.3-520; amending section 3, chapter 62, Laws of 1969 and RCW 62A.3-525; amending section 16, chapter 253, Laws of 1971 ex. sess. and RCW 19.16.250; and adding a new section to Part 5, Article 3 of Title 62A RCW.

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

Section 1. Section 1, chapter 23, Laws of 1967 ex. sess. as amended by section 1, chapter 62, Laws of 1969 and RCW 62A.3-515 are each amended to read as follows:

Whenever a check as defined in RCW 62A.3-104 has been dishonored by nonacceptance or nonpayment ~~((and))~~ the payee or holder of the check is entitled to collect a reasonable handling fee for each such instrument. When such check has not been paid within fifteen days and after the holder of such check sends such notice of dishonor as provided by RCW 62A.3-520 to the drawer at his last known address, then if the instrument does not provide for the payment of interest, or collection costs and attorneys fees, the drawer of such instrument shall also be liable for payment of

interest at the rate of twelve percent per annum from the date of dishonor and cost of collection not to exceed ((twenty)) forty dollars or the face amount of the check, whichever is the lesser. In addition, in the event of court action on the check the court, after such notice and the expiration of said fifteen days, shall award a reasonable attorneys fee as part of the damages payable to the holder of the check. This section shall not apply to any instrument which has been dishonored by reason of any justifiable stop payment order.

Sec. 2. Section 2, chapter 62, Laws of 1969 and RCW 62A.3-520 are each amended to read as follows:

The notice of dishonor shall be sent by ((certified)) mail to the drawer at his last known address, and said notice shall be substantially in the following form:

NOTICE OF DISHONOR OF CHECK

A check drawn by you and made payable by you to in the amount of has not been accepted for payment by, which is the drawee bank designated on your check. This check is dated, and it is numbered, No.

You are CAUTIONED that unless you pay the amount of this check within fifteen days after the date this letter is postmarked, you may very well have to pay the following additional amounts:

- (1) costs of collecting the amount of the check, including an attorney's fee which will be set by the court; and
- (2) interest on the amount of the check which shall accrue at the rate of twelve percent per annum from the date of dishonor.

You are advised to make your payment to at the following address:

NEW SECTION. Sec. 3. There is added to Part 5, Article 3 of Title 62A RCW a new section to read as follows:

In addition to sending notice of dishonor to the drawer of the check under RCW 62A.3-520, the holder of the check shall execute an affidavit certifying service of the notice by mail. The affidavit of service by mail shall be attached to a copy of the notice of dishonor and shall be substantially in the following form:

AFFIDAVIT OF SERVICE BY MAIL

I,, hereby certify that on the day of, 19.., a copy of the foregoing Notice was served on by mailing via the United States Postal Service, postage prepaid, at, Washington.

Dated:
(Signature)

The affidavit shall be retained with the check but a copy of the affidavit shall be filed with the clerk of the court in which an action on the check is commenced.

Sec. 4. Section 3, chapter 62, Laws of 1969 and RCW 62A.3-525 are each amended to read as follows:

No interest, collection costs and attorneys' fees, except handling fees, shall be recovered on any dishonored check under the provisions of RCW 62A.3-515 where the holder of such check or any agent, employee or assign of the holder has demanded:

(1) interest or collection costs in excess of that provided by RCW 62A.3-515; or

(2) interest or collection costs prior to the expiration of fifteen days after the ((certified)) mailing of notice of dishonor, as provided by RCW 62A.3-515 and 62A.3-520; or

(3) attorneys' fees either without having such fees set by the court, or prior to the expiration of fifteen days after the ((certified)) mailing of notice of dishonor, as provided by RCW 62A.3-515 and 62A.3-520.

Sec. 5. Section 16, chapter 253, Laws of 1971 ex. sess. and RCW 19-16.250 are each amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwarder, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "deadbeat lists" or threaten to do so.

(4) Have in his possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any claim other than the name set forth on his or its current license issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form which represents or implies that a claim exists unless it shall indicate in clear and legible type:

(a) The name of the licensee and the city, street, and number at which he is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain the name of such person and provide this name to the debtor;

(c) If the notice, letter, message, or form is the first notice to the debtor or if the licensee is attempting to collect a different amount than indicated in his or its first notice to the debtor, an itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment charges, if any, added to the original obligation by the original creditor, customer or assignor before it was received by the licensee for collection, if such information is known by the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain information on such items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or customer or assignor after the obligation was received by the licensee for collection;

(iv) Collection costs, if any, that the licensee is attempting to collect;

(v) Attorneys' fees, if any, that the licensee is attempting to collect on his or its behalf or on the behalf of a customer or assignor;

(vi) Any other charge or fee that the licensee is attempting to collect on his or its own behalf or on the behalf of a customer or assignor.

(9) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim: PROVIDED, That if the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall upon receipt of written notice from the debtor that any part of the claim is disputed, forward a copy of such written notice to the credit reporting bureau;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor's employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor's employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: **PROVIDED**, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor's employer once unless the debtor's employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment; and

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(10) Threaten the debtor with impairment of his credit rating if a claim is not paid.

(11) Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney: **PROVIDED**, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or it again receives notification in writing that an attorney is representing the debtor.

(12) Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week;

(b) It is made with a debtor at his or her place of employment more than one time in a single week;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m.

(13) Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process, the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

(14) Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(15) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(16) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made.

(17) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(18) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and taxable court costs.

(19) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, and, in the case of suit, attorney's fees and taxable court costs.

Passed the Senate April 26, 1981.

Passed the House April 25, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 255

[Senate Bill No. 3722]

FAMILY WINE

AN ACT Relating to home-made wine; amending section 32, chapter 62, Laws of 1933 ex. sess. as amended by section 1, chapter 39, Laws of 1955 and RCW 66.12.010; and adding a new section to chapter 66.28 RCW.

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

Section 1. Section 32, chapter 62, Laws of 1933 ex. sess. as amended by section 1, chapter 39, Laws of 1955 and RCW 66.12.010 are each amended to read as follows:

Nothing in this title (~~shall apply~~) other than section 2 of this 1981 act, applies to wine or beer manufactured in any home for consumption therein, and not for sale.

NEW SECTION. Sec. 2. There is added to chapter 66.28 RCW a new section to read as follows:

(1) An adult member of a household may remove family wine from the home for exhibition or use at organized wine tastings or competitions, subject to the following conditions:

(a) The quantity removed by a producer for these purposes is limited to a quantity not exceeding one gallon;

(b) Family wine is not removed for sale or for the use of any person other than the producer. This subparagraph does not preclude any necessary tasting of the wine when the exhibition or wine tasting includes judging the merits of the wine by judges who have been selected by the organization sponsoring the affair; and

(c) When the display contest or judging purpose has been served, any remaining portion of the sample is returned to the family premises from which removed.

(2) As used in this section, "family wine" means wine manufactured in the home for consumption therein, and not for sale.

Passed the Senate March 25, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 256

[Engrossed Senate Bill No. 3931]

DEFERRED COMPENSATION PLANS—FEDERAL LAW CONFORMANCE

AN ACT Relating to deferred compensation plans; amending section 1, chapter 264, Laws of 1971 ex. sess. as last amended by section 2, chapter 274, Laws of 1975 1st ex. sess. and RCW 41.04.250; amending section 1, chapter 274, Laws of 1975 1st ex. sess. as amended by section 84, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 41.04.260; amending section 3, chapter 209, Laws of 1969 ex. sess. as last amended by section 2, chapter 249, Laws of 1979 ex. sess. and RCW 41.26.030; amending section 1, chapter 80, Laws of 1947 as last amended by section 5, chapter 249, Laws of 1979 ex. sess. and RCW 41.32-.010; amending section 1, chapter 274, Laws of 1947 as last amended by section 7, chapter 249, Laws of 1979 ex. sess. and RCW 41.40.010; creating a new section; and declaring an emergency.

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

NEW SECTION. Section 1. It is the primary purpose of this act to assure that the provisions of RCW 41.04.250 and 41.04.260 and of any deferred compensation plan established thereunder, are in conformity with the requirements of 26 U.S.C. Sec. 457 and any other requirements of federal

law relating to such a deferred compensation plan. This act shall be construed in such a manner as to accomplish this purpose.

Sec. 2. Section 1, chapter 264, Laws of 1971 ex. sess. as last amended by section 2, chapter 274, Laws of 1975 1st ex. sess. and RCW 41.04.250 are each amended to read as follows:

"Employee" as used in this section and RCW 41.04.260 includes all full-time, part-time and career seasonal employees of the state, a county, a municipality, or other political subdivision of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of the government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and of the superior and district courts; and members of the state legislature or of the legislative authority of any county, city, or town.

The state, through the committee for deferred compensation created in RCW 41.04.260, and any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body is authorized to((:

~~(1) Enter into an agreement with any life insurance company, bank trustee, or custodian authorized to do business in the state of Washington to provide qualified pension plans under the provisions of 26 U.S.C., section 401(a), as amended by Public Law 89-809, 80 Stat. 1577, 1578 as now or hereafter amended, or to provide deferred annuities for all officials and employees of said public entities deemed to be eligible by the agency of the United States government having jurisdiction of the matter under the provisions of 26 U.S.C., section 403(b), as amended by Public Law 87-370, 75 Stat. 796 and as now or hereafter amended, such pension or annuities to be in lieu of a portion of salary or wages. Such pension plans or tax deferred annuity benefits shall be available to those employees who elect to participate in said agreement and who agree to take a reduction in salary in the equivalent amount of the contribution required to be made by the public entity for and on behalf of such employee. The funds derived from such reductions in salary shall be deposited and accounted for in an appropriately designated account maintained by the public employer of such employee and any official authorized to disburse such funds is empowered to remit these designated funds to the insurer, custodian, or trustee in accordance with the salary reduction agreement between the public entity and the employee.~~

~~(2)) contract with an employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the ((appropriate internal revenue service exclusion allowance for such plans, and shall promptly with the consent of the employee,)) amount allowable under 26 U.S.C. Sec. 457, and deposit or invest such deferred portion in a credit union, savings and loan association, bank, or mutual savings bank or purchase life insurance, shares of an investment company, or fixed and/or variable~~

annuity contracts(~~(, for the purpose of funding a deferred compensation program for the employee, from any life underwriter or registered representative duly licensed by this state who represents an))~~ from any insurance company or any investment company licensed to contract business in this state. The committee can provide such plans as it deems are in the interests of state employees. ((In no event shall the total payments made for the purchase of said life insurance contract, or fixed and/or variable annuity contract and the employee's nondeferred income for any year exceed the total annual salary, or compensation under the existing salary schedule or classification plan applicable to such employee in such year.)) In addition to the types of investments described in this section, the committee may invest the deferred portion of an employee's income, without limitation as to amount, in any of the class of investments described in RCW 43.84.150 as in effect on January 1, 1981. Any income deferred under such a plan shall continue to be included as regular compensation, for the purpose of computing the state or local retirement and pension benefits earned by any employee((, but any sum so deducted shall not be included in the computation of any taxes withheld on behalf of any such employee)).

Coverage of an employee under a ~~((qualified pension plan, contract for a deferred annuity or))~~ deferred compensation plan under this section shall not render such employee ineligible for simultaneous membership and participation in ~~((the))~~ any pension system~~((s))~~ for public employees ~~((which are provided for by chapters 41.26, 41.32 and 41.40 RCW))~~.

Sec. 3. Section 1, chapter 274, Laws of 1975 1st ex. sess. as amended by section 84, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 41.04.260 are each amended to read as follows:

(1) There is hereby created a committee for deferred compensation to be composed of five members appointed by the governor, one of whom shall be a representative of an employee association or union certified as an exclusive representative of at least one bargaining unit of classified employees, one who shall be a representative of either a credit union, savings and loan association, mutual savings bank or bank, one who ~~((shall be a representative of an))~~ possesses expertise in the area of insurance ((association)) or investment ((company)) of public funds, one who shall be the state attorney general or his designee, and one additional member selected by the governor. The committee shall serve without compensation but shall receive travel expenses as provided for in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The ~~((committee shall be trustees of the))~~ deferred compensation revolving fund ~~((which))~~ is hereby created in the state treasury. All expenses of the committee including staffing and administrative expenses shall be paid out of the deferred compensation revolving fund. The amount of compensation deferred ~~((or amounts paid))~~ by employees under agreements entered into under the authority contained in RCW 41.04.250 shall be paid

into the revolving fund and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by this committee. The revolving fund shall be used to carry out the purposes of RCW 41.04.250(~~(- Any county, municipality or other subdivision of the state may elect to participate in any agreements entered into by the committee under RCW 41.04.250)~~), including the making of payments therefrom to the employees participating in a deferred compensation plan upon their separation from state service. Accordingly, the revolving fund shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein. All moneys in the revolving fund, all property and rights purchased therewith, and all income attributable thereto, shall remain (until made available to the participating employee or other beneficiary) solely the money, property, and rights of the state (without being restricted to the provision of benefits under the plan) subject only to the claims of the state's general creditors.

(3) The committee may adopt rules necessary to carry out the purposes of RCW 41.04.250 and 41.04.260.

Sec. 4. Section 3, chapter 209, Laws of 1969 ex. sess. as last amended by section 2, chapter 249, Laws of 1979 ex. sess. and RCW 41.26.030 are each 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 "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2) (a) "Employer" for persons who establish membership in the retirement system on or before September 30, 1977, means the legislative authority of any city, town, county or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for persons who establish membership in the retirement system on or after October 1, 1977, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter.

(3) "Law enforcement officer" means any person who is serving on a full time, fully compensated basis as a county sheriff or deputy sheriff, including sheriffs or deputy sheriffs serving under a different title pursuant to a county charter, city police officer, or town marshal or deputy marshal, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers; and

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended) if such individual has five years previous membership in the retirement system established in chapter 41.20 RCW: PROVIDED, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply.

(4) "Fire fighter" means:

(a) any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, or fireman if this title is used by the department, and who is actively employed as such;

(b) any person who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) supervisory fire fighter personnel;

(d) any full time executive secretary of an association of fire protection districts authorized under chapter 52.08 RCW: PROVIDED, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply;

(e) the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW: PROVIDED, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply;

(f) any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fireman or fire fighter; and

(g) any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971 was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

(5) "Retirement board" means the Washington public employees' retirement system board established in chapter 41.40 RCW, including two members of the retirement system and two employer representatives as provided for in RCW 41.26.050. The retirement board shall be called the Washington law enforcement officers' and fire fighters' retirement board and may enter in legal relationships in that name. Any legal relationships entered into in that name prior to the adoption of this 1972 amendatory act are hereby ratified.

(6) "Surviving spouse" means the surviving widow or widower of a member. The word shall not include the divorced spouse of a member.

(7) "Child" or "children" whenever used in this chapter means every natural born child and stepchild where that relationship was in existence prior to the date benefits are payable under this chapter, posthumous child, child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter, and illegitimate child legitimized prior to the date any benefits are payable under this chapter, all while unmarried, and either under the age of eighteen years or mentally or physically handicapped as determined by the retirement board except a handicapped person in the full time care of a state institution. A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) above.

(11) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, 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.

(12) (a) "Final average salary" for persons who establish membership in the retirement system on or before September 30, 1977, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for persons who establish membership in the retirement system on or after October 1, 1977, means the monthly average of the member's basic salary for the highest consecutive sixty months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(13) (a) "Basic salary" for persons who establish membership in the retirement system on or before September 30, 1977, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, as reported by the employer on the wage and tax statement submitted to the federal internal revenue service, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b) 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: **PROVIDED**, That in any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) the basic salary the member would have received had such member not served in the legislature; or

(ii) such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under subparagraph (i) of this subsection is greater than basic salary under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(14) (a) "Service" for persons who establish membership in the retirement system on or before September 30, 1977, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all months of service rendered by a member from and after the member's initial commencement of employment as a fire fighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. In addition to the foregoing, for members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall include (i) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (ii) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act: **PROVIDED**, That if such member's prior service is not creditable due to the withdrawal of his contributions plus accrued interest thereon from a prior pension system, such member shall be credited with such prior service, as a law enforcement officer or fire fighter, by paying to the Washington law enforcement officers' and fire fighters' retirement system, on or before March 1, 1975, an amount which is equal to that which was withdrawn from the prior system by such member, as a law enforcement officer or fire fighter: **PROVIDED FURTHER**, That if such member's prior service is not creditable because, although employed in a position covered by a prior pension act, such member had not yet become a member of the pension system governed by such act, such member shall be credited with such prior service as a law enforcement officer or fire fighter, by paying to the Washington law enforcement officers' and fire fighters' retirement system, on or before

March 1, 1975, an amount which is equal to the employer's contributions which would have been required under the prior act when such service was rendered if the member had been a member of such system during such period: AND PROVIDED FURTHER, That where a member is employed by two employers at the same time, he shall only be credited with service to one such employer for any month during which he rendered such dual service.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Years of service shall be determined by dividing the total number of 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 benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(15) "Accumulated contributions" means the employee's contributions made by a member plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" means either the county disability board or the city disability board established in RCW 41.26.110 for persons who establish membership in the retirement system on or before September 30, 1977.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to persons who

establish membership in the retirement system on or before September 30, 1977.

(20) "Disability retirement" for persons who establish membership in the retirement system on or before September 30, 1977, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for persons who establish membership in the retirement system on or before September 30, 1977, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18-.71 RCW;

(B) An osteopath licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when he is injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

- (I) Nursing home confinement or hospital extended care facility;
- (J) Physical therapy by a registered physical therapist;
- (K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;
- (L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(23) "Regular interest" means such rate as the director may determine.

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(25) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(26) "Director" means the director of the department.

(27) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(28) "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.

Sec. 5. Section 1, chapter 80, Laws of 1947 as last amended by section 5, chapter 249, Laws of 1979 ex. sess. and RCW 41.32.010 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 persons who establish membership in the retirement system on or before September 30, 1977, means the sum of all regular annuity contributions with regular interest thereon.

(b) "Accumulated contributions" for persons who establish membership in the retirement system on or after October 1, 1977, means the sum of all contributions standing to the credit of a member in the member's individual account 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) "Annuity fund" means the fund in which all of the accumulated contributions of members are held.

(5) "Annuity reserve fund" means the fund to which all accumulated contributions are transferred upon retirement.

(6) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, 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.

(7) "Contract" means any agreement for service and compensation between a member and an employer.

(8) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(9) "Dependent" means receiving one-half or more of support from a member.

(10) "Disability allowance" means monthly payments during disability. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(11) (a) "Earnable compensation" for persons who establish membership in the retirement system on or before September 30, 1977, means 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: PROVIDED, That 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: PROVIDED FURTHER, That 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.

(b) "Earnable compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, as reported by the employer on the wage and tax statement submitted to the federal internal revenue service, and shall include

wages and salaries deferred under provisions established pursuant to sections 403(b) 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: PROVIDED, That 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: PROVIDED FURTHER, That 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:

(i) the earnable compensation the member would have received had such member not served in the legislature; or

(ii) 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 subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(12) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(13) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(14) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(15) "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.

(16) "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 annuity fund.

(17) "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 only receive one month's service credit during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(18) "Pension" means the moneys payable per year during life from the pension fund.

(19) "Pension fund" means a fund from which all pension obligations are to be paid.

(20) "Pension reserve fund" is a fund in the state treasury in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system.

(21) "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 persons who establish membership in the retirement system on or before September 30, 1977.

(22) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(23) "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.

(24) "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 annuity fund. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(25) "Regular interest" means such rate as the director may determine.

(26) (a) "Retirement allowance" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of annuity and pension or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for persons who establish membership in the retirement system on or after October 1, 1977, means monthly payments to a retiree or beneficiary as provided in this chapter.

(27) "Retirement system" means the Washington state teachers' retirement system.

(28) (a) "Service" means the time during which a member has been employed by an employer for compensation: PROVIDED, That where a member 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 is rendered.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which earnable compensation is earned for ninety or more hours per calendar month. Members shall receive twelve months of service for each contract year or school year of employment.

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 service credit for the time spent in a state elective position by making the required member contributions.

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.

Notwithstanding RCW 41.32.240, teachers covered by RCW 41.32.755 through 41.32.825, who render service need not serve for ninety days to obtain membership so long as the required contribution is submitted for such ninety-day period. Where a member did not receive service credit under RCW 41.32.775 through 41.32.825 due to the ninety-day period in RCW 41.32.240 the member may receive service credit for that period so long as the required contribution is submitted for the period. Anyone entering membership on or after October 1, 1977, and prior to July 1, 1979, shall have until June 30, 1980, to make the required contribution in one lump sum.

(29) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(30) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity, including state, educational service district, city superintendents and their assistants and certificated employees; and in addition thereto any qualified school librarian, any registered nurse or any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(31) "Average final compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means the member's average earnable compensation of the highest consecutive sixty months of service 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.

(32) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(33) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(34) "Director" means the director of the department.

(35) "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.

(36) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(37) "Retirement board" means the board of trustees provided for in RCW 41.32.040.

Sec. 6. Section 1, chapter 274, Laws of 1947 as last amended by section 7, chapter 249, Laws of 1979 ex. sess. and RCW 41.40.010 are each 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) "Retirement board" means the board provided for in this chapter and chapter 41.26 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4) (a) "Employer" for persons who establish membership in the retirement system on or before September 30, 1977, 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 as now or hereafter amended; 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 persons who establish membership in the retirement system on or after October 1, 1977, 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 41.40.120.

(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 persons who establish membership in the retirement system on or before September 30, 1977, 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: PROVIDED, That 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: PROVIDED FURTHER, That 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.

(b) "Compensation earnable" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, as reported by the employer on the wage and tax statement submitted to the federal internal revenue service, and shall include

wages and salaries deferred under provisions established pursuant to sections 403(b) and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: PROVIDED, That 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: PROVIDED FURTHER, That 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:

(i) the compensation earnable the member would have received had such member not served in the legislature; or

(ii) 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 subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(9) (a) "Service" for persons who establish membership in the retirement system on or before September 30, 1977, means periods of employment rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Full time work for seventy hours or more in any given calendar month shall constitute one month of service. Only months of service shall 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 number of 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 benefits. Members employed by the state school for the blind, or the state school for the deaf shall receive twelve months of service for each contract year or school year of employment commencing on or after June 15, 1979. In addition, each member who is employed by an institution of higher education or a community college shall receive twelve months of service for each academic year of employment commencing on or after June 15, 1979, in which:

(i) the member makes member contributions under this chapter for each month of such academic year, and

(ii) the member is employed in a position which is restricted as to duration by the employer to the academic year. 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: **PROVIDED FURTHER**, That an individual shall receive no more than a total of twelve months of service credit during any calendar year: **PROVIDED FURTHER**, That where an individual is employed by two or more employers the individual shall only receive one months service credit during any calendar month in which multiple service for seventy or more hours is rendered.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which compensation earnable is earned for ninety or more hours per calendar month.

Years of service shall be determined by dividing the total number of 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 benefits.

Members employed by school districts, the state school for the blind, the state school for the deaf, institutions of higher education, or community colleges shall receive twelve months of service for each contract year or school year of employment.

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.

A member shall receive a total of not more than twelve months of service for such calendar year: **PROVIDED**, That 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.

(10) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(11) "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: **PROVIDED**, That an amount equal to the employer and employee contributions which would have been paid to the retirement system on account of such service shall have been paid to the retirement system with interest (as computed by the department) on the employee's portion prior to retirement of such person, by the

employee or his employer, except as qualified by RCW 41.40.120: PROVIDED FURTHER, That employer contributions plus employee contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employees' savings fund and be treated as any other contribution made by the employee, with the exception that the 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 be excluded from the calculation of the member's annuity in the event the member selects a benefit with an annuity option;

(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.

(12) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, 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.

(13) "Regular interest" means such rate as the director may determine.

(14) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

(15) (a) "Average final compensation" for persons who establish membership in the retirement system on or before September 30, 1977, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service for which service credit is allowed; or if the member has less than two years of service then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means the member's average compensation earnable of the highest consecutive sixty months of service 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.

(16) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(17) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(18) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(19) "Retirement allowance" means the sum of the annuity and the pension.

(20) "Employee" means any person who may become eligible for membership under this chapter, as set forth in RCW 41.40.120.

(21) "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.

(22) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(23) "Eligible position" means:

(a) Any position which normally requires five or more uninterrupted months of service a year for which regular compensation is paid to the occupant thereof;

(b) Any position occupied by an elected official or person appointed directly by the governor for which compensation is paid.

(24) "Ineligible position" means any position which does not conform with the requirements set forth in subdivision (23).

(25) "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.

(26) "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.

(27) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(28) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(29) "Director" means the director of the department.

(30) "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.

(31) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

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, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 20, 1981.

Passed the House April 25, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 257

[Substitute Senate Bill No. 4090]

INSTITUTIONS OF HIGHER EDUCATION—TUITION AND FEES—STUDENT LOANS—BOND RETIREMENT

AN ACT Relating to tuition and fees; amending section 2, chapter 279, Laws of 1971 ex. sess. as last amended by section 14, chapter 151, Laws of 1979 and RCW 28B.15.031; amending section 7, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.070; amending section 28B.15.100, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.100; creating new sections; adding new sections to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.15 RCW; repealing section 1, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.060; repealing section 8, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.075; repealing section 3, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.201; repealing section 4, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.401; repealing section 28B.15.500, chapter 223, Laws of 1969 ex. sess., section 10, chapter 279, Laws of 1971 ex. sess., section 5, chapter 322, Laws of 1977 ex. sess., section 1, chapter ... [Substitute House Bill No. 520], Laws of 1981 and RCW 28B.15.500; and declaring an emergency.

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

Section 1. Section 2, chapter 279, Laws of 1971 ex. sess. as last amended by section 14, chapter 151, Laws of 1979 and RCW 28B.15.031 are each amended to read as follows:

The term "operating fees" as used in this chapter shall include the fees, other than general tuition fees, charged all students registering at the state's colleges and universities but shall not include fees for short courses, marine station work, experimental station work, correspondence or extension courses, and individual instruction and student deposits or rentals, disciplinary and library fines, which colleges and universities shall have the right to

impose, laboratory, gymnasium, health, and student activity fees, or fees, charges, rentals, and other income derived from any or all revenue producing lands, buildings and facilities of the colleges or universities heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land, or the appurtenances thereon, or such other special fees as may be established by any college or university board of trustees or regents from time to time. All moneys received as operating fees at any institution of higher education shall be transmitted to the state treasurer within thirty-five days of receipt to be deposited in the state general fund: **PROVIDED**, That required matching moneys for federal and state financial aid programs may be exempt from such deposit with approval of the director of financial management: **PROVIDED FURTHER**, That two and one-half percent of moneys received as operating fees be exempt from such deposit and be retained by the institutions for the purposes of section 9 of this amendatory act.

NEW SECTION. Sec. 2. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.15 RCW a new section to read as follows:

General tuition and operating fees shall be established and adjusted biennially under the provisions of this chapter beginning with the 1983-84 academic year. Such fees shall be identical, subject to other provisions of this chapter, for students enrolled at either state university, for students enrolled at the regional universities and The Evergreen State College and for students enrolled at any community college. The general tuition and operating fees shall reflect the educational costs of the state universities, the regional universities and the community colleges, respectively, in the amounts herein prescribed.

Sec. 3. Section 7, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.070 are each amended to read as follows:

The house and senate higher education committees shall develop, in cooperation with the council for postsecondary education and the respective fiscal committees of the house and senate, the office of (~~fiscat~~) financial management and the state institutions of higher education no later (~~of~~) than (~~January 1978~~) December 1981, and at each two year interval thereafter, definitions, criteria and procedures for determining the (~~operating~~) educational costs (~~of instruction~~) for the state universities, regional universities and community colleges upon which general tuition and operating fees (~~recommendations~~) will be based. In the event that no action is taken or disagreement exists between the committees as of that date, the recommendations of the council shall be deemed to be approved.

NEW SECTION. Sec. 4. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.15 RCW a new section to read as follows:

The council for postsecondary education shall determine and transmit amounts constituting approved educational costs to the several boards of regents and trustees of the state institutions of higher education by November 10 of each even-numbered year. General tuition fees and operating fees shall be based on such costs in accordance with the provisions of this chapter.

Sec. 5. Section 28B.15.100, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.100 are each amended to read as follows:

(1) The board of regents or board of trustees at each of the state's regional and state universities and at The Evergreen State College shall charge to and collect from each of the students registering at the particular institution for any quarter or semester such general tuition fees, operating fees, services and activities fees, and other fees as such board shall in its discretion determine, the total of all such fees, the general tuition fee, operating fee, and services and activities fee, to be rounded-out to the nearest whole dollar amount: PROVIDED, That such general tuition fees and operating fees for other than summer session quarters or semesters shall be in the amounts for the respective institutions as otherwise set forth in this chapter, as now or hereafter amended: PROVIDED FURTHER, That the fees charged by boards of trustees of community college districts shall be in the amounts for the respective institutions as otherwise set forth in this chapter, as now or hereafter amended.

(2) Part time students shall be charged general tuition, operating, and services and activities fees proportionate to full time student rates established for residents and nonresidents: PROVIDED, That residents of Idaho or Oregon who are enrolled in community college district number twenty for six or fewer credits during any quarter or semester may be allowed to enroll at resident tuition and fee rates upon a declaration by the council for postsecondary education that it finds Washington residents from such community college district are afforded substantially equivalent treatment by such other states or that, until June 30, 1983, it is in the interest of the residents of such community college district to authorize the exchange of educational opportunities between Washington and other such states on a resident tuition and fee basis.

NEW SECTION. Sec. 6. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.15 RCW a new section to read as follows:

General tuition fees, operating fees, and services and activities fees at the University of Washington and at Washington State University for other than summer quarters or semesters shall be as follows: PROVIDED, That increases in tuition and fee rates for the 1981 summer session shall reflect the increases set forth below for the 1981-82 academic year:

(1) For full time resident undergraduate students and all other full time resident students not in graduate study programs or enrolled in programs

leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total of general tuition and operating fees for the 1981-82 academic year shall be nine hundred and twenty-one dollars, and for the 1982-83 academic year shall be one thousand and thirty-eight dollars, and thereafter such fees shall be one-third of the per student educational costs at the state universities computed as provided in sections 2 and 3 of this amendatory act: **PROVIDED**, That the general tuition fee for each academic year shall be one hundred and twenty dollars.

(2) For full time resident graduate students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total of general tuition and operating fees for the 1981-82 academic year shall be one thousand one hundred and one dollars, and for the 1982-83 academic year shall be one thousand two hundred and forty-eight dollars, and thereafter such fees shall be one hundred and twenty percent of such fees charged in subsection (1) above: **PROVIDED**, That the general tuition fee for each academic year shall be one hundred and twenty dollars.

(3) For full time resident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total of general tuition and operating fees for the 1981-82 academic year shall be one thousand seven hundred and ninety-one dollars, and for the 1982-83 academic year shall be two thousand and seventy-nine dollars, and thereafter such fees shall be two hundred percent of such fees charged in subsection (1) above: **PROVIDED**, That the general tuition fee for each academic year shall be three hundred and forty-two dollars.

(4) For full time nonresident undergraduate students and such other full time nonresident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, or doctor of veterinary medicine, the total of general tuition and operating fees for the 1981-82 academic year shall be two thousand nine hundred and ten dollars, and for the 1982-83 academic year shall be three thousand one hundred and seventeen dollars, and thereafter such fees shall be one hundred percent of the per student educational costs at the state universities computed as provided in sections 2 and 3 of this amendatory act: **PROVIDED**, That the general tuition fee for each academic year shall be three hundred and fifty-four dollars.

(5) For full time nonresident graduate students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total of general tuition and operating fees for the 1981-82 academic year shall be three thousand four hundred and sixty-two dollars, and for the 1982-83 academic year shall be three thousand seven hundred and forty-one dollars, and thereafter such fees shall be one hundred and twenty percent of such fees charged in subsection (4)

above: PROVIDED, That the general tuition fee for each academic year shall be three hundred and fifty-four dollars.

(6) For full time nonresident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total of general tuition and operating fees for the 1981-82 academic year shall be five thousand five hundred and ninety-two dollars, and for the 1982-83 academic year shall be six thousand two hundred and thirty-seven dollars, and thereafter such fees shall be two hundred percent of such fees charged in subsection (4) above: PROVIDED, That the general tuition fee for each academic year shall be five hundred and fifty-five dollars.

(7) The boards of regents of each of the state universities shall charge and collect equally from each of the students registering at the particular institution and included in subsections (1) through (6) hereof a services and activities fee which for each year of the 1981-83 biennium shall not exceed one hundred and thirty-eight dollars. In subsequent biennia the board of regents may increase the existing fee, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the percentage increase in tuition and operating fees authorized in subsection (1) above: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

NEW SECTION. Sec. 7. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.15 RCW a new section to read as follows:

General tuition fees, operating fees, and services and activities fees at the regional universities and The Evergreen State College for other than summer quarters or semesters shall be as follows: PROVIDED, That increases in tuition and fee rates for the 1981 summer session shall reflect the increases set forth below for the 1981-82 academic year:

(1) For full time resident undergraduate students and all other full time resident students not in graduate study programs, the total of general tuition and operating fees for the 1981-82 academic year shall be six hundred eighty-two dollars and fifty cents, and for the 1982-83 academic year shall be seven hundred fifty-seven dollars and fifty cents, and thereafter such fees shall be one-fourth of the per student educational costs at the regional universities computed as provided in sections 2 and 3 of this amendatory act: PROVIDED, That the general tuition fee for each academic year shall be seventy-six dollars and fifty cents.

(2) For full time resident graduate students, the total of general tuition and operating fees for the 1981-82 academic year shall be eight hundred eleven dollars and fifty cents, and for the 1982-83 academic year shall be nine hundred seven dollars and fifty cents, and thereafter such fees shall be

one hundred and twenty percent of such fees charged in subsection (1) above: PROVIDED, That the general tuition fee for each academic year thereafter shall be seventy-six dollars and fifty cents.

(3) For full time nonresident undergraduate students and all other full time nonresident students not in graduate study programs, the total of general tuition and operating fees for the 1981-82 academic year shall be two thousand seven hundred twenty-five dollars and fifty cents, and for the 1982-83 academic year shall be three thousand twenty-five dollars and fifty cents, and thereafter such fees shall be one hundred percent of the per student educational costs at the regional universities computed as provided in sections 2 and 3 of this amendatory act: PROVIDED, That the general tuition fee for each academic year shall be two hundred and ninety-five dollars and fifty cents.

(4) For full time nonresident graduate students, the total of general tuition and operating fees for the 1981-82 academic year shall be three thousand two hundred fifty dollars and fifty cents, and for the 1982-83 academic year shall be three thousand six hundred thirty-one dollars and fifty cents, and thereafter such fees shall be one hundred and twenty percent of such fees charged in subsection (3) above: PROVIDED, That the general tuition fee for each academic year shall be two hundred and ninety-five dollars and fifty cents.

(5) The boards of trustees of each of the regional universities and The Evergreen State College shall charge and collect equally from each of the students registering at the particular institution and included in subsections (1) through (4) hereof a services and activities fee which for each year of the 1981-83 biennium shall not exceed one hundred eighty-four dollars and fifty cents. In subsequent biennia the board of trustees may increase the existing fee, consistent with budgeting procedures set forth in RCW 28B.15-.045, by a percentage not to exceed the percentage increase in tuition and operating fees authorized in subsection (1) above: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

NEW SECTION. Sec. 8. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.15 RCW a new section to read as follows:

General tuition fees, operating fees and services and activities fees at each community college other than at summer quarters shall be as follows: PROVIDED, That increases in tuition and fee rates for the 1981 summer session shall reflect the increases set forth below for the 1981-82 academic year:

(1) For full time resident students, the total of general tuition and operating fees for the 1981-82 academic year shall be four hundred six dollars and fifty cents, and for the 1982-83 academic year shall be four hundred

fifty-four dollars and fifty cents, and thereafter such fees shall be twenty-three percent of the per student educational costs at the community colleges computed as provided in sections 2 and 3 of this amendatory act: **PROVIDED**, That the general tuition fee for each academic year shall be one hundred and twenty-seven dollars and fifty cents.

(2) For full time nonresident students, the total of general tuition and operating fees for the 1981-82 academic year shall be one thousand seven hundred sixty-five dollars and fifty cents, and for the 1982-83 academic year shall be one thousand nine hundred seventy-two dollars and fifty cents, and thereafter such fees shall be one hundred percent of the per student educational costs at the community colleges computed as provided in sections 2 and 3 of this amendatory act: **PROVIDED**, That the general tuition fee for each academic year shall be four hundred and three dollars and fifty cents.

(3) The boards of trustees of each of the state community colleges shall charge and collect equally from each of the students registering at the particular institution and included in subsections (1) and (2) hereof a services and activities fee which for each year of the 1981-83 biennium shall not exceed sixty-four dollars and fifty cents. In subsequent biennia the board of trustees may increase the existing fee, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the percentage increase in tuition and operating fees authorized in subsection (1) above: **PROVIDED**, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(4) General tuition, operating fees and services and activities fees consistent with the above schedule will be fixed by the state board for community colleges for summer school students.

The board of trustees shall charge such fees for ungraded courses, non-credit courses, community services courses, and short courses as it, in its discretion, may determine, not inconsistent with the rules and regulations of the state board for community college education.

NEW SECTION. Sec. 9. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.15 RCW a new section to read as follows:

(1) Each institution of higher education shall deposit two and one-half percent of revenues collected from tuition, operating, and services and activities fees in an institutional long-term loan fund which is hereby created and which shall be held locally. Moneys in such fund shall be used to make guaranteed loans to eligible students.

(2) An "eligible student" for the purposes of this section is a student registered for at least six credit hours or the equivalent, who is a "resident

student" as defined in RCW 28B.15.012, and who is a "needy student" as defined in RCW 28B.10.802.

(3) The amount of the loans made under subsection (1) of this section shall not exceed the demonstrated financial need of the student. Each institution shall establish loan terms and conditions which shall be consistent with the terms of the guaranteed loan program established by 20 U.S. Code Section 1071 et. seq., as now or hereafter amended. All loans made shall be guaranteed by the Washington student loan guaranty association or its successor agency. Institutions are hereby granted full authority to operate as an eligible lender under the guaranteed loan program.

(4) Each institution is responsible for collection of loans made under subsection (1) of this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Institutions shall cooperate with other lenders and the Washington student loan guaranty association, or its successor agency, in the coordinated collection of guaranteed loans, and shall assure that the guarantability of the loans is not violated. Collection and servicing of loans under subsection (1) of this section shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency: PROVIDED, That institutions be permitted to perform such servicing if specifically recognized to do so by the Washington student loan guaranty association or its successor agency. Collection and servicing of loans made by community colleges under subsection (1) of this section shall be coordinated by the state board for community college education and shall be conducted under procedures adopted by such state board.

(5) Receipts from payment of interest or principle or any other subsidies to which institutions as lenders are entitled, which are paid by or on behalf of borrowers of funds under subsection (1) of this section, shall be deposited in each institution's general local fund and shall be used to cover the costs of making the loans under subsection (1) of this section and maintaining necessary records and making collections under subsection (4) of this section: PROVIDED, That such costs shall not exceed five percent of aggregate outstanding loan principle. Institutions shall maintain accurate records of such costs, and all receipts beyond those necessary to pay such costs, shall be used for the support of the institution's operating budget.

(6) The boards of regents of the state universities, the boards of trustees of the regional universities and The Evergreen State College, and the state board for community college education, on behalf of the community colleges, shall each adopt necessary rules and regulations to implement this section.

(7) Lending activities under this section shall be directed toward students who would not normally have access to educational loans from private

financial institutions in Washington state, and maximum use shall be made of secondary markets in the support of loan consolidation.

NEW SECTION. Sec. 10. Notwithstanding any other provision of this amendatory act, the boards of regents and trustees of the respective institutions of higher education shall set aside from tuition and fees charged in each schedule an amount heretofore pledged and necessary for the purposes of bond retirement until such time as any such debt has been satisfied.

NEW SECTION. Sec. 11. The following acts or parts hereof are each hereby repealed:

(1) Section 1, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.060;

(2) Section 8, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.075;

(3) Section 3, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.201;

(4) Section 4, chapter 322, Laws of 1977 ex. sess. and RCW 28B.15.401; and

(5) Section 28B.15.500, chapter 223, Laws of 1969 ex. sess., section 10, chapter 279, Laws of 1971 ex. sess., section 5, chapter 322, Laws of 1977 ex. sess., section 1, chapter ... [Substitute House Bill No. 520], Laws of 1981 and RCW 28B.15.500.

NEW SECTION. Sec. 12. This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 13. If any provision of this amendatory 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 April 26, 1981.

Passed the House April 25, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 258

[Substitute Senate Bill No. 4131]

CRIMES INVOLVING FIREARMS

AN ACT Relating to crimes involving firearms; and amending section 1, chapter 175, Laws of 1969 ex. sess. and RCW 9.41.025.

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

Section 1. Section 1, chapter 175, Laws of 1969 ex. sess. and RCW 9.41.025 are each amended to read as follows:

Any person who shall commit or attempt to commit any felony, including but not limited to assault in the first degree, rape in the first degree, burglary in the first degree, robbery in the first degree, riot, or any other felony which includes as an element of the crime the fact that the accused was armed with a firearm, or any misdemeanor or gross misdemeanor categorized herein as inherently dangerous, while armed with, or in the possession of any firearm, shall upon conviction, in addition to the penalty provided by statute for the crime committed without use or possession of a firearm, be imprisoned as herein provided:

(1) For the first offense the (~~offender shall be guilty of a felony and the~~) court shall impose a sentence of not less than five years, which sentence shall not be suspended or deferred;

(2) For a second offense, or if, in the case of a first conviction of violation of any provision of this section, the offender shall previously have been convicted of violation of the laws of the United States or of any other state, territory, or district relating to the use or possession of a firearm while committing or attempting to commit a crime, the offender (~~shall be guilty of a felony and~~) shall be imprisoned for not less than seven and one-half years, which sentence shall not be suspended or deferred;

(3) For a third or subsequent offense, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the law of the United States or of any other state, territory, or district relating to the use or possession of a firearm while committing or attempting to commit a crime, the offender (~~shall be guilty of a felony and~~) shall be imprisoned for not less than fifteen years, which sentence shall not be suspended or deferred;

(4) Misdemeanors or gross misdemeanors categorized as "inherently dangerous" as the term is used in this statute means any of the following crimes or an attempt to commit any of the same: (~~Assault in the third degree, provoking an assault, interfering with a public officer, disturbing a meeting, riot, remaining after warning, obstructing firemen, petit larceny, injury to property, intimidating a public officer, shoplifting, indecent liberties, and soliciting~~) Simple assault, coercion, escape in the third degree, obstructing a public servant, theft in the third degree, resisting arrest, and communication with a minor for immoral purposes.

(5) If any person shall resist apprehension or arrest by firing upon a law enforcement officer, such person shall in addition to the penalty provided by

statute for resisting arrest, be guilty of a felony and punished by imprisonment for not less than ten years, which sentence shall not be suspended or deferred.

Passed the Senate March 18, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 259

[Engrossed Substitute Senate Bill No. 3704]

DISCRIMINATION—COMPLAINTS, ADJUDICATION—CITIES, ADMINISTRATIVE REMEDIES

AN ACT Relating to state government; amending section 16, chapter 270, Laws of 1955 as amended by section 17, chapter 37, Laws of 1957 and RCW 49.60.240; amending section 17, chapter 270, Laws of 1955 as amended by section 18, chapter 37, Laws of 1957 and RCW 49.60.250; amending section 21, chapter 37, Laws of 1957 as amended by section 118, chapter 81, Laws of 1971 and RCW 49.60.260; amending section 22, chapter 37, Laws of 1957 and RCW 49.60.270; adding a new section to chapter 49.60 RCW; repealing section 19, chapter 37, Laws of 1957 and RCW 49.60.255; and repealing section 24, chapter 37, Laws of 1957 and RCW 49.60.290.

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

Section 1. Section 16, chapter 270, Laws of 1955 as amended by section 17, chapter 37, Laws of 1957 and RCW 49.60.240 are each amended to read as follows:

After the filing of any complaint, the chairman of the board shall refer it to the appropriate section of the board's staff for prompt investigation and ascertainment of the facts alleged in the complaint. The investigation shall be limited to the alleged facts contained in the complaint. The results of the investigation shall be reduced to written findings of fact, and a finding shall be made that there is or that there is not reasonable cause for believing that an unfair practice has been or is being committed. A copy of said findings shall be furnished to the complainant and to the person named in such complaint, hereinafter referred to as the respondent.

If the finding is made that there is reasonable cause for believing that an unfair practice has been or is being committed, the board's staff shall immediately endeavor to eliminate the unfair practice by conference, conciliation and persuasion.

If an agreement is reached for the elimination of such unfair practice as a result of such conference, conciliation and persuasion, the agreement shall be reduced to writing and signed by the respondent, and an order shall be entered by the board setting forth the terms of said agreement. No order shall be entered by the board at this stage of the proceedings except upon such written agreement.

If no such agreement can be reached, a finding to that effect shall be made and reduced to writing, with a copy thereof furnished to the complainant and the respondent.

Sec. 2. Section 17, chapter 270, Laws of 1955 as amended by section 18, chapter 37, Laws of 1957 and RCW 49.60.250 are each amended to read as follows:

In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to the chairman of the board. The chairman of the board shall thereupon ~~((appoint a hearing tribunal of three persons, who shall be members of the board or a panel of hearing examiners, acting in the name of the board,))~~ request the appointment of an administrative law judge under Title 34 RCW to hear the complaint and shall cause to be issued and served in the name of the board a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before ((such tribunal)) the administrative law judge, at a time and place to be specified in such notice.

The place of any such hearing may be the office of the board or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the board: PROVIDED, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the board who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall he participate in the deliberations of the ~~((tribunal))~~ administrative law judge in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

The respondent may file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine the complainant.

The ~~((tribunal))~~ administrative law judge conducting any hearing may permit reasonable amendment to any complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

If, upon all the evidence, the ~~((tribunal))~~ administrative law judge finds that the respondent has engaged in any unfair practice ~~((it))~~, the administrative law judge shall state ~~((its))~~ findings of fact and shall issue and file with the board and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair practice and to take such affirmative action, including, (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, an admission or restoration to full membership rights in any respondent organization,

or to take such other action as, in the judgment of the ~~((tribunal))~~ administrative law judge, will effectuate the purposes of this chapter, and including a requirement for report of the matter on compliance.

If, upon all the evidence, the ~~((tribunal))~~ administrative law judge finds that the respondent has not engaged in any alleged unfair practice, ~~((it))~~ the administrative law judge shall state ~~((its))~~ findings of fact and shall similarly issue and file an order dismissing the complaint.

An order dismissing a complaint may include an award of reasonable attorneys' fees in favor of the respondent if the administrative law judge concludes that the complaint was frivolous, unreasonable, or groundless.

The board shall establish rules of practice to govern, expedite and effectuate the foregoing procedure.

Sec. 3. Section 21, chapter 37, Laws of 1957 as amended by section 118, chapter 81, Laws of 1971 and RCW 49.60.260 are each amended to read as follows:

(1) The board shall petition the court within the county wherein any unfair practice occurred or wherein any person charged with an unfair practice resides or transacts business, for the enforcement of any order which is not complied with and is issued by ~~((a tribunal))~~ an administrative law judge under the provisions of this chapter and for appropriate temporary relief or a restraining order, and shall certify and file in court a transcript of the entire record of the proceedings, including the pleadings and testimony upon which such order was made and the finding and orders of the ~~((hearing tribunal))~~ administrative law judge. Within five days after filing such petition in court the board shall cause a notice of the petition to be sent by registered mail to all parties or their representatives.

The court shall have jurisdiction of the proceedings and of the questions determined thereon, and shall have the power to issue such orders and grant such relief by injunction or otherwise, including temporary relief, as it deems just and suitable and to make and enter, upon the pleadings, testimony and proceedings set forth in such transcript, a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part any order of the board or ~~((hearing tribunal))~~ administrative law judge.

(2) The findings of the ~~((hearing tribunal))~~ administrative law judge as to the facts, if supported by substantial and competent evidence shall be conclusive. The court, upon its own motion or upon motion of either of the parties to the proceeding, may permit each party to introduce such additional evidence as the court may believe necessary to a proper decision of the cause.

(3) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to a review by the supreme court or the court of appeals, on appeal, by either party, irrespective of the nature of the decree or judgment. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is

provided in other cases of appeal to the supreme court or the court of appeals, and the record so certified shall contain all that was before the lower court.

Sec. 4. Section 22, chapter 37, Laws of 1957 and RCW 49.60.270 are each amended to read as follows:

Any respondent or complainant aggrieved by a final order of (~~a hearing tribunal~~) an administrative law judge may obtain a review of such order in the superior court for the county where the unfair practice is alleged to have occurred or in the county wherein such person resides or transacts business by filing with the clerk of the court, within two weeks from the date of receipt of such order, a written petition in duplicate praying that such order be modified or set aside. The clerk shall thereupon mail the duplicate copy to the board. The board shall then cause to be filed in the court a certified transcript of the entire record in the proceedings, including the pleadings, testimony and order. Upon such filing the court shall proceed in the same manner as in the case of a petition by the board and shall have the same exclusive jurisdiction to grant to any party such temporary relief or restraining order as it deems just and suitable, and in like manner to make and enter a decree enforcing or modifying and enforcing as so modified or setting aside, in whole or in part, the order sought to be reviewed.

Unless otherwise directed by the court, commencement of review proceedings under this section shall operate as a stay of any order.

NEW SECTION. Sec. 5. There is added to chapter 49.60 RCW a new section to read as follows:

Any city classified as a first class city under RCW 35.01.010 with over one hundred twenty five thousand population may enact ordinances consistent with this chapter to provide administrative remedies for any form of discrimination prescribed by this chapter: **PROVIDED**, That the imposition of such administrative remedies shall be subject to judicial review.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

- (1) Section 19, chapter 37, Laws of 1957 and RCW 49.60.255; and
- (2) Section 24, chapter 37, Laws of 1957 and RCW 49.60.290.

NEW SECTION. Sec. 7. Sections 2, 3, 4 and 5 of this 1981 act shall take effect upon the enactment of House Bill 101, 1981 Regular Session.

Passed the Senate April 24, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.