

**1989**  
**SESSION LAWS**  
OF THE  
**STATE OF WASHINGTON**

REGULAR SESSION  
FIFTY-FIRST LEGISLATURE  
Convened January 9, 1989. Adjourned April 23, 1989.

1st EXTRAORDINARY SESSION  
FIFTY-FIRST LEGISLATURE  
Convened April 24, 1989. Adjourned May 10, 1989.

2nd EXTRAORDINARY SESSION  
FIFTY-FIRST LEGISLATURE  
Convened May 17, 1989. Adjourned May 20, 1989.



Published at Olympia by the Statute Law Committee pursuant to Chapter 6, Laws of 1969.

DENNIS W. COOPER  
Code Reviser

**WASHINGTON SESSION LAWS  
GENERAL INFORMATION**

**1. EDITIONS AVAILABLE.**

- (a) *General Information.* The session laws are printed successively in two editions:
- (i) a temporary pamphlet edition consisting of a series of one or more paper bound pamphlets, which are published as soon as possible following the session, at random dates as accumulated; followed by
  - (ii) a permanent bound 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 \$5.39 per set (\$5.00 plus \$.39 for state and local sales tax of 7.8%). All orders must be accompanied by payment.
- (c) *Permanent bound edition — when and how obtained — price.* The two-volume set of the permanent bound edition of the 1989 session laws may be ordered from the State Law Librarian, Temple of Justice, Olympia, Washington 98504 for \$43.12 (\$20.00 for each volume plus \$3.12 for state and local sales tax of 7.8%). All orders must be accompanied by payment.

**2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER**

Both editions of the session laws present the laws in the form in which they were 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 in the session laws pursuant to the authority of RCW 44.20.060 are enclosed in brackets [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 1989 regular session to be July 23, 1989 (midnight July 22). The pertinent date for the Laws of the 1989 1st Extraordinary Session is August 9, 1989 (midnight August 8). The pertinent date for the Laws of the 1989 2nd Extraordinary Session is August 19, 1989 (midnight August 18).
- (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**

A cumulative index and tables of all 1989 laws may be found at the back of the final pamphlet edition and the permanent bound edition.

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## CHAPTER 300

[House Bill No. 1253]

## NURSING ASSISTANTS—EXAMINATION AND REGISTRATION

AN ACT Relating to nursing assistants; amending RCW 18.52A.030, 18.52A.040, 18.52B.010, 18.52B.020, 18.52B.030, 18.52B.040, 18.52B.060, 18.52B.070, 18.52B.090, 18.52B.100, 18.52B.130, 18.52B.140, and 18.52A.020; reenacting and amending RCW 18.120.020; recodifying RCW 18.52B.010, 18.52B.020, 18.52B.030, 18.52B.040, 18.52B.060, 18.52B.070, 18.52B.090, 18.52B.100, 18.52B.130, and 18.52B.140; and repealing RCW 18.52A.060.

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

Sec. 1. Section 3, chapter 114, Laws of 1979 as last amended by section 20, chapter 267, Laws of 1988 and RCW 18.52A.030 are each amended to read as follows:

(1) Any nursing assistant employed by a nursing home, who has satisfactorily completed a nursing assistant training program under this chapter, shall, upon application, be issued a verification of completion by the program provider.

(2) All nursing assistants employed by a nursing home shall be required to be registered with the department of licensing and to show evidence of satisfactory completion of a nursing assistant training program, or that they are enrolled in and are progressing satisfactorily towards completion of a training program under standards promulgated by the board, which program must be completed within ~~((six))~~ four months of employment. A nursing home may employ a person not currently enrolled if the employer within twenty days enrolls the person in an approved training program: PROVIDED, That a nursing home shall not assign an assistant to provide resident care until the assistant has demonstrated skills necessary to perform assigned duties and responsibilities competently. All persons enrolled in a training program must satisfactorily complete the program within ~~((six))~~ four months from the date of initial employment.

(3) Compliance with this section shall be a condition of licensure of nursing homes under chapter 18.51 RCW. Beginning January 1, 1986, compliance with this section shall be a condition of licensure of hospitals licensed under chapter 70.41 RCW with a wing certified to provide nursing home care under Title XVIII or Title XIX of the social security act. Any health provider of skilled nursing facility care or intermediate care facility care shall meet the requirements of this section.

Sec. 2. Section 4, chapter 114, Laws of 1979 and RCW 18.52A.040 are each amended to read as follows:

(1) The board shall establish minimum curriculum standards and approve or disapprove curriculum used in nursing assistant training programs. ~~((The standards shall include, as a minimum, instruction in patient environment, patients' psychosocial needs, aseptic technique, personal hygiene,~~

~~excretory systems, basic nursing procedures, food service, and fire safety, consisting of at least twenty-five classroom hours and at least fifty hours of supervised and on-the-job training clinical practice. The fifty hours may consist of employment as nurse assistants under supervision of a registered nurse:))~~

(2) For nursing assistant training programs conducted by nursing homes, the board shall adopt additional minimum standards covering non-curriculum matters such as, but not limited to, staffing and teacher qualifications. Of the standards adopted by the board, nursing assistant training programs conducted by publicly supported schools, and private educational institutions accredited by the northwest association of schools and colleges, shall be required to meet only those standards established under subsection (1) of this section.

(3) The board shall periodically review the nursing assistant training programs conducted by nursing homes. Upon completion of the review, the board shall approve or disapprove each program.

(4) The superintendent of public instruction and the state board for community college education shall periodically review with the board the nursing assistant training programs conducted by publicly supported schools within the agencies' respective jurisdictions. Upon completion of the review, the board shall approve or disapprove each program, and graduates of such approved programs shall automatically be certified.

Sec. 3. Section 1, chapter 267, Laws of 1988 and RCW 18.52B.010 are each amended to read as follows:

The legislature takes special note of the contributions made by nursing assistants in ~~((nursing homes))~~ health care facilities whose tasks are arduous and whose working conditions may be contributing to the high and often critical turnover among the principal cadre of health care workers who provide for the basic needs of ~~((long-term care))~~ patients. The legislature also recognizes the growing shortage of nurses ~~((in long-term care))~~ as the proportion of the elderly population grows and as the acuity of patients in hospitals and nursing homes becomes generally more severe.

The legislature finds and declares that occupational nursing assistants should have a formal system of educational and experiential qualifications leading to career mobility and advancement. The establishment of such a system should bring about a more stabilized work force in ~~((the nursing home setting))~~ health care facilities, as well as provide a valuable resource for recruitment into licensed nursing practice.

The legislature declares that the registration of nursing assistants and providing for voluntary certification of those who wish to seek higher levels of qualification is in the interest of the public health, safety, and welfare.

Sec. 4. Section 2, chapter 267, Laws of 1988 and RCW 18.52B.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 licensing.

(2) "Director" means the director of licensing or the director's designee.

(3) "Board" means the Washington state board of nursing.

(4) "Nursing assistant—certified" means an individual certified under this chapter.

(5) "Nursing assistant—registered" means an individual registered under this chapter.

(6) "Committee" means the Washington state nursing assistant advisory committee.

(7) "Certification program" means an educational program approved by the superintendent of public instruction or the state board for community college education in consultation with the board, and offered by or under the administration of an accredited educational institution, either at a school site or a ((nursing home)) health care facility site. A program shall be offered at or near a ((nursing home)) health care facility site only if the ((nursing home)) health care facility can provide adequate classroom and clinical facilities.

(8) (~~"Registration program" means a nursing assistant training program as defined under chapter 18.52A RCW.~~

~~(9) "Nursing home" means a facility licensed under chapter 18.51 RCW.)~~ "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or other entity for delivery of health care services.

Sec. 5. Section 3, chapter 267, Laws of 1988 and RCW 18.52B.030 are each amended to read as follows:

(1) A nursing assistant(~~(=registered))~~) may assist in the care of patients under the direction and supervision of a licensed (registered) nurse or licensed practical nurse, provided that a ((nursing home)) health care facility shall not assign an assistant to provide ((resident)) patient care until the assistant has demonstrated skill necessary to perform assigned duties and responsibilities competently. Nothing in this chapter shall be construed as conferring on a nursing assistant the authority to administer medication or to practice as a licensed (registered) nurse or licensed practical nurse.

(2) A nursing assistant—certified may assist in the care of the ill, injured, or infirm under the direction and supervision of a licensed (registered) nurse or licensed practical nurse except that a nursing assistant—certified may not administer medication or practice as a licensed (registered) nurse as defined in chapter 18.88 RCW or licensed practical nurse as defined in chapter 18.78 RCW.

~~((3) The board may further define by rule the scope of practice and minimum competencies of nursing assistants—certified in consultation with the nursing assistant advisory committee.))~~

Sec. 6. Section 4, chapter 267, Laws of 1988 and RCW 18.52B.040 are each amended to read as follows:

(1) No person may practice or represent himself or herself as a nursing assistant(~~—registered~~) by use of any title or description without being registered by the department pursuant to this chapter, unless exempt under RCW 18.52B.050.

(2) After January 1, 1990, no person may represent himself or herself as a nursing assistant—certified without applying for certification, meeting the qualifications, and being certified by the department pursuant to this chapter.

Sec. 7. Section 6, chapter 267, Laws of 1988 and RCW 18.52B.060 are each amended to read as follows:

In addition to any other authority provided by law, the director has the authority to:

(1) Set all certification, registration, and renewal fees in accordance with RCW 43.24.086 and to collect and deposit all such fees in the health professions account established under RCW 43.24.072;

(2) Establish forms and procedures necessary to administer this chapter;

(3) Hire clerical, administrative, and investigative staff as needed to implement this chapter;

(4) Issue a registration to any applicant who has met the requirements for registration;

(5) After January 1, 1990, issue a certificate to any applicant who has met the education, training, and conduct requirements for certification;

(6) Maintain the official record for the department of all applicants and persons with registrations and certificates;

(7) Conduct a hearing on an appeal of a denial of a registration or a certificate based on the applicant's failure to meet the minimum qualifications for certification. The hearing shall be conducted under chapter ~~((34.04))~~ 34.05 RCW;

(8) Issue subpoenas, statements of charges, statements of intent to deny certification, and orders and to delegate in writing to a designee the authority to issue subpoenas, statements of charges, and statements of intent to deny certification.

The uniform disciplinary act, chapter 18.130 RCW, governs unregistered or uncertified practice, issuance of certificates and registration, and the discipline of persons registered or with certificates under this chapter. The director shall be the disciplinary authority under this chapter.



Sec. 8. Section 7, chapter 267, Laws of 1988 and RCW 18.52B.070 are each amended to read as follows:

In addition to any other authority provided by law, the state board of nursing has the authority to:

(1) Determine minimum education requirements and approve (~~(registration)~~) certification programs (according to chapter 18.52A RCW);

(2) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations of training and competency for applicants for certification;

(3) Determine whether alternative methods of training are equivalent to formal education, and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take any qualifying examination for certification;

~~((5))~~ (4) Define and approve any experience requirement for certification;

~~((6))~~ (5) Adopt rules implementing a continuing competency evaluation program;

(6) Adopt rules to enable it to carry into effect the provisions of this chapter.

Sec. 9. Section 9, chapter 267, Laws of 1988 and RCW 18.52B.090 are each amended to read as follows:

(1) The director has the authority to appoint an advisory committee to the state board of nursing and the department to further the purposes of this chapter. The committee shall be composed of ten members, two members initially appointed for a term of one year, three for a term of two years, and four for a term of three years. Subsequent appointments shall be for terms of three years. No person may serve as a member of the committee for more than two consecutive terms. The committee shall consist of: A nursing assistant certified under this chapter, a (~~(director of nursing in a))~~ representative of nursing homes, a representative of the office of the superintendent of public instruction, a representative of the state board of community college education, a representative of the department of social and health services responsible for aging and adult services in nursing homes, a consumer of nursing assistant services who shall not be or have been a member of any other licensing board or committee; nor a licensee of any health occupation board, an employee of any health care facility, nor derive primary livelihood from the provision of health services at any level of responsibility, ((a resident of a nursing home;)) a representative of (~~(a local long-term care ombudsman program))~~ an acute care hospital, a representative of home health care, and one member who is a licensed (registered) nurse and one member who is a licensed practical nurse.

(2) The director may remove any member of the advisory committee for cause as specified by rule. In the case of a vacancy, the director shall appoint a person to serve for the remainder of the unexpired term.

(3) The advisory committee shall meet at the times and places designated by the director or the board and shall hold meetings during the year as necessary to provide advice to the director.

Sec. 10. Section 10, chapter 267, Laws of 1988 and RCW 18.52B.100 are each amended to read as follows:

(1) The director shall issue a registration to any applicant who submits, on forms provided by the director, the applicant's name, address, ~~((occupational title, name and location of business,))~~ and other information as determined by the director, including information necessary to determine whether there are grounds for denial of registration or issuance of a conditional registration under this chapter or chapter 18.130 RCW.

(2) After January 1, 1990, the director shall issue a certificate to any applicant who demonstrates to the director's satisfaction that the following requirements have been met:

(a) Completion of an educational program approved by the board or successful completion of alternate training meeting established criteria approved by the board;

(b) Successful completion of an approved examination; and

(c) Successful completion of any experience requirement established by the board.

~~((4))~~ (3) In addition, applicants shall be subject to the grounds for denial of registration or certificate under chapter 18.130 RCW.

Sec. 11. Section 13, chapter 267, Laws of 1988 and RCW 18.52B.130 are each amended to read as follows:

(1) The date and location of examinations shall be established by the director. Applicants who have been found by the director to meet the requirements for certification shall be scheduled for the next examination following the filing of the application. The director shall establish by rule the examination application deadline.

(2) The board shall examine each applicant, by ~~((means determined most effective, on subjects appropriate to the scope of practice, as applicable))~~ a written or oral and a manual component of competency evaluation. Examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of ~~((any practical work))~~ skills demonstration shall be preserved for a period of not less than one year after the board has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the director under RCW 43.24.086 for each subsequent examination. Upon failing four examinations,

the director may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The board may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements.

Sec. 12. Section 15, chapter 267, Laws of 1988 and RCW 18.52B.140 are each amended to read as follows:

The director shall waive the competency examination and certify a person authorized to practice within the state of Washington if the board determines that the person meets commonly accepted standards of education and experience for the ((profession)) nursing assistants. This section applies only to those individuals who file an application for waiver within one year of the establishment of the authorized practice on January 1, 1990.

Sec. 13. Section 2, chapter 114, Laws of 1979 as last amended by section 19, chapter 267, Laws of 1988 and RCW 18.52A.020 are each amended to read as follows:

Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Nursing assistant" means a person registered or certified under chapter ((18.52B)) 18.88A RCW (as recodified by section 15 of this act) who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the care of patients in a facility licensed under chapter 18.51 RCW, a wing of a hospital licensed under chapter 70.41 RCW if the wing is certified to provide nursing home care under Title XVIII or Title XIX of the social security act, or any nursing care facility operated under the direction of the department of veterans affairs.

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

(3) "Nursing home" means a facility licensed under chapter 18.51 RCW, a wing of a hospital licensed under chapter 70.41 RCW if the wing is certified to provide nursing home care under Title XVIII or Title XIX of the social security act, or any nursing care facility operated under the direction of the department of veterans affairs.

(4) "Board" means the state board of nursing.

Sec. 14. Section 21, chapter 267, Laws of 1988 and section 12, chapter 277, Laws of 1988 and RCW 18.120.020 are each reenacted and amended to read as follows:

The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatry under chapter 18.22 RCW; chiropractic under chapters 18.25 and 18.26 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ophthalmologists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71, 18.71A, and 18.72 RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.78 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.88 RCW; occupational therapists licensed pursuant to chapter 18.59 RCW; respiratory care practitioners certified under chapter 18.89 RCW; veterinarians and animal technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; acupuncturists certified under chapter 18.06 RCW; persons registered or certified under chapter 18.19 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and nursing assistants registered or certified under chapter (~~18.88B~~) 18.88A RCW (as recodified by section 15 of this act).

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the

absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

NEW SECTION. Sec. 15. RCW 18.52B.010, 18.52B.020, 18.52B.030, 18.52B.040, 18.52B.060, 18.52B.070, 18.52B.090, 18.52B.100, 18.52B.130, and 18.52B.140 are each recodified as a new chapter in Title 18 RCW to be designated as chapter 18.88A RCW as well as chapter 267, Laws of 1988.

NEW SECTION. Sec. 16. Section 6, chapter 114, Laws of 1979 and RCW 18.52A.060 are each repealed.

Passed the House April 17, 1989.

Passed the Senate April 4, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

**CHAPTER 301**

[Substitute House Bill No. 1221]

**AUCTIONEER AND AUCTION COMPANIES—SALES OF MOTOR VEHICLES—  
LICENSING REQUIREMENTS**

AN ACT Relating to auctioneers selling vehicles; and amending RCW 46.70.011, 46.70.023, 46.70.051, and 46.70.070.

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

Sec. 1. Section 3, chapter 11, Laws of 1979 as last amended by section 1, chapter 287, Laws of 1988 and RCW 46.70.011 are each amended to read as follows:

As used in this chapter:

(1) "Vehicle" means and includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under Title 46 RCW, Motor Vehicles.

(3) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (4) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in new or used motor vehicles, irrespective of whether the motor vehicles are owned by that person. Vehicle dealers shall be classified as follows:

(a) A "motor vehicle dealer" is a vehicle dealer that deals in new or used motor vehicles, or both;

(b) A "mobile home and travel trailer dealer" is a vehicle dealer that deals in mobile homes or travel trailers, or both;

(c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals in motorcycles or vehicles other than motor vehicles or mobile homes and travel trailers or any combination of such vehicles.

(4) The term "vehicle dealer" does not include, nor do the licensing requirements of RCW 46.70.021 apply to, the following persons, firms, associations, or corporations:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under a judgment or order of, any court; or

(b) Public officers while performing their official duties; or

(c) Employees of vehicle dealers who are engaged in the specific performance of their duties as such employees; or

(d) Any person engaged in an isolated sale of a vehicle in which he is the registered or legal owner, or both, thereof; or

(e) Any person, firm, association, corporation, or trust, engaged in the selling of equipment other than vehicles, subject to registration, used for agricultural or industrial purposes; or

(f) A real estate broker licensed under chapter 18.85 RCW, or his authorized representative, who, on behalf of the legal or registered owner of a used mobile home negotiates the purchase, sale, or exchange of the used mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the used mobile home is located and the real estate broker is not acting as an agent, subagent, or representative of a vehicle dealer licensed under this chapter; or

(g) Owners who are also operators of the special highway construction equipment or of the highway construction equipment for which a vehicle license and display vehicle license number plate is required as defined in RCW 46.16.010; or

(h) Any bank, trust company, savings bank, mutual savings bank, savings and loan association, credit union, and any parent, subsidiary, or affiliate thereof, authorized to do business in this state under state or federal law with respect to the sale or other disposition of a motor vehicle owned and used in their business; or with respect to the acquisition and sale or other disposition of a motor vehicle in which the entity has acquired an interest as a lessor, lessee, or secured party.

(5) "Vehicle salesperson" means any person who for any form of compensation sells, auctions, leases with an option to purchase, or offers to sell or to so lease vehicles on behalf of a vehicle dealer.

(6) "Department" means the department of licensing, which shall administer and enforce the provisions of this chapter.

(7) "Director" means the director of licensing.

(8) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles in whole or in part and further includes the terms:

(a) "Distributor," which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new and unused vehicle to vehicle dealers or who maintains factory representatives.

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and further includes any sales promotion organization, whether a person, firm, or corporation,

which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative," which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of their vehicles or for supervising or contracting with their dealers or prospective dealers.

(9) "Established place of business" means a location meeting the requirements of RCW 46.70.023(1) at which a vehicle dealer conducts business in this state.

(10) "Principal place of business" means that dealer firm's business location in the state, which place the dealer designates as their principal place of business.

(11) "Subagency" means any place of business of a vehicle dealer within the state, which place is physically and geographically separated from the principal place of business of the firm or any place of business of a vehicle dealer within the state, at which place the firm does business using a name other than the principal name of the firm, or both.

(12) "Temporary subagency" means a location other than the principal place of business or subagency within the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, auctions, shopping center promotions, tent sales, exhibitions, or similar merchandising ventures.

(13) "Wholesale vehicle dealer" means a vehicle dealer who sells to Washington dealers.

(14) "Retail vehicle dealer" means a vehicle dealer who sells vehicles to the public.

(15) "Listing dealer" means a used mobile home dealer who makes contracts with sellers who will compensate the dealer for obtaining a willing purchaser for the seller's mobile home.

(16) "Auction" means a transaction conducted by means of exchanges between an auctioneer and the members of the audience, constituting a series of oral invitations for offers for the purchase of vehicles made by the auctioneer, offers to purchase by members of the audience, and the acceptance of the highest or most favorable offer to purchase.

(17) "Auction company" means a sole proprietorship, partnership, corporation, or other legal or commercial entity licensed under chapter 18.11 RCW that only sells or offers to sell vehicles at auction or only arranges or sponsors auctions.

Sec. 2. Section 4, chapter 241, Laws of 1986 and RCW 46.70.023 are each amended to read as follows:

(1) An "established place of business" requires a permanent, enclosed commercial building located within the state of Washington easily accessible at all reasonable times. An established place of business shall have an



improved display area of not less than three thousand square feet in or immediately adjoining the building, or a display area large enough to display six or more vehicles of the type the dealer is licensed to sell, whichever area is larger. The business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on at an established place of business in accordance with the terms of all applicable building code, zoning, and other land-use regulatory ordinances. The dealer shall keep the building open to the public so that they may contact the vehicle dealer or the dealer's salespersons at all reasonable times. The books, records, and files necessary to conduct the business shall be kept and maintained at that place. The established place of business shall display an exterior sign with the business name and nature of the business, such as auto sales, permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event may a room or rooms in a hotel, rooming house, or apartment house building or part of a single or multiple-unit dwelling house be considered an "established place of business" unless the ground floor of such a dwelling is devoted principally to and occupied for commercial purposes and the dealer offices are located on the ground floor. A mobile office or mobile home may be used as an office if it is connected to utilities and is set up in accordance with state law. This subsection does not apply to auction companies that do not own vehicle inventory or sell vehicles from an auction yard.

(2) An auction company shall have office facilities within the state. The books, records, and files necessary to conduct the business shall be maintained at the office facilities. All storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. An auction company shall maintain a telecommunications system.

(3) Auction companies shall post their vehicle dealer license at each auction where vehicles are offered, and shall provide the department with the address of the auction at least three days before the auction.

(4) If a dealer maintains a place of business at more than one location or under more than one name in this state, he or she shall designate one location as the principal place of business of the firm, one name as the principal name of the firm, and all other locations or names as subagencies. A subagency license is required for each and every subagency: PROVIDED, That the department may grant an exception to the subagency requirement in the specific instance where a licensed new motor vehicle dealer is unable to locate their used vehicle sales facilities adjacent to or at the established place of business. This exception shall be granted and defined under the promulgation of rules consistent with the Administrative Procedure Act.

~~((3))~~ (5) All vehicle dealers shall maintain ownership or leasehold throughout the license year of the real property from which they do business. The dealer shall provide the department with evidence of ownership or leasehold whenever the ownership changes or the lease is terminated.

~~((4))~~ (6) A subagency shall comply with all requirements of an established place of business, except that auction companies shall comply with the requirements in subsection (2) of this section.

~~((5))~~ (7) A temporary subagency shall meet all local zoning and building codes for the type of merchandising being conducted. The dealer license certificate shall be posted at the location. No other requirements of an established place of business apply to a temporary subagency. Auction companies are not required to obtain a temporary subagency license.

~~((6))~~ (8) A wholesale vehicle dealer shall have office facilities in a commercial building within this state, and all storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. A wholesale vehicle dealer shall maintain a telecommunications system. An exterior sign visible from the nearest street shall identify the business name and the nature of business. A wholesale dealer need not maintain a display area as required in this section. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory, if any, must be physically segregated and clearly identified.

~~((7))~~ (9) A retail vehicle dealer shall be open during normal business hours, maintain office and display facilities in a commercially zoned location or in a location complying with all applicable building and land use ordinances, and maintain a business telephone listing in the local directory. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory shall be physically segregated and clearly identified.

~~((8))~~ (10) A listing dealer need not have a display area if the dealer does not physically maintain any vehicles for display.

~~((9))~~ (11) A subagency license is not required for a mobile home dealer to display an on-site display model, a consigned mobile home not relocated from its site, or a repossessed mobile home if sales are handled from a principal place of business or subagency. A mobile home dealer shall identify on-site display models, repossessed mobile homes, and those consigned at their sites with a sign that includes the dealer's name and telephone number.

~~((10))~~ (12) Every vehicle dealer shall advise the department of the location of each and every place of business of the firm and the name or names under which the firm is doing business at such location or locations. If any name or location is changed, the dealer shall notify the department of such change within ten days. The license issued by the department shall reflect the name and location of the firm and shall be posted in a conspicuous place at that location by the dealer.

~~((11))~~ (13) A vehicle dealer's license shall upon the death or incapacity of an individual vehicle dealer authorize the personal representative of such dealer, subject to payment of license fees, to continue the business for a period of six months from the date of the death or incapacity.

Sec. 3. Section 7, chapter 74, Laws of 1967 ex. sess. as last amended by section 6, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.051 are each amended to read as follows:

(1) After the application has been filed, the fee paid, and bond posted, if required the department shall, if no denial order is in effect and no proceeding is pending under RCW 46.70.180 or 46.70.200, issue the appropriate license, which license, in the case of a vehicle dealer, shall designate the classification of the dealer(~~(-PROVIDED, That nothing shall))~~. Nothing prohibits a vehicle dealer from obtaining licenses for more than one classification, and(~~(-PROVIDED FURTHER, That nothing shall))~~ nothing prevents any vehicle dealer from dealing in other classes of vehicles on an isolated basis.

(2) An auction company licensed under chapter 18.11 RCW may sell at auction all classifications of vehicles under a motor vehicle dealer's license issued under this chapter including motor vehicles, miscellaneous type vehicles, and mobile homes and travel trailers.

*\*Sec. 4. Section 46.70.070, chapter 12, Laws of 1961 as last amended by section 11, chapter 241, Laws of 1986 and RCW 46.70.070 are each amended to read as follows:*

*(1) Except as provided in subsections (2) and (3) of this section, before issuing a vehicle dealer's license, the department shall require the applicant to file with the department a surety bond in the amount of:*

*(a) Fifteen thousand dollars for motor vehicle dealers;*

*(b) 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 fifteen thousand dollars;***

*(c) Five thousand dollars for miscellaneous dealers(~~(-running))~~. The bond shall run to the state, and shall be 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(;).*

*~~((d))~~ (2) Wholesale dealers shall not be required to file a surety bond with the department.*

*(3) Before issuing a motor vehicle dealer's license to an auction company, the department shall require the applicant to file a vehicle dealer's surety bond with the department in the amount of fifteen thousand dollars. The bond shall cover all vehicle sales in the state.*

*(4) Any retail purchaser who (~~shall have~~) has 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~~) may 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))~~ **(5) Except as provided in subsection (3) of this section, 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.**

~~((3))~~ **(6) Vehicle dealers shall maintain a bond for each business location in this state and bond coverage for all temporary subagencies.**

\*Sec. 4 was vetoed, see message at end of chapter.

Passed the House April 18, 1989.

Passed the Senate April 4, 1989.

Approved by the Governor May 11, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1989.

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

"I am returning herewith, without my approval as to section 4, Substitute House Bill No. 1221 entitled:

"AN ACT Relating to auctioneers and auction companies."

An auctioneer, licensed under RCW 18.11, must comply with licensing requirements applicable to regulated "goods". As such, existing statutes require an auctioneer to obtain a vehicle dealer's license, post surety bonds, and acquire a temporary sub-agency license. These licenses ensure that the appropriate measures have been taken to protect consumers in these purchases.

This bill eliminates the temporary sub-agency license requirements, revises place of business requirements, and relaxes dealer licensing and surety bond requirements for auctioneers and auction companies. The changes provide for simplified departmental procedures while adequate consumer protection remains in effect, with one exception.

In reviewing the surety bond requirement, it is not clear why auctioneers selling mobile homes or travel trailers should not be required to post a bond comparable to those required for mobile home and travel trailer dealers. Passage of this section would not provide the public with adequate consumer protection.

With the exception of Section 4, Substitute House Bill No. 1221 is approved."

CHAPTER 302

[Substitute House Bill No. 1305]

LIGHT AND POWER COMPANIES—TAXATION

AN ACT Relating to public utility taxation; amending RCW 82.04.120, 82.16.010, 82.16.050, 82.04.310, 82.16.020, and 82.16.030; reenacting and amending RCW 82.04.120, 82.16.010, and 82.16.050; creating a new section; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. (1) The legislature finds that chapter 9, Laws of 1982 2nd ex. sess. was intended to extend state public utility taxation to electrical energy generated in this state for eventual distribution outside this state. The legislature further finds that chapter 9, Laws of 1982 2nd ex. sess. was held unconstitutional by the Thurston county superior

court in *Washington Water Power v. State of Washington* (memorandum opinion No. 83-2-00977-1). The purpose of Part I of this act is to recognize the effect of that decision by correcting the relevant RCW sections to read as though the legislature had not enacted chapter 9, Laws of 1982 2nd ex. sess., and thereby make clear the effect of subsequent amendments in Part II of this act.

(2) The purpose of Part II of this act is to provide a constitutional means of replacing the revenue lost as a result of the Washington water power decision.

## PART I

Sec. 101. Section 82.04.120, chapter 15, Laws of 1961 as last amended by section 1, chapter 493, Laws of 1987 and RCW 82.04.120 are each amended to read as follows:

"To manufacture" embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles, and the generation or production of electrical energy for resale or consumption outside the state.

"To manufacture" shall not include conditioning of seed for use in planting or activities which consist of cutting, grading, or ice glazing seafood which has been cooked, frozen or canned outside this state.

Sec. 102. Section 82.16.010, chapter 15, Laws of 1961 as last amended by section 1, chapter 226, Laws of 1986 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) "Telegraph business" means the business of affording telegraphic communication for hire.

(7) "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.

(8) "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.

(9) "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.

(10) "Public service business" means any of the businesses defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and (9) 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, except telephone business as defined in RCW 82.04.065. It includes, among others, without limiting the scope hereof: Airplane transportation, boom, dock, ferry, log patrol, pipe line, toll bridge, toll logging road, water transportation and wharf businesses.

(11) "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.

(12) "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(~~(-PROVIDED, That gross income of a light and power business means those amounts or value accruing to a taxpayer from the last distribution of electrical energy which is a taxable event within this state))~~).

(13) 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.

Sec. 103. Section 82.16.050, chapter 15, Laws of 1961 as last amended by section 1, chapter 207, Laws of 1987 and RCW 82.16.050 are each amended to read as follows:

In computing tax there may be deducted from the gross income the following items:

(1) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof: PROVIDED, That this section shall not be construed to exempt service charges which are spread on the property tax rolls and collected as taxes;

(2) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, light and power, gas distribution or other public service businesses which furnish water, electrical energy, gas or any other commodity(~~(-other than electrical energy;))~~) in the performance of public service businesses;

(3) Amounts actually paid by a taxpayer to another person taxable under this chapter as the latter's portion of the consideration due for services furnished jointly by both, if the total amount has been credited to and appears in the gross income reported for tax by the former;

(4) The amount of cash discount actually taken by the purchaser or customer;

(5) The amount of credit losses actually sustained by taxpayers whose regular books of accounts are kept upon an accrual basis;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes;

(8) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from

points of origin outside this state to final destination in this state, with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination; and amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or ship side on tidewater or navigable tributaries thereto from which such commodities are forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations: PROVIDED, That no deduction will be allowed when the point of origin and the point of delivery to such an export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town;

(9) Amounts derived from the production, sale, or transfer of electrical energy for resale or consumption outside the state if the production or generation of such energy is subject to tax under the manufacturing classification of chapter 82.04 RCW: PROVIDED, That the exemption set forth in RCW 82.04.310 shall not be applicable to the generation or production of the electrical energy so produced, sold, or transferred: AND PROVIDED FURTHER, That no credit has been claimed as an offset to taxes imposed under RCW 82.04.240;

(10) Amounts derived from the distribution of water by a nonprofit water association and used for capital improvements by that nonprofit water association;

((+0)) (11) Amounts paid by a sewerage collection business taxable under RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the treatment or disposal of sewage.

## PART II

Sec. 201. Section 82.04.120, chapter 15, Laws of 1961 as last amended by section 101 of this act and RCW 82.04.120 are each reenacted and amended to read as follows:

"To manufacture" embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles(~~(; and the generation or production of electrical energy for resale or consumption outside the state)~~).

"To manufacture" shall not include conditioning of seed for use in planting or activities which consist of cutting, grading, or ice glazing seafood which has been cooked, frozen or canned outside this state.



Sec. 202. Section 82.04.310, chapter 15, Laws of 1961 and RCW 82-.04.310 are each amended to read as follows:

This chapter shall not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of chapter 82.16 RCW including amounts derived from the sale of commodities for which a deduction is allowed under RCW 82.16.050.

Sec. 203. Section 82.16.010, chapter 15, Laws of 1961 as last amended by section 102 of this act and RCW 82.16.010 are each reenacted and 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 and/or for the wheeling of electricity for others.

(6) "Telegraph business" means the business of affording telegraphic communication for hire.

(7) "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.

(8) "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.

(9) "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.

(10) "Public service business" means any of the businesses defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and (9) 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, except telephone business as defined in RCW 82.04.065. It includes, among others, without limiting the scope hereof: Airplane transportation, boom, dock, ferry, log patrol, pipe line, toll bridge, toll logging road, water transportation and wharf businesses.

(11) "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.

(12) "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.

(13) 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.

Sec. 204. Section 82.16.020, chapter 15, Laws of 1961 as last amended by section 14, chapter 282, Laws of 1986 and RCW 82.16.020 are each amended to read as follows:

(1) There is levied and there shall be collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. The tax shall be equal to the gross income of the business, multiplied by the rate set out after the business, as follows:

(a) Railroad, express, railroad car, sewerage collection, (~~light and power~~;) and telegraph businesses: Three and six-tenths percent;

(b) Light and power business: Three and sixty-two one-hundredths percent;

(c) Gas distribution business: Three and six-tenths percent;

~~((c))~~ (d) Urban transportation business: Six-tenths of one percent;

~~((d))~~ (e) Vessels under sixty-five feet in length, except tugboats, operating upon the waters within the state: Six-tenths of one percent;

~~((c))~~ (f) Motor transportation and tugboat businesses, and all public service businesses other than ones mentioned above: One and eight-tenths of one percent;

~~((f))~~ (g) Water distribution business: Four and seven-tenths percent.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section.

(3) Twenty percent of the moneys collected under subsection (1) of this section on water distribution businesses and sixty percent of the moneys collected under subsection (1) of this section on sewerage collection businesses shall be deposited in the public works assistance account created in RCW 43.155.050.

Sec. 205. Section 82.16.030, chapter 15, Laws of 1961 as amended by section 6, chapter 35, Laws of 1982 1st ex. sess. and RCW 82.16.030 are each amended to read as follows:

Every person engaging in businesses which are within the purview of two or more of schedules ~~((a), (b), (c), (d), and (e))~~ of RCW 82.16.020(1), shall be taxable under each schedule applicable to the businesses engaged in.

**\*Sec. 206. Section 82.16.050, chapter 15, Laws of 1961 as last amended by section 103 of this act and RCW 82.16.050 are each reenacted and amended to read as follows:**

***In computing tax there may be deducted from the gross income the following items:***

***(1) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof: PROVIDED, That this section shall not be construed to exempt service charges which are spread on the property tax rolls and collected as taxes;***

***(2) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, ~~((light and power,))~~ gas distribution or other public service businesses which furnish water, ~~((electrical energy,))~~ gas or any other commodity in the performance of public service businesses;***

***(3) Amounts actually paid by a taxpayer to another person taxable under this chapter as the latter's portion of the consideration due for services furnished jointly by both, if the total amount has been credited to and appears in the gross income reported for tax by the former;***

**(4) The amount of cash discount actually taken by the purchaser or customer;**

**(5) The amount of credit losses actually sustained by taxpayers whose regular books of accounts are kept upon an accrual basis;**

**(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;**

**(7) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes;**

**(8) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state, with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination; and amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or ship side on tidewater or navigable tributaries thereto from which such commodities are forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations: PROVIDED, That no deduction will be allowed when the point of origin and the point of delivery to such an export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town;**

**(9) Amounts derived from the production, sale, or transfer of electrical energy for resale or consumption outside the state ~~((if the production or generation of such energy is subject to tax under the manufacturing classification of chapter 82.04 RCW: PROVIDED, That the exemption set forth in RCW 82.04.310 shall not be applicable to the generation or production of the electrical energy so produced, sold, or transferred: AND PROVIDED FURTHER, That no credit has been claimed as an offset to taxes imposed under RCW 82.04.240));~~**

**(10) Amounts derived from the distribution of water by a nonprofit water association and used for capital improvements by that nonprofit water association;**

**(11) Amounts paid by a sewerage collection business taxable under RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the treatment or disposal of sewage;**

**(12) Amounts derived from the sale of electrical energy for resale as such within this state. This deduction is allowed only to light and power businesses that furnish electrical energy in the performance of a public service business.**

\*Sec. 206 was vetoed, see message at end of chapter.

## PART III

**NEW SECTION.** Sec. 301. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 22, 1989.

Passed the Senate April 14, 1989.

Approved by the Governor May 11, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1989.

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

"I am returning herewith, without my approval as to section 206, Substitute House Bill No. 1305 entitled:

"AN ACT Relating to public utility taxation."

Section 206 creates a new exemption to the public utility tax for electrical power purchased for resale. This exemption would create an unfair competitive advantage for firms which purchase electrical power and then resell it. Such power would be subject only to a B&O tax of 1.5% while other power in the state is subject to a public utility tax of 3.852%.

To our knowledge, only one firm would benefit from this exemption. The purpose of the exemption was to eliminate the double taxation of such electrical power. In this case, a firm purchases electrical power from a utility. The utility pays a public utility tax on such power of 3.852%. The firm which purchases the power then sells it to a subsidiary. Since the power is a sale by the firm, it is part of its gross receipts and subject to a 1.5% B&O tax. The firm argues that the public utility tax is unfair double taxation.

Unfortunately, double taxation is the rule with the B&O tax, not the exception. The B&O tax is a gross receipts tax which is imposed on gross income with no deductions. Since the firm is in business and sells the power, the value of the power is part of their gross receipts. What the firm in fact wants is a deduction for the costs of doing business. In effect, this is tax reform, but only for one firm not for everybody. The need for tax reform is real. This piecemeal revision of the tax code is not the appropriate way to address the shortcomings of the existing tax system.

Furthermore, no logical argument has been presented which would indicate that electrical power for resale should be exempt. Under this bill, the power purchased by the firm in this case would be subject to a B&O tax of only 1.5%. All other power sold for in-state use is subject to a public utility tax of 3.852%. There is no reason why this power should be taxed at a lower rate.

With the exception of section 206, Substitute House Bill No. 1305 is approved."

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 CHAPTER 303

[Substitute Senate Bill No. 5147]

CREDIT SERVICES ORGANIZATIONS—DEFINITION AND BONDING  
REQUIREMENTS

AN ACT Relating to credit service organizations; and amending RCW 19.134.010 and 19.134.020.

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

Sec. 1. Section 2, chapter 218, Laws of 1986 and RCW 19.134.010 are each amended to read as follows:

As used in this chapter:

(1) "Buyer" means any individual who is solicited to purchase or who purchases the services of a credit services organization.

(2)(a) "Credit services organization" means any person who, with respect to the extension of credit by others, sells, provides, performs, or represents that he or she can or will sell, provide, or perform, in return for the payment of money or other valuable consideration any of the following services:

(i) Improving, saving, or preserving a buyer's credit record, history, or rating;

(ii) Obtaining an extension of credit for a buyer; ((or))

(iii) Stopping, preventing, or delaying the foreclosure of a deed of trust, mortgage, or other security agreement; or

(iv) Providing advice or assistance to a buyer with regard to either (a)(i) ((or)), (a)(ii), or (a)(iii) of this subsection.

(b) "Credit services organization" does not include:

(i) Any person authorized to make loans or extensions of credit under the laws of this state or the United States who is subject to regulation and supervision by this state or the United States or 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;

(ii) Any bank, savings bank, or savings and loan institution whose deposits or accounts are eligible for insurance by the federal deposit insurance corporation or the federal savings and loan insurance corporation, or a subsidiary of such bank, savings bank, or savings and loan institution;

(iii) Any credit union, federal credit union, or out-of-state credit union doing business in this state under chapter 31.12 RCW;

(iv) Any nonprofit organization exempt from taxation under section 501(c)(3) of the internal revenue code;

(v) Any person licensed as a real estate broker by this state if the person is acting within the course and scope of that license;

(vi) Any person licensed as a collection agency pursuant to chapter 19.16 RCW if acting within the course and scope of that license;

(vii) Any person licensed to practice law in this state if the person renders services within the course and scope of his or her practice as an attorney;

(viii) Any broker-dealer registered with the securities and exchange commission or the commodity futures trading commission if the broker-dealer is acting within the course and scope of that regulation; ((or))

(ix) Any consumer reporting agency as defined in the federal fair credit reporting act, 15 U.S.C. Secs. 1681 through 1681t; or

(x) Any mortgage broker as defined in RCW 19.146.010 if acting within the course and scope of that definition.

(3) "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment offered or granted primarily for personal, family, or household purposes.

Sec. 2. Section 3, chapter 218, Laws of 1986 and RCW 19.134.020 are each amended to read as follows:

A credit services organization, its salespersons, agents, and representatives, and independent contractors who sell or attempt to sell the services of a credit services organization may not do any of the following:

(1) Charge or receive any money or other valuable consideration prior to full and complete performance of the services the credit services organization has agreed to perform for the buyer, unless the credit services organization has obtained a surety bond of ten thousand dollars issued by a surety company admitted to do business in this state and established a trust account at a federally insured bank or savings and loan association located in this state. The surety bond shall run to the state of Washington and the buyers. The surety bond shall be issued on the condition that the principal comply with all provisions of this chapter and fully perform on all contracts entered into with buyers. The surety bond shall be continuous until canceled and shall remain in full force and unimpaired at all times to comply with this section. The surety's liability for all claims in the aggregate against the continuous bond shall not exceed the penal sum of the bond. An action on the bond may be brought by the state or by any buyer by filing a complaint in a court of competent jurisdiction, including small claims court, within one year of cancellation of the surety bond. A complaint may be mailed by registered or certified mail, return receipt requested, to the surety and shall constitute good and sufficient service on the surety;

(2) Charge or receive any money or other valuable consideration solely for referral of the buyer to a retail seller who will or may extend credit to the buyer if the credit that is or will be extended to the buyer is upon substantially the same terms as those available to the general public;

(3) Make or counsel or advise any buyer to make any statement that is untrue or misleading or that should be known by the exercise of reasonable care to be untrue or misleading, to a credit reporting agency or to any person who has extended credit to a buyer or to whom a buyer is applying for an extension of credit with respect to a buyer's credit worthiness, credit standing, or credit capacity;

(4) Make or use any untrue or misleading representations in the offer or sale of the services of a credit services organization or engage, directly or indirectly, in any act, practice, or course of business that operates or would

operate as fraud or deception upon any person in connection with the offer or sale of the services of a credit services organization.

- Passed the Senate April 18, 1989.
- Passed the House April 13, 1989.
- Approved by the Governor May 11, 1989.
- Filed in Office of Secretary of State May 11, 1989.

CHAPTER 304

[Substitute Senate Bill No. 5048]

COUNCIL FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT—  
EXTENSION AND MEMBERSHIP

AN ACT Relating to prevention of child abuse and neglect; and amending RCW 36.18-.010, 43.131.319, 43.131.320, and 43.121.020.

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

Sec. 1. Section 36.18.010, chapter 4, Laws of 1963 as last amended by section 1, chapter 230, Laws of 1987 and RCW 36.18.010 are each amended to read as follows:

County auditors shall collect the following fees for their official services:

For recording instruments, for the first page, legal size (eight and one-half by thirteen inches or less), five dollars; for each additional legal size page, one dollar;

For preparing and certifying copies, for the first legal size page, three dollars; for each additional legal size page, one dollar;

For preparing noncertified copies, for each legal size page, one dollar;

For administering an oath or taking an affidavit, with or without seal, two dollars;

For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund, which five-dollar fee shall expire June 30, (~~1988~~) 1995, plus an additional ten-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

For searching records per hour, eight dollars;

For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;



For recording of miscellaneous records, not listed above, for first legal size page, five dollars; for each additional legal size page, one dollar.

Sec. 2. Section 5, chapter 261, Laws of 1984 as amended by section 7, chapter 270, Laws of 1986 and RCW 43.131.319 are each amended to read as follows:

The Washington council for the prevention of child abuse and neglect and its powers and duties shall be terminated on June 30, (~~1989~~) 1994, as provided in RCW 43.131.320.

Sec. 3. Section 6, chapter 261, Laws of 1984 as amended by section 8, chapter 270, Laws of 1986 and RCW 43.131.320 are each amended to read as follows:

The following acts or parts of acts as now existing or hereafter amended, are each repealed effective June 30, (~~1990~~) 1995:

- (1) Section 1, chapter 4, Laws of 1982 and RCW 43.121.010;
- (2) Section 2, chapter 351, Laws of 1987, section 4, chapter 278, Laws of 1988 and RCW 43.121.015;
- (3) Section 2, chapter 4, Laws of 1982, section 1, chapter 261, Laws of 1984, section 3, chapter 351, Laws of 1987, section 4 of this act and RCW 43.121.020;
- (~~3~~) (4) Section 3, chapter 4, Laws of 1982, section 87, chapter 287, Laws of 1984 and RCW 43.121.030;
- (~~4~~) (5) Section 4, chapter 4, Laws of 1982 and RCW 43.121.040;
- (~~5~~) (6) Section 5, chapter 4, Laws of 1982, section 4, chapter 351, Laws of 1987, section 5, chapter 278, Laws of 1988 and RCW 43.121.050;
- (~~6~~) (7) Section 6, chapter 4, Laws of 1982 and RCW 43.121.060;
- (~~7~~) (8) Section 7, chapter 4, Laws of 1982 and RCW 43.121.070;
- (~~8~~) (9) Section 8, chapter 4, Laws of 1982 and RCW 43.121.080;
- (~~9~~) (10) Section 9, chapter 4, Laws of 1982, section 2, chapter 261, Laws of 1984, section 38, chapter 505, Laws of 1987 and RCW 43.121.090;
- (~~10~~) (11) Section 10, chapter 4, Laws of 1982, section 3, chapter 261, Laws of 1984, section 5, chapter 351, Laws of 1987 and RCW 43.121.100; (and
- (~~11~~) (12) Section 1, chapter 278, Laws of 1988 and RCW 43.121.110;
- (13) Section 2, chapter 278, Laws of 1988 and RCW 43.121.120;
- (14) Section 3, chapter 278, Laws of 1988 and RCW 43.121.130; and
- (15) Section 15, chapter 4, Laws of 1982 and RCW 43.121.910.

Sec. 4. Section 2, chapter 4, Laws of 1982 as last amended by section 3, chapter 351, Laws of 1987 and RCW 43.121.020 are each amended to read as follows:

(1) There is established in the executive office of the governor a Washington council for the prevention of child abuse and neglect subject to the jurisdiction of the governor.

(2) The council shall be composed of the chairperson and ~~((ten))~~ twelve other members as follows:

(a) The chairperson and ~~((four))~~ six other members shall be appointed by the governor and shall be selected for their interest and expertise in the prevention of child abuse. A minimum of four designees by the governor shall not be affiliated with governmental agencies. ~~((A minimum of two of the designees shall reside east of the Cascade mountain range))~~ The appointments shall be made on a geographic basis to assure state-wide representation. Members appointed by the governor shall serve for two-year terms, except that the chairperson and two other members designated by the governor shall initially serve for three years. Vacancies shall be filled for any unexpired term by appointment in the same manner as the original appointments were made.

(b) The secretary of social and health services or the secretary's designee and the superintendent of public instruction or the superintendent's designee shall serve as voting members of the council.

(c) In addition to the members of the council, four members of the legislature shall serve as nonvoting, ex officio members of the council, one from each political caucus of the house of representatives to be appointed by the speaker of the house of representatives and one from each political caucus of the senate to be appointed by the president of the senate.

Passed the Senate April 17, 1989.

Passed the House April 10, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 305

[Substitute House Bill No. 1028]

### RECREATIONAL FISHING LICENSES—RATES AND REQUIREMENTS

AN ACT Relating to recreational fishing licenses; amending RCW 75.25.015, 75.25.040, 75.25.080, 75.25.090, 75.25.100, 75.25.110, 75.25.120, 75.25.130, 75.25.140, 75.25.150, 75.25.160, 75.25.170, 77.32.005, 77.32.230, and 77.32.360; adding new sections to chapter 75.25 RCW; repealing RCW 75.25.020 and 75.25.125; and providing an effective date.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 75.25 RCW to read as follows:

The following recreational fishing licenses are administered and issued by the department of fisheries under authority of the director of fisheries:

- (1) Hood Canal shrimp license;
- (2) Razor clam license;
- (3) Personal use fishing license;
- (4) Salmon license; and
- (5) Sturgeon license.

Sec. 2. Section 1, chapter 31, Laws of 1983 1st ex. sess. as amended by section 6, chapter 80, Laws of 1984 and RCW 75.25.015 are each amended to read as follows:

(1) A Hood Canal shrimp license is required for all persons other than residents under fifteen years of age to take or possess shrimp taken for personal use from that portion of Hood Canal lying south of the Hood Canal floating bridge.

(2) The annual fees for Hood Canal shrimp licenses are:

(a) For a resident ((license)), fifteen years of age or older and under seventy years of age, five dollars~~((, except that a person seventy years of age or older may pay a one-time fee of five dollars))~~;

(b) For a nonresident ((license)), fifteen dollars.

Sec. 3. Section 4, chapter 243, Laws of 1979 ex. sess. as last amended by section 91, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.25.040 are each amended to read as follows:

(1) A razor clam license is required for all persons other than residents under fifteen years of age to take, dig for, or possess razor clams taken for personal use from the clam beds of this state including razor clams taken from national park beaches.

(2) The annual fees for razor clam licenses are:

(a) For a resident ((license, two)) fifteen years of age or older and under seventy years of age, three dollars~~((and fifty cents))~~; and

(b) For a nonresident ((license)), ten dollars.

~~((2) Upon application, a resident sixty-five years of age or older or under sixteen years of age shall be issued a razor clam license at no cost. Dealers may collect the dealer's fee established in RCW 75.25.130.~~

~~((3) Razor clam license fees shall be deposited in the general fund and shall be appropriated for the development or operation of programs beneficial to razor clam harvesting.))~~

Sec. 4. Section 2, chapter 81, Laws of 1980 as amended by section 92, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.25.080 are each amended to read as follows:

(1) It is lawful to dig the personal-use daily bag limit of razor clams for another person if that person has in possession a physical disability permit issued by the director.

(2) An application for a physical disability permit must be submitted on a department of fisheries official form and must be accompanied by a licensed medical doctor's certification of disability.

Sec. 5. Section 1, chapter 87, Laws of 1987 and RCW 75.25.090 are each amended to read as follows:

(1) ~~((An annual))~~ A personal use license is required for ~~((a person sixteen))~~ all persons other than persons under fifteen years of age ~~((or older))~~ to fish for, take, or possess food fish for personal use from state waters

or offshore waters (~~(, other than carp and sturgeon in the Columbia river above Chief Joseph Dam)).~~ A personal use license is not required under this section to fish for, take, or possess carp and sturgeon in the Columbia river above Chief Joseph Dam, smelt, or albacore. ((An annual personal use license is valid for the calendar year in which it is issued:))

(2) The fees for ((an)) annual personal use licenses are ((three dollars for residents and nine dollars for nonresidents:)):

(a) For a resident fifteen years of age or older and under seventy years of age, three dollars; and

(b) For a nonresident fifteen years of age or older, ten dollars.

~~((2) A) (3) The fees for two-consecutive-day ((combined)) personal use licenses ((and punchcard shall be issued. The fee for the license and punchcard is three dollars for residents and nonresidents.~~

~~(3) It is unlawful to fish for or possess food fish without the licenses, punchcards, and stamps required by this chapter.)) are:~~

(a) For food fish other than sturgeon, three dollars; and

(b) For sturgeon only, three dollars.

Sec. 6. Section 11, chapter 327, Laws of 1977 ex. sess. as last amended by section 2, chapter 87, Laws of 1987 and RCW 75.25.100 are each amended to read as follows:

(1) In addition to a personal use license, a salmon ((punchcard)) license is required ((for a person)) to take, fish for, or possess anadromous salmon taken for personal use from state waters or offshore waters. A salmon ((punchcard)) license is not required for persons under fifteen years of age, nor is it required of a person who has a valid two-consecutive-day ((combined)) personal use license ((and punchcard)) for food fish other than sturgeon.

(2) The fees for ((a)) annual salmon ((punchcard is three dollars. A salmon punchcard is valid for a maximum catch of fifteen salmon, after which another punchcard may be purchased. A salmon punchcard is valid only for the calendar year for which it is issued)) licenses are:

(a) For a resident fifteen years of age or older and under seventy years of age, three dollars; and

(b) For nonresidents, fifteen years of age or older, three dollars.

NEW SECTION. Sec. 7. A new section is added to chapter 75.25 RCW to read as follows:

(1) A sturgeon license is required to take, fish for, or possess sturgeon taken for personal use from the following state waters:

(a) Columbia river and all tributaries;

(b) Willapa Bay and all tributaries; and

(c) Grays Harbor and all tributaries.

A sturgeon license is not required of a person under fifteen years of age, nor is it required of a person who has a valid sturgeon-only two-consecutive-day personal use license.

(2) In addition to a sturgeon license, a personal use license is required when fishing for sturgeon in all waters listed in subsection (1) of this section, except the Columbia river above Chief Joseph Dam.

(3) The fees for annual sturgeon licenses are:

(a) For a resident fifteen years of age or older, and under seventy years of age, three dollars; and

(b) For all nonresidents fifteen years of age or older, three dollars.

Sec. 8. Section 13, chapter 327, Laws of 1977 ex. sess. as last amended by section 3, chapter 87, Laws of 1987 and RCW 75.25.110 are each amended to read as follows:

(1) ~~((A personal use license, salmon punchcard, or two consecutive-day combined license and punchcard))~~ Any of the recreational fishing licenses required by this chapter shall, upon request, be issued without charge to ~~((persons under sixteen years of age or seventy years of age and older.~~

~~(2) Upon application;))~~ the following individuals upon request:

(a) Residents under fifteen years of age and residents seventy years of age or older;

(b) Residents who submit applications attesting that they are a person sixty-five years of age or older who is an honorably discharged veteran of the United States armed forces with a service-connected disability and who has been a resident of this state for ~~((five years shall be given a personal use license and salmon punchcard free of charge.))~~ the preceding ninety days;

~~((Upon application;))~~ (c) A blind person ~~((shall be issued a personal use license and salmon punchcard free of charge.))~~;

(d) A person with a developmental disability as defined in RCW 71A-.10.020 with documentation of the disability from the department of social and health services; and

(e) A person who is physically handicapped and confined to a wheelchair.

(2) Personal use licenses, salmon licenses, and sturgeon licenses shall, upon request, be issued to nonresidents under fifteen years of age.

(3) A blind person or a physically handicapped person confined to a wheelchair who has been issued a card for a permanent disability under RCW 46.16.381 may use that card in place of a fishing license unless a punchcard is required by the director.

Sec. 9. Section 17, chapter 327, Laws of 1977 ex. sess. as last amended by section 4, chapter 87, Laws of 1987 and RCW 75.25.120 are each amended to read as follows:

In concurrent waters of the Columbia river and in Washington coastal territorial waters from the Oregon-Washington boundary to a point five nautical miles north, an Oregon angling license comparable to the Washington ~~((salmon punchcard or))~~ personal use license, two-consecutive-day personal use license, salmon license, or sturgeon license is valid if

Oregon recognizes as valid the Washington (~~(salmon punchcard or)~~) personal use license, two consecutive day personal use license, salmon license, or sturgeon license in comparable Oregon waters.

If Oregon recognizes as valid the Washington (~~(salmon punchcard;)~~) personal use license, ((or)) two consecutive day ((combined)) personal use license ((and punchcard)), salmon license, or sturgeon license southward to Cape Falcon in the coastal territorial waters from the Washington-Oregon boundary and in concurrent waters of the Columbia river then Washington shall recognize a valid Oregon license comparable to the Washington personal use license, ((punchcard, or)) two consecutive day ((combined)) personal use license ((and punchcard)), salmon license, or sturgeon license northward to Leadbetter Point.

Oregon licenses are not valid for the taking of (~~(salmon))~~ food fish when angling in concurrent waters of the Columbia river from the Washington shore.

NEW SECTION. Sec. 10. A new section is added to chapter 75.25 RCW to read as follows:

Catch record cards necessary for proper management of the state's food fish and shellfish resources shall be administered under rules adopted by the director and issued at no charge.

Sec. 11. Section 12, chapter 327, Laws of 1977 ex. sess. as last amended by section 6, chapter 87, Laws of 1987 and RCW 75.25.130 are each amended to read as follows:

All recreational licenses(~~(, punchcards, and stamps))~~ required by this chapter shall be issued only under authority of the director. The director may authorize license dealers to issue the recreational licenses(~~(, punchcards, and stamps))~~ and collect the recreational license fees. In addition to the recreational license(~~(, punchcard, or stamp))~~ fees, dealers may charge a dealer's fee (~~(of fifty cents))~~ for each (~~(Hood Canal shrimp license, two consecutive day combined license and punchcard, personal use license, punchcard, and razor clam))~~ recreational license. The director shall establish the amount to be retained by dealers, which shall be at least fifty cents for each license issued. Fees retained by dealers shall be uniform throughout the state. The dealer's fee may be retained by the license dealer.

The director shall adopt rules for the issuance of (~~(personal use))~~ recreational licenses(~~(, Hood Canal shrimp licenses, razor clam licenses, stamps, and punchcards))~~ and for the collection, payment, and handling of license fees and dealers' fees.

Sec. 12. Section 15, chapter 327, Laws of 1977 ex. sess. as last amended by section 7, chapter 87, Laws of 1987 and RCW 75.25.140 are each amended to read as follows:

(1) (~~(Personal use))~~ Recreational licenses(~~(, Hood Canal shrimp licenses, razor clam licenses, stamps, and punchcards))~~ are not transferable.

Upon request of a fisheries patrol officer ~~((or))~~, ex officio fisheries patrol officer, or authorized fisheries employee, a person digging for or possessing razor clams or fishing for or possessing Hood Canal shrimp or food fish for personal use shall exhibit the required recreational license and ~~((punchcard and))~~ write his or her signature for comparison with the signature on the license. Failure to comply with the request is prima facie evidence that the person does not have a license or ~~((punchcard or))~~ is not the person named on the license ~~((or punchcard))~~.

(2) The razor clam license shall be visible on the licensee while digging for razor clams.

Sec. 13. Section 99, chapter 46, Laws of 1983 1st ex. sess. as amended by section 9, chapter 80, Laws of 1984 and RCW 75.25.150 are each amended to read as follows:

It is unlawful to dig for or possess razor clams, fish for or possess ~~((anadromous salmon))~~ food fish, or take or possess Hood Canal shrimp without the licenses required by this chapter.

NEW SECTION. Sec. 14. A new section is added to chapter 75.25 RCW to read as follows:

Recreational licenses issued by the department of fisheries under this chapter are valid for the following periods:

(1) Recreational licenses issued without charge to persons designated by this chapter are valid:

(a) For life for blind persons;

(b) For the period of continued state residency for qualified disabled veterans;

(c) For the period of continued state residency for persons sixty-five years of age or more;

(d) For the period of the disability for persons with a developmental disability;

(e) For life for handicapped persons confined to a wheelchair who have been issued a permanent disability card; and

(f) Until a child reaches fifteen years of age.

(2) Two-consecutive-day personal use licenses expire at midnight on the day following the validation date written on the license by the license dealer, except two-consecutive-day personal use licenses validated for December 31 expire at midnight on that date.

(3) An annual salmon license is valid for a maximum catch of fifteen salmon, after which another salmon license may be purchased. A salmon license is valid only for the calendar year for which it is issued.

(4) An annual sturgeon license is valid for a maximum catch of fifteen sturgeon. A sturgeon license is valid only for the calendar year for which it is issued.

(5) All other recreational licenses are valid for the calendar year for which they are issued.

Sec. 15. Section 16, chapter 327, Laws of 1977 ex. sess. as last amended by section 8, chapter 87, Laws of 1987 and RCW 75.25.160 are each amended to read as follows:

A person who violates a provision of this chapter or who knowingly falsifies information required for the issuance of a ~~((Hood Canal shrimp))~~ recreational license ~~((, personal use license, razor clam license, or punch card))~~ is guilty of a misdemeanor and is subject to the penalties provided in chapter 9A.20 RCW.

Sec. 16. Section 9, chapter 87, Laws of 1987 and RCW 75.25.170 are each amended to read as follows:

Fees received for ~~((personal use))~~ recreational licenses ~~((, punchcards, and stamps))~~ required under this chapter shall be deposited in the general fund and shall be appropriated for management, enhancement, research, and enforcement purposes of the shellfish, salmon, and marine fish programs of the department of fisheries.

Sec. 17. Section 14, chapter 176, Laws of 1957 as last amended by section 102, chapter 78, Laws of 1980 and RCW 77.32.005 are each amended to read as follows:

For the purposes of this chapter:

A "resident" means a ~~((citizen of the United States or))~~ person who ~~((has in good faith declared the intent to become a citizen of the United States;))~~ has maintained a permanent place of abode within this state for at least ninety days immediately preceding an application for a license, ~~((and))~~ has established by formal evidence an intent to continue residing within this state, and who is not licensed to hunt or fish as a resident in another state.

A "nonresident" means a person who has not fulfilled the qualifications of a resident.

**\*Sec. 18. Section 77.32.230, chapter 36, Laws of 1955 as last amended by section 914, chapter 176, Laws of 1988 and RCW 77.32.230 are each amended to read as follows:**

***(1) A person sixty-five years of age or older who is an honorably discharged veteran of the United States armed forces having a service-connected disability and who has been a resident for ~~((five years))~~ the preceding ninety days may receive upon application a state hunting and fishing license free of charge.***

***(2) A resident who is an honorably discharged veteran of the United States armed forces having a service-connected disability and whose service-connected disabilities have been established as permanent in nature by the veterans administration and are rated from thirty to one hundred percent disabled as determined by the veterans administration shall receive a fishing and hunting license for one-half price.***



Disabled veterans applying for a one-half price fishing and hunting license under this subsection shall provide the department or dealer with a copy of documents verifying the disability from the veterans administration.

~~(3)~~ A ~~((person))~~ resident seventy years of age or older ~~((who has been a resident for ten years))~~ may receive, upon application, a fishing license free of charge.

~~((3))~~ (4) A blind person, or a person with a developmental disability as defined in RCW 71A.10.020 with documentation of the disability from the department of social and health services, or a physically handicapped person confined to a wheelchair may receive upon application a fishing license free of charge.

~~((4))~~ (5) A blind person or a physically handicapped person confined to a wheelchair who has been issued a card for a permanent disability under RCW 46.16.381 may use that card in place of a fishing license unless tags, permits, stamps, or punchcards are required by this chapter.

~~((5))~~ (6) A fishing license is not required for persons under the age of fifteen.

~~((6))~~ (7) Tags, permits, stamps, and punchcards required by this chapter shall be purchased separately by persons receiving a free or reduced-fee license.

\*Sec. 18 was vetoed, see message at end of chapter.

\*Sec. 19. Section 13, chapter 310, Laws of 1981 as last amended by section 88, chapter 506, Laws of 1987 and RCW 77.32.360 are each amended to read as follows:

(1) A steelhead punchcard is required to fish for steelhead trout. The fee for this punchcard is fifteen dollars.

(2) Persons possessing steelhead trout shall immediately validate their punchcard as provided by rule.

(3) Steelhead punchcards required under this section expire April 30th following the date of issuance.

(4) Each person who returns a steelhead punchcard to an authorized license dealer by June 1 following the period for which it was issued shall be given a credit equal to five dollars towards that day's purchase of any license, permit, transport tag, punchcard, or stamp required by this chapter.

This subsection does not apply to annual steelhead punchcards for persons under the age of fifteen and persons age seventy or older.

(5) Persons under the age of fifteen and persons age seventy or older may purchase an annual steelhead punchcard for five dollars. The five-dollar punchcard entitles the holder to retain no more than ten steelhead. After retaining ten steelhead, a new punchcard may be purchased.

~~((5))~~ (6) An upland bird punchcard is required to hunt for quail, partridge, and pheasant in areas designated by rule of the commission. The fee for this punchcard is fifteen dollars.

~~((6))~~ (7) *Persons killing quail, partridge, and pheasant shall immediately validate their punchcard as provided by rule of the commission.*

~~((7))~~ (8) *Upland bird punchcards required under this section expire March 31st following the date of issuance.*

\*Sec. 19 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 20. The following acts or parts of acts are each repealed:

(1) Section 2, chapter 243, Laws of 1979 ex. sess., section 90, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.25.020; and

(2) Section 5, chapter 87, Laws of 1987 and RCW 75.25.125.

NEW SECTION. Sec. 21. This act shall take effect on January 1, 1990.

Passed the House April 22, 1989.

Passed the Senate April 22, 1989.

Approved by the Governor May 11, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1989.

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

"I am returning herewith, without my approval as to sections 18 and 19, Engrossed Substitute House Bill No. 1028 entitled:

"AN ACT Relating to recreational fishing licenses."

Section 18 of this bill provides half-price hunting and fishing licenses to veterans with a service connected disability of 30 percent or greater. Section 19 of this bill creates a reduced rate (\$5) steelhead punch-card for persons under 15 or 70 years and older. Currently, persons in these age brackets pay \$15. To enact these sections will cause the Department of Wildlife the loss of approximately \$160,000 over the next biennium.

I regret denying these groups reduced fees; however, we need to approach the issue of special groups in consistent fashion to avoid greater erosion of the funding for this department. When the Legislature created the Department of Wildlife in 1987 (HB 758), it directed the Wildlife Commission to conduct a study of license fees with its report due by July 1989. At a minimum, the Legislature should review this work before adding to the list of reduced or free licenses.

With the exception of sections 18 and 19, Engrossed Substitute House Bill No. 1028 is approved."

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## CHAPTER 306

[Substitute Senate Bill No. 5293]

### COLLEGES AND UNIVERSITIES—TUITION AND FEES—EXEMPTIONS— CONGRESSIONAL DEPENDENTS AND VIETNAM VETERANS

AN ACT Relating to higher education; amending RCW 28B.15.014, 28B.15.620, and 28A.58.217; and adding new sections to chapter 28B.80 RCW.

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

**\*NEW SECTION.** Sec. 1. *A new section is added to chapter 28B.80 RCW to read as follows:*

***The higher education coordinating board shall conduct an assessment of upper-division and graduate level programs and courses needed by placebound students living in areas of the state not addressed by the board's branch campus initiative. The assessment shall include consideration of the needs in Clallam and Jefferson counties. The board shall also consider alternatives for the delivery of such programs and courses. The board shall report its findings and recommendations to the governor and the house of representatives and senate committees on higher education by September 1, 1990.***

\*Sec. 1 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 2. A new section is added to chapter 28B.80 RCW to read as follows:

The higher education coordinating board may develop and administer demonstration projects designed to prepare and assist persons to obtain a higher education in this state.

Sec. 3. Section 4, chapter 273, Laws of 1971 ex. sess. as last amended by section 1, chapter 362, Laws of 1985 and RCW 28B.15.014 are each amended to read as follows:

The following nonresidents shall be exempted from paying the nonresident tuition and fee differential:

(1) Any person who resides in the state of Washington and who holds a graduate service appointment designated as such by a public institution of higher education or is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week during the term such person shall hold such appointment.

(2) Any faculty member, classified staff member or administratively exempt employee holding not less than a half time appointment at an institution who resides in the state of Washington, and the dependent children and spouse of such persons.

(3) Active-duty military personnel stationed in the state of Washington and the spouses and dependents of such military personnel.

(4) Any immigrant refugee and the spouse and dependent children of such refugee, if the refugee (a) is on parole status, or (b) has received an immigrant visa, or (c) has applied for United States citizenship.

(5) Any dependent of a member of the United States congress representing the state of Washington.

Sec. 4. Section 22, chapter 279, Laws of 1971 ex. sess. as last amended by section 1, chapter 307, Laws of 1983 and RCW 28B.15.620 are each amended to read as follows:

Notwithstanding any other provision of law, veterans of the Vietnam conflict who have served in the southeast Asia theater of operations attending institutions of higher learning shall be exempted from the payment of any increase in tuition and fees otherwise applicable to any other resident or nonresident student at any institution of higher education, and shall not be

required to pay more than the total amount of tuition and fees paid by veterans of the Vietnam conflict on October 1, 1977: PROVIDED, That for the purposes of this exemption, "veterans of the Vietnam conflict" shall be those persons who have been on active federal service as a member of the armed military or naval forces of the United States between a period commencing August 5, 1964, and ending on May 7, 1975, and who qualify as a resident student under RCW 28B.15.012, and who have enrolled in state institutions of higher education on or before May 7, ((1989)) 1990. This section shall expire June 30, 1995.

**\*Sec. 5, Section 222, chapter 518, Laws of 1987 and RCW 28A.58.217 are each amended to read as follows:**

**(1) ((School districts are hereby authorized to)) The superintendent of public instruction shall contract with the University of Washington for the education of eligible academically highly capable high school students at such early entrance or transition schools as are now or hereafter established and maintained by the university.**

**(2) ((School districts may authorize)) The superintendent of public instruction ((to)) shall allocate all or a portion of the state basic education allocation moneys, state categorical moneys and federal moneys generated by a student attending a University of Washington early entrance or transition school pursuant to this section directly to the university: PROVIDED, That such state moneys shall be expended exclusively for instruction and related activities necessary for students to fulfill the high school graduation requirements established by their school district of enrollment.**

**(3) The superintendent of public instruction shall adopt rules pursuant to chapter ((34.04)) 34.05 RCW implementing subsection (2) of this section.**

**(4) State and federal funds provided to the early entrance program or transition school at the University of Washington may be supplemented with additional payments by other parties as necessary to cover the actual and full costs of instruction and related activities.**

**\*Sec. 5 was vetoed, see message at end of chapter.**

Passed the Senate April 18, 1989.

Passed the House April 13, 1989.

Approved by the Governor May 11, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1989.

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

"I am returning herewith, without my approval as to sections 1 and 5, Substitute Senate Bill No. 5293 entitled:

"AN ACT Relating to higher education."

Section 1 reenacts RCW 28B.80.330, which requires the Higher Education Coordinating Board to perform planning duties including the preparation of a comprehensive master plan. The plan includes but is not limited to assessments of the state's higher education needs. These assessments may include "the needs of recent high school graduates and place-bound adults. The board should consider the needs of

residents of all geographic areas, but its initial priorities should be applied to heavily populated areas underserved by public institutions.\* The board has already completed its assessment of upper division and graduate level courses and programs needed in heavily populated areas. It can now begin assessing the needs of place-bound students in those areas that are less populated, including Clallam and Jefferson counties.

Section 5 of this bill requires that the Superintendent of Public Instruction: (1) contract with the University of Washington's Early Entrance Program or Transition School; and, (2) allocate state and federal funds generated by the student directly to the University of Washington. Similar language achieving the same result is included in section 9 of Engrossed Substitute House Bill No. 1444, which I have signed into law. To avoid confusion, I have vetoed section 5 of this bill.

With the exception of sections 1 and 5, Substitute Senate Bill No. 5293 is approved.\*

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## CHAPTER 307

[Substitute Senate Bill No. 5018]

### INCORPORATION OF NONPROFIT COOPERATIVES

AN ACT Relating to cooperative associations; amending RCW 18.11.070, 23.86.010, 23.86.030, 23.86.050, 23.86.070, 23.86.080, 23.86.090, 23.86.100, 23.86.160, 23.86.195, 23.86.210, 23.86.220, 23.86.230, 15.35.240, 20.01.030, 24.06.360, 43.07.120, 43.07.130, 43.07.190, and 23A.32.050; reenacting and amending RCW 21.20.320; adding new sections to chapter 23.86 RCW; creating a new section; and repealing RCW 23.86.040, 23.86.060, 23.86.110, 23.86.120, 23.86.130, 23.86.140, 23.86.150, 23.86.180, 24.32.010, 24.32.020, 24.32.030, 24.32.040, 24.32.050, 24.32.060, 24.32.070, 24.32.080, 24.32.090, 24.32.100, 24.32.110, 24.32.150, 24.32.160, 24.32.200, 24.32.210, 24.32.240, 24.32.250, 24.32.260, 24.32.270, 24.32.280, 24.32.290, 24.32.300, 24.32.310, 24.32.320, 24.32.330, 24.32.340, 24.32.350, 24.32.355, 24.32.360, 24.32.400, 24.32.410, 24.32.900, and 21.20.321.

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

**NEW SECTION.** Sec. 1. The legislature finds that since 1921 there have existed in the laws of this state two separate incorporation statutes expressly designed for corporations intending to operate as nonprofit cooperatives. The existence of two cooperative incorporation statutes has been the source of confusion, disparity of treatment, and legal and administrative ambiguities, and the rationale for having two cooperative incorporation statutes is no longer valid. These cooperative incorporation statutes have not been updated with the regularity of this state's business incorporation statutes and, as a result, are deficient in certain respects.

**NEW SECTION.** Sec. 2. A new section is added to chapter 23.86 RCW to read as follows:

The provisions of this chapter relating to domestic cooperative associations shall apply to:

- (1) All cooperative associations organized under this chapter; and
- (2) All agricultural cooperative associations organized under chapter 24.32 RCW. All such agricultural cooperatives are deemed to have been incorporated under this chapter.

**NEW SECTION.** Sec. 3. A new section is added to chapter 23.86 RCW to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Association" means any corporation subject to this chapter.

(2) "Member" or "members" includes a member or members of an association subject to this chapter without capital stock and a shareholder or shareholders of voting common stock in an association subject to this chapter with capital stock.

(3) "Articles of incorporation" means the original or restated articles of incorporation, articles of consolidation, or articles of association and all amendments including articles of merger. Corporations incorporated under this chapter with articles of association shall not be required to amend the title or references to the term "articles of association."

(4) "Director," "directors," or "board of directors" includes "trustee," "trustees," or "board of trustees" respectively. Corporations incorporated under this chapter with references in their articles of association or bylaws to "trustee," "trustees," or "board of trustees" shall not be required to amend the references.

Sec. 4. Section 1, chapter 19, Laws of 1913 and RCW 23.86.010 are each amended to read as follows:

Any number of persons(~~(, not less than five,))~~) may associate themselves together as a cooperative association, society, company or exchange, with or without capital stock, for the transaction of any lawful business on the cooperative plan. For the purposes of this chapter the words "association," "company," "exchange," "society" or "union" shall be construed the same.

Sec. 5. Section 17, chapter 19, Laws of 1913 as amended by section 706, chapter 212, Laws of 1987 and RCW 23.86.030 are each amended to read as follows:

(1) The name of any association subject to this chapter may contain the word "corporation," "incorporated," or "limited" or an abbreviation of any such word.

(2) No corporation or association organized or doing business (~~(for profit)~~) in this state shall be entitled to use the term "cooperative" as a part of its corporate or other business name or title, unless it (~~(has complied with)~~): (a) Is subject to the provisions of this chapter, chapter 23.78, or 31.12 RCW; ((and)) (b) is subject to the provisions of chapter 24.06 RCW and operating on a cooperative basis; (c) is, on the effective date of this act, an organization lawfully using the term "cooperative" as part of its corporate or other business name or title; or (d) is a nonprofit corporation or association the voting members of which are corporations or associations operating on a cooperative basis. Any corporation or association violating the provisions of this section may be enjoined from doing business under such name at the instance of any (~~(stockholder))~~ member or any association (~~(legally organized hereunder))~~ subject to this chapter.

~~((2))~~ (3) A member of the board of ~~((trustees))~~ directors or an officer of any association ~~((legally organized under))~~ subject to this chapter shall have the same immunity from liability as is granted in RCW 4.24.264.

NEW SECTION. Sec. 6. A new section is added to chapter 23.86 RCW to read as follows:

Each association subject to this chapter shall have the following powers:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in the articles of incorporation.

(2) To sue and be sued, complain, and defend in its corporate name.

(3) To have and use a corporate seal.

(4) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, and deal in and with real or personal property or any interest therein, wherever situated.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer, or otherwise dispose of all or any part of its property and assets.

(6) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, use, and deal in and with shares or other interest in, or obligations of, other domestic or foreign corporations, associations, partnerships or individuals, or direct or indirect obligations of the United States or any other government, state, territory, governmental district or municipality, or any instrumentality thereof.

(7) To make contracts and incur liabilities, borrow money at rates of interest the association may determine, issue notes, bonds, certificates of indebtedness, and other obligations, receive funds from members and pay interest thereon, issue capital stock and certificates representing equity interests in assets, allocate earnings and losses at the times and in the manner the articles of incorporation or bylaws or other contract specify, create book credits, capital funds, and reserves, and secure obligations by mortgage or pledge of any of its property, franchises, and income.

(8) To lend money for corporate purposes, invest and reinvest funds, and take and hold real and personal property as security for the payment of funds loaned or invested.

(9) To conduct business, carry on operations, have offices, and exercise the powers granted by this chapter, within or without this state.

(10) To elect or appoint officers and agents of the corporation, define their duties, and fix their compensation.

(11) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the association.

(12) To make donations for the public welfare or for charitable, scientific, or educational purposes, and in time of war to make donations in aid of war activities.

(13) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, stock bonus plans, stock option plans, and other incentive plans for any or all of its directors, officers, and employees.

(14) To be a partner, member, associate, or manager of any partnership, joint venture, trust, or other enterprise.

(15) To cease corporate activities and surrender its corporate franchise.

(16) To have and exercise all powers necessary or convenient to effect its purposes.

Sec. 7. Section 2, chapter 19, Laws of 1913 as last amended by section 704, chapter 212, Laws of 1987 and RCW 23.86.050 are each amended to read as follows:

Every association formed under this chapter after the effective date of this section shall prepare articles of ((association)) incorporation in writing, which shall set forth:

(1) The name of the association.

(2) The purpose for which it was formed which may include the transaction of any lawful business for which associations may be incorporated under this chapter. It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

(3) Its principal place of business.

(4) The term for which it is to exist which may be perpetual or for a stated number of years.

(5) ~~((The amount of capital stock, the number of shares and the par value of each share:~~

(6)) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rules by which the property rights and interests of all members shall be determined and fixed. The association may admit new members who shall be entitled to share in the property of the association with old members in accordance with the general rules.

(6) If the association is to have capital stock:

(a) The aggregate number of shares which the association shall have authority to issue; if shares are to consist of one class only, the par value of each share, or a statement that all shares are without par value; or, if shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each class or that shares are to be without par value;

(b) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations, and relative rights in respect to the shares of each class;

(c) If the association is to issue the shares of any preferred or special class in series, the designation of each series and a statement of the variations in the relative rights and preferences between series fixed in the articles of incorporation, and a statement of any authority vested in the board



of directors to establish series and fix and determine the variations in the relative rights and preferences between series; and

(d) Any provision limiting or denying to members the preemptive right to acquire additional shares of the association.

(7) Provisions for distribution of assets on dissolution or final liquidation.

(8) Whether a dissenting member shall be limited to a return of less than the fair value of the member's equity interest in the association. A dissenting member may not be limited to a return of less than the consideration paid to or retained by the association for the equity interest unless the fair value is less than the consideration paid to or retained by the association.

(9) The address of its initial registered office, including street and number, and the name of its initial registered agent at the address.

(10) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as the initial directors.

(11) The name and address of each incorporator.

(12) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the association, including provisions regarding:

(a) Eliminating or limiting the personal liability of a director to the association or its members for monetary damages for conduct as a director: PROVIDED, That such provision shall not eliminate or limit the liability of a director for acts or omissions that involve intentional misconduct by a director or a knowing violation of law by a director, or for any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled. No such provision may eliminate or limit the liability of a director for any act or omission occurring before the date when such provision becomes effective; and

(b) Any provision which under this ((title)) chapter is required or permitted to be set forth in the bylaws.

Associations organized under this chapter before the effective date of this act or under chapter 24.32 RCW shall not be required to amend their articles of association or articles of incorporation to conform to this section unless the association is otherwise amending the articles of association or articles of incorporation.

The information specified in subsections (9) through (11) of this section may be deleted when filing amendments.

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

(1) Duplicate originals of the articles of incorporation signed by the incorporators shall be delivered to the secretary of state. If the secretary of

state finds that the articles of incorporation conform to law, the secretary of state shall, when all required fees have been paid:

(a) Endorse each original with the word "filed" and the effective date of the filing.

(b) File one original in his or her office.

(c) Issue a certificate of incorporation with one original attached.

(2) The certificate of incorporation, with an original of the articles of incorporation affixed by the secretary of state, shall be returned to the incorporators or their representatives and shall be retained by the association.

(3) Upon the filing of the articles of incorporation, the corporate existence shall begin, and the certificate of incorporation shall, except as against the state in a proceeding to cancel or revoke the certificate of incorporation, be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter.

Sec. 9. Section 4, chapter 19, Laws of 1913 as last amended by section 173, chapter 35, Laws of 1982 and RCW 23.86.070 are each amended to read as follows:

For filing articles of incorporation of an association organized under this chapter or filing application for a certificate of authority by a foreign corporation, there shall be paid to the secretary of state the sum of twenty-five dollars and for filing of an amendment (~~(thereof)~~) the sum of twenty dollars. Fees for filing other documents with the secretary of state and issuing certificates shall be as prescribed in RCW 23A.40.020. Associations (~~(organized under)~~) subject to this chapter shall not be subject to any corporation license fees excepting the fees hereinabove enumerated.

Sec. 10. Section 5, chapter 19, Laws of 1913 and RCW 23.86.080 are each amended to read as follows:

~~((Every such))~~ (1) Associations shall be managed by a board of not less than three (~~((trustees))~~) directors (which may be referred to as "trustees"). The (~~((trustees))~~) directors shall be elected by and from the (~~((stockholders))~~) members of the association at such time, in such manner, and for such term of office as the bylaws may prescribe, and shall hold office during the term for which they were elected and until their successors are elected and qualified (~~(; but a majority of the stockholders shall have the power at any regular or special meeting, legally called for that purpose to remove any trustee or officer for cause, and fill the vacancy. The officers of every such association shall be a president, one or more vice presidents, a secretary and a treasurer who shall be elected annually by the trustees. Each of said officers must be a member of the association. All elections shall be by ballot))~~).

(2) Except as provided in section 12 of this act, any vacancy occurring in the board of directors, and any directorship to be filled by reason of an increase in the number of directors, may be filled by the board of directors unless the articles of incorporation or the bylaws provide that a vacancy or

directorship so created shall be filled in some other manner. A director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of the predecessor in office.

**NEW SECTION.** Sec. 11. A new section is added to chapter 23.86 RCW to read as follows:

The directors shall elect a president and one or more vice-presidents, who need not be directors. If the president and vice-presidents are not members of the board of directors, the directors shall elect from their number a chairman of the board of directors and one or more vice-chairmen. They shall also elect a secretary and treasurer, who need not be directors, and they may combine the two offices and designate the combined office as secretary-treasurer. The treasurer may be a bank or any depository, and as such shall not be considered an officer but a function of the board of directors. In such case, the secretary shall perform the usual accounting duties of the treasurer, except that the funds shall be deposited only as authorized by the board of directors.

**NEW SECTION.** Sec. 12. A new section is added to chapter 23.86 RCW to read as follows:

Any member may bring charges against an officer or director by filing charges in writing with the secretary of the association, together with a petition signed by ten percent of the members requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members voting, the association may remove the officer or director and fill the vacancy. The director or officer against whom such charges have been brought shall be informed in writing of the charges prior to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses. The person or persons bringing the charges shall have the same opportunity. If the bylaws provide for election of directors by districts, the petition for removal of a director must be signed by the number of members residing in the district from which the officer or director was elected as the articles of incorporation or bylaws specify and, in the absence of such specification, the petition must be signed by ten percent of the members residing in the district. The board of directors must call a special meeting of the members residing in that district to consider the removal of the director. By a vote of the majority of the members of the district voting, the association may remove the officer or director and fill the vacancy.

**NEW SECTION.** Sec. 13. A new section is added to chapter 23.86 RCW to read as follows:

Effective January 1, 1990, every association subject to this chapter shall have and maintain a registered office and a registered agent in this state in accordance with the requirements set forth in RCW 24.06.050.

**NEW SECTION.** Sec. 14. A new section is added to chapter 23.86 RCW to read as follows:

The provisions of RCW 24.06.055 and 24.06.060 shall apply to every association subject to this chapter.

**NEW SECTION.** Sec. 15. A new section is added to chapter 23.86 RCW to read as follows:

Effective January 1, 1990, every association subject to this chapter shall comply with the requirements set forth in RCW 24.06.440.

**NEW SECTION.** Sec. 16. A new section is added to chapter 23.86 RCW to read as follows:

The provisions of RCW 24.06.445 shall apply to every association subject to this chapter.

**NEW SECTION.** Sec. 17. A new section is added to chapter 23.86 RCW to read as follows:

The provisions of RCW 23A.28.125 shall apply to every association subject to this chapter formed on or after the effective date of this act.

**NEW SECTION.** Sec. 18. A new section is added to chapter 23.86 RCW to read as follows:

The provisions of RCW 23A.28.127 shall apply to every association subject to this chapter. An association may apply for reinstatement within three years after the effective date of dissolution.

**NEW SECTION.** Sec. 19. A new section is added to chapter 23.86 RCW to read as follows:

(1) Except for debts lawfully contracted between a member and the association, no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his or her membership fee or subscription to capital stock.

(2) Membership may be terminated under provisions, rules, or regulations prescribed in the articles of incorporation or bylaws. In the absence thereof, the board of directors may prescribe such provisions, rules, and regulations.

**NEW SECTION.** Sec. 20. A new section is added to chapter 23.86 RCW to read as follows:

The provisions of RCW 24.06.100 and 24.06.105 shall apply to every association subject to this chapter.

**NEW SECTION.** Sec. 21. A new section is added to chapter 23.86 RCW to read as follows:

(1) The right of a member to vote may be limited, enlarged, or denied to the extent specified in the articles of incorporation or bylaws. Unless so limited, enlarged, or denied, each member shall be entitled to one vote on

each matter submitted to a vote of members. The bylaws may allow subscribers to vote as members if one-fifth of the subscription for the membership fee or capital stock has been paid.

(2) A member may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by mail or by proxy executed in writing by the member or by a duly authorized attorney-in-fact. No proxy shall be valid for more than eleven months from the date of its execution unless otherwise specified in the proxy. Votes by mail or by proxy shall be made by mail ballot or proxy form prepared and distributed by the association in accordance with procedures set forth in the articles of incorporation or bylaws. Persons voting by mail shall be deemed present for all purposes of quorum, count of votes, and percentage voting of total voting power.

(3) If the articles of incorporation or bylaws provide for more or less than one vote per member on any matter, every reference in this chapter to a majority or other proportion of members shall refer to such a majority or other proportion of votes entitled to be cast by members.

**NEW SECTION.** Sec. 22. A new section is added to chapter 23.86 RCW to read as follows:

Except as otherwise provided in this chapter, the articles of incorporation or the bylaws may provide the number or percentage of votes that members are entitled to cast in person, by mail, or by proxy that shall constitute a quorum at meetings of members. In the absence of any provision in the articles of incorporation or bylaws, twenty-five percent of the total membership of the association shall constitute a quorum.

Sec. 23. Section 6, chapter 19, Laws of 1913 as last amended by section 174, chapter 35, Laws of 1982 and RCW 23.86.090 are each amended to read as follows:

The articles of ((association)) incorporation may be amended by a majority vote of the members voting thereon, at any regular meeting or at any special meeting called for that purpose, after notice of the proposed amendment has been given to all members entitled to vote thereon, in the manner provided by the bylaws: PROVIDED, That if the total vote upon the proposed amendment shall be less than twenty-five percent of the total membership of the association, the amendment shall not be approved. At the meeting, members may vote upon the proposed amendment in person, or by written proxy, or by mailed ballot. The power to amend shall include the power to extend the period of its duration for a further definite time or perpetually, and also include the power to increase or diminish the amount of capital stock and the number of shares: PROVIDED, The amount of the capital stock shall not be diminished below the amount of the paid-up capital stock at the time such amendment is adopted. ((Within thirty days)) After the adoption of an amendment to its articles of ((association)) incorporation, the association shall cause a copy of such amendment adopted to

be recorded in the office of the secretary of state as provided in RCW 24.06.195.

Sec. 24. Section 19, chapter 19, Laws of 1913 and RCW 23.86.100 are each amended to read as follows:

Any association (~~((formed under))~~) subject to this chapter may pass by-laws to govern itself in the carrying out of the provisions of this chapter which are not inconsistent with the provisions of this chapter.

Sec. 25. Section 13, chapter 19, Laws of 1913 as last amended by section 1, chapter 37, Laws of 1947 and RCW 23.86.160 are each amended to read as follows:

The (~~((trustees))~~) directors may apportion the net earnings by paying dividends upon the paid-up capital stock at a rate not exceeding eight percent per annum. They may set aside reasonable reserves out of such net earnings for any association purpose. The (~~((trustees))~~) directors may, however, distribute all or any portion of the net earnings to (~~((stockholders))~~) members in proportion to the business of each with the association (~~((PROVIDED, That))~~) and they may include ((nonstockholders)) nonmembers at a rate not exceeding that paid to (~~((stockholders. PROVIDED FURTHER, That))~~) members. The (~~((trustees))~~) directors may distribute, on a patronage basis, such net earnings at different rates on different classes, kinds, or varieties of products handled. All dividends declared or other distributions made under this section may, in the discretion of the (~~((trustees))~~) directors, be in the form of capital stock (~~((or other)),~~) capital or equity certificates, book credits, or capital funds of the association. All unclaimed dividends or distributions authorized under this chapter or funds payable on redeemed stock (~~((or)),~~) equity certificates, book credits, or capital funds shall revert to the association at the discretion of the (~~((trustees))~~) directors at any time after one year from the end of the fiscal year during which such distributions or redemptions have been declared.

Sec. 26. Section 38, chapter 297, Laws of 1981 and RCW 23.86.195 are each amended to read as follows:

Any cooperative association organized under any other statute may be reorganized under the provisions of this chapter by adopting and filing amendments to its articles of (~~((association))~~) incorporation in accordance with the provisions of this chapter for amending articles of (~~((association))~~) incorporation. The articles of (~~((association))~~) incorporation as amended must conform to the requirements of this chapter, and shall state that the cooperative association accepts the benefits and will be bound by the provisions of this chapter.

Sec. 27. Section 2, chapter 221, Laws of 1971 ex. sess. as last amended by section 175, chapter 35, Laws of 1982 and RCW 23.86.210 are each amended to read as follows:

(1) A cooperative association may be converted to a domestic ordinary business corporation pursuant to the following procedures:

(a) The board of ~~((trustees))~~ directors of the association shall, by affirmative vote of not less than two-thirds of all such ~~((trustees))~~ directors, adopt a plan for such conversion setting forth:

(i) The reasons why such conversion is desirable and in the interests of the members of the association;

(ii) The proposed contents of articles of conversion with respect to items (ii) through (ix) of subparagraph (c) below; and

(iii) Such other information and matters as the board of ~~((trustees))~~ directors may deem to be pertinent to the proposed plan.

(b) After adoption by the board of ~~((trustees))~~ directors, the plan for conversion shall be submitted for approval or rejection to the members of the association at any regular meetings or at any special meetings called for that purpose, after notice of the proposed conversion has been given to all members entitled to vote thereon, in the manner provided by the bylaws. The notice of the meeting shall be accompanied by a full copy of the proposed plan for conversion or by a summary of its provisions. At the meeting members may vote upon the proposed conversion in person, or by written proxy, or by mailed ballot. The affirmative vote of two-thirds of the members voting thereon shall be required for approval of the plan of conversion ~~((: PROVIDED, That))~~. If the total vote upon the proposed conversion shall be less than twenty-five percent of the total membership of the association, the conversion shall not be approved.

(c) Upon approval by the members of the association, the articles of conversion shall be executed in duplicate by the association by one of its officers and shall set forth:

(i) The dates and vote by which the plan for conversion was adopted by the board of ~~((trustees))~~ directors and members respectively;

(ii) The corporate name of the converted organization. The name shall comply with requirements for names of business corporations formed under Title 23A RCW, and shall not contain the term "cooperative";

(iii) The purpose or purposes for which the converted corporation is to exist;

(iv) The duration of the converted corporation, which may be perpetual or for a stated term of years;

(v) The capitalization of the converted corporation and the class or classes of shares of stock into which divided, together with the par value, if any, of such shares, in accordance with statutory requirements applicable to ordinary business corporations, and the basis upon which outstanding shares of the association are converted into shares of the converted corporation;

(vi) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the converted corporation;

(vii) The address of the converted corporation's initial registered office and its initial registered agent at such address;

(viii) The names and addresses of the persons who are to serve as directors of the converted corporation until the first annual meeting of shareholders of the converted corporation or until their successors are elected and qualify;

(ix) Any additional provisions, not inconsistent with law, provided for by the plan for conversion for the regulation of the internal affairs of the converted corporation, including any provision restricting the transfer of shares or which under Title 23A RCW is required or permitted to be set forth in bylaws.

(d) The executed duplicate originals of the articles of conversion shall be delivered to the secretary of state. If the secretary of state finds that the articles of conversion conform to law, the secretary of state shall, when all the fees have been paid as in this section prescribed:

(i) Endorse on each of such originals the word "Filed", and the effective date of such filing;

(ii) File one of such originals; and

(iii) Issue a certificate of conversion to which one of such originals shall be affixed.

(e) The certificate of conversion, together with the original of the articles of conversion affixed thereto by the secretary of state, shall be returned to the converted corporation or its representative. The original affixed to the certificate of conversion shall be retained by the converted corporation.

~~((e))~~ (f) Upon filing the articles of conversion the converted corporation shall pay, and the secretary of state shall collect, the same filing and license fees as for filing articles of incorporation of a newly formed business corporation similarly capitalized.

(2) Upon filing by the secretary of state of the articles of conversion, the conversion of the cooperative association to an ordinary business corporation shall become effective; the articles of conversion shall thereafter constitute and be treated in like manner as articles of incorporation; and the converted corporation shall be subject to all laws applicable to corporations formed under Title 23A RCW, and shall not thereafter be subject to laws applying only to cooperative associations. The converted corporation shall constitute and be deemed to constitute a continuation of the corporate substance of the cooperative association and the conversion shall in no way derogate from the rights of creditors of the former association.

~~((3) A member of the cooperative association who dissents from the plan for conversion shall have the same right of dissent and payment and in accordance with the same applicable procedures, as are provided for dissenting shareholders with respect to merger of ordinary business corporations under chapter 23A.24 RCW.)~~



Sec. 28. Section 3, chapter 221, Laws of 1971 ex. sess. as last amended by section 176, chapter 35, Laws of 1982 and RCW 23.86.220 are each amended to read as follows:

(1) A cooperative association may merge with one or more domestic cooperative associations, or with one or more domestic ordinary business corporations, in accordance with the procedures and subject to the conditions set forth or referred to in this section.

(2) If the merger is into another domestic cooperative association, the board of ~~((trustees))~~ directors of each of the associations shall approve by vote of not less than two-thirds of all the ~~((trustees))~~ directors, a plan of merger setting forth:

(a) The names of the associations proposing to merge;

(b) The name of the association which is to be the surviving association in the merger;

(c) The terms and conditions of the proposed merger;

(d) The manner and basis of converting the shares of each merging association into shares or other securities or obligations of the surviving association;

(e) A statement of any changes in the articles of ~~((association))~~ incorporation of the surviving association to be effected by such merger; and

(f) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

(3) Following approval by the boards of ~~((trustees))~~ directors, the plan of merger shall be submitted to a vote of the members of each of the associations at any regular meeting or at any special meetings called for that purpose, after notice of the proposed merger has been given to all members entitled to vote thereon, in the manner provided in the bylaws. The notice of the meeting shall be in writing stating the purpose or purposes of the meeting and include or be accompanied by a copy or summary of the plan of merger. At the meeting members may vote upon the proposed merger in person, or by written proxy, or by mailed ballot. The affirmative vote of two-thirds of the members voting thereon, by each association, shall be required for approval of the plan of merger(~~(-PROVIDED, That))~~. If the total vote of either association upon the proposed merger shall be less than twenty-five percent of the total membership of such association, the merger shall not be approved.

(4) Upon approval by the members of the associations proposing to merge, articles of merger shall be executed in duplicate by each association by an officer of each association, and shall set forth:

(a) The plan of merger;

(b) As to each association, the number of members and, if there is capital stock, the number of shares outstanding; and

(c) As to each association, the number of members who voted for and against such plan, respectively.

(5) Duplicate originals of the articles of merger shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, the secretary of state shall, when all fees have been paid as in this section prescribed:

(a) Endorse on each of such originals the word "Filed", and the effective date of such filing;

(b) File one of such originals; and

(c) Issue a certificate of merger to which one of such originals shall be affixed.

(6) The certificate of merger, together with the duplicate original of the articles of merger affixed thereto by the secretary of state shall be returned to the surviving association or its representative.

(7) For filing articles of merger hereunder the secretary of state shall charge and collect the same fees as apply to filing of articles of merger of ordinary business corporations.

(8) If the plan of merger is for merger of the cooperative association into a domestic ordinary business corporation, the association shall follow the same procedures as hereinabove provided for merger of domestic cooperative associations and the ordinary business corporation shall follow the applicable procedures set forth in chapter 23A.20 RCW.

(9) At any time prior to filing of the articles of merger, the merger may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger.

~~((10) A member of a cooperative association, or shareholder of the ordinary business corporation, who dissents from the plan of merger shall have the same right of dissent and payment and in accordance with the same applicable procedures, as are provided for dissenting shareholders with respect to merger of ordinary business corporations under chapter 23A.24 RCW.))~~

Sec. 29. Section 4, chapter 221, Laws of 1971 ex. sess. and RCW 23.86.230 are each amended to read as follows:

(1) Upon issuance of the certificate of merger by the secretary of state, the merger of the cooperative association into another cooperative association or ordinary business corporation, as the case may be, shall be effected.

(2) When merger has been effected:

(a) The several parties to the plan of merger shall be a single cooperative association or corporation, as the case may be, which shall be that cooperative association or corporation designated in the plan of merger as the survivor.

(b) The separate existence of all parties to the plan of merger, except that of the surviving cooperative association or corporation, shall cease.

(c) If the surviving entity is a cooperative association, it shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a cooperative association organized under chapter

23.86 RCW. If the surviving entity is an ordinary business corporation, it shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized or existing under Title 23A RCW.

(d) Such surviving cooperative association or corporation, as the case may be, shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, both public and private of each of the merging organizations, to the extent that such rights, privileges, immunities, and franchises are not inconsistent with the corporate nature of the surviving organization; and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest of or belonging to or due to each of the organizations so merged shall be taken and deemed to be transferred to and vested in such surviving cooperative association or corporation, as the case may be, without further act or deed; and the title to any real estate, or any interest therein, vested in any such merged cooperative association shall not revert or be in any way impaired by reason of such merger.

(3) The surviving cooperative association or corporation, as the case may be, shall, after the merger is effected, be responsible and liable for all the liabilities and obligations of each of the organizations so merged; and any claim existing or action or proceeding pending by or against any of such organizations may be prosecuted as if the merger had not taken place and the surviving cooperative association or corporation may be substituted in its place. Neither the right of creditors nor any liens upon the property of any cooperative association or corporation party to the merger shall be impaired by the merger.

(4) The articles of ((~~association~~)) incorporation of the surviving cooperative association or ((~~the articles of incorporation~~)) of the surviving ordinary business corporation, as the case may be, shall be deemed to be amended to the extent, if any, that changes in such articles are stated in the plan of merger.

NEW SECTION. Sec. 30. A new section is added to chapter 23.86 RCW to read as follows:

A member of an association shall have the right to dissent from any of the following association actions:

(1) Any plan of merger or consolidation to which the association is a party;

(2) Any plan of conversion of the association to an ordinary business corporation; or

(3) Any sale or exchange of all or substantially all of the property and assets of the association not made in the usual and regular course of its business, including a sale in dissolution, but not including a sale pursuant to an order of a court having jurisdiction in the premises or a sale for cash on terms requiring that all or substantially all of the net proceeds of the sale be

distributed to the members in accordance with their respective interests within one year from the date of sale.

**NEW SECTION.** Sec. 31. A new section is added to chapter 23.86 RCW to read as follows:

(1) Except as provided otherwise under subsection (2) of this section, the rights and procedures set forth in RCW 23A.24.040 shall apply to a member who elects to exercise the right of dissent.

(2) The articles of incorporation of an association subject to this chapter may provide that a dissenting member shall be limited to a return of less than the fair value of the member's equity interest in the association, but a dissenting member may not be limited to a return of less than the consideration paid to or retained by the association for the equity interest unless the fair value is less than the consideration paid to or retained by the association.

**NEW SECTION.** Sec. 32. A new section is added to chapter 23.86 RCW to read as follows:

The provisions of Title 23A RCW shall apply to the associations subject to this chapter, except where such provisions are in conflict with or inconsistent with the express provisions of this chapter. The terms "shareholder" or "shareholders" as used in Title 23A RCW, or in chapter 24.06 RCW as incorporated by reference herein, shall be deemed to refer to "member" or "members" as defined in this chapter. When the terms "share" or "shares" are used with reference to voting rights in Title 23A RCW, or in chapter 24.06 RCW as incorporated by reference herein, such terms shall be deemed to refer to the vote or votes entitled to be cast by a member or members.

**NEW SECTION.** Sec. 33. A new section is added to chapter 23.86 RCW to read as follows:

The provisions of RCW 24.06.340 through 24.06.435 shall apply to every foreign corporation which desires to conduct affairs in this state under the authority of this chapter.

Sec. 34. Section 32, chapter 282, Laws of 1959 as last amended by section 9, chapter 421, Laws of 1987 and by section 13, chapter 457, Laws of 1987 and RCW 21.20.320 are each reenacted and amended to read as follows:

The following transactions are exempt from RCW 21.20.040 through 21.20.300 except as expressly provided:

(1) Any isolated transaction, or sales not involving a public offering, whether effected through a broker-dealer or not; or any transaction effected in accordance with any rule by the director establishing a nonpublic offering exemption pursuant to this subsection where registration is not necessary or appropriate in the public interest or for the protection of investors.

(2) Any nonissuer distribution of an outstanding security by a registered broker-dealer if (a) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or (b) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security.

(3) Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the director may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period.

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters.

(5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit. A bond or other evidence of indebtedness is not offered and sold as a unit if the transaction involves:

(a) A partial interest in one or more bonds or other evidences of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels; or

(b) One of multiple bonds or other evidences of indebtedness secured by one or more real or chattel mortgages or deeds of trust, or agreements for the sale of real estate or chattels, sold to more than one purchaser as part of a single plan of financing; or

(c) A security including an investment contract other than the bond or other evidence of indebtedness.

(6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.

(7) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter.

(8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

(9) Any transaction pursuant to an offering not exceeding five hundred thousand dollars effected in accordance with any rule by the director if the

director finds that registration is not necessary in the public interest and for the protection of investors.

(10) Any offer or sale of a preorganization certificate or subscription if (a) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, (b) the number of subscribers does not exceed ten, and (c) no payment is made by any subscriber.

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety days of their issuance, if (a) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state, or (b) the issuer first files a notice specifying the terms of the offer and the director does not by order disallow the exemption within the next five full business days.

(12) Any offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either act.

(13) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock.

(14) Any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi reorganization, stock split, reverse stock split, merger, consolidation, or sale of assets.

(15) The offer or sale by a registered broker-dealer, or a person exempted from the registration requirements pursuant to RCW 21.20.040, acting either as principal or agent, of securities previously sold and distributed to the public: PROVIDED, That:

(a) Such securities are sold at prices reasonably related to the current market price thereof at the time of sale, and, if such broker-dealer is acting as agent, the commission collected by such broker-dealer on account of the sale thereof is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics;

(b) Such securities do not constitute the whole or a part of an unsold allotment to or subscription or participation by such broker-dealer as an underwriter of such securities or as a participant in the distribution of such securities by the issuer, by an underwriter or by a person or group of persons in substantial control of the issuer or of the outstanding securities of the class being distributed; and

(c) The security has been lawfully sold and distributed in this state or any other state of the United States under this or any act regulating the sale of such securities.

(16) Any transaction by a mutual or cooperative association meeting the requirements of (a) and (b) of this subsection:

(a) The transaction:

(i) Does not involve advertising or public solicitation; or

(ii) Involves advertising or public solicitation, and:

(A) The association first files a notice of claim of exemption on a form prescribed by the director specifying the terms of the offer and the director does not by order deny the exemption within the next ten full business days;

or

(B) The association is an employee cooperative and identifies itself as an employee cooperative in advertising or public solicitation.

(b) The transaction involves an instrument or interest, that:

(i)(A) Qualifies its holder to be a member or patron of the association;

(B) Represents a contribution of capital to the association by a person who is or intends to become a member or patron of the association;

(C) Represents a patronage dividend or other patronage allocation; or

(D) Represents the terms or conditions by which a member or patron purchases, sells, or markets products, commodities, or services from, to, or through the association; and

(ii) Is nontransferable except in the case of death, operation of law, bona fide transfer for security purposes only to the association, a bank, or other financial institution, intrafamily transfer, or transfer to an existing member or person who will become a member and, in the case of an instrument, so states conspicuously on its face.

(17) Any transaction effected in accordance with any rule adopted by the director establishing a limited offering exemption which furthers objectives of compatibility with federal exemptions and uniformity among the states, provided that in adopting any such rule the director may require that no commission or other remuneration be paid or given to any person, directly or indirectly, for effecting sales unless the person is registered under this chapter as a broker-dealer or salesperson.

NEW SECTION. Sec. 35. A new section is added to chapter 23.86 RCW to read as follows:

(1) The secretary of state shall notify all associations subject to this chapter thirty days prior to the effective date of this act that in the event they fail to appoint a registered agent as provided in section 13 of this act, they shall thereupon cease to be recorded as an active corporation.

(2) If the notification provided under subsection (1) of this section from the secretary of state to any association was or has been returned unclaimed or undeliverable, the secretary of state shall proceed to remove the name of such association from the records of active corporations.

(3) Associations removed from the records of active corporations under subsection (2) of this section may be reinstated at any time within ten years of the action by the secretary of state. The association shall be reinstated to active status by filing a request for reinstatement, by appointment of a registered agent and designation of a registered office as required by this chapter, and by filing an annual report for the reinstatement year. No fees may be charged for reinstatements under this section. If, during the period of inactive status, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the association's name, the association seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly.

(4) If no action is taken to reinstate to active status as provided in subsection (3) of this section, the association shall be administratively dissolved.

Sec. 36. Section 24, chapter 230, Laws of 1971 ex. sess. as amended by section 1, chapter 164, Laws of 1987 and RCW 15.35.240 are each amended to read as follows:

The director may deny, suspend, or revoke a license upon due notice and an opportunity for a hearing as provided in chapter ~~((34.04 RCW; concerning contested cases, as enacted or hereafter amended))~~ 34.05 RCW concerning adjudicative proceedings, or rules adopted thereunder by the director, when he is satisfied by a preponderance of the evidence of the existence of any of the following facts:

(1) A milk dealer has failed to account and make payments without reasonable cause, for milk purchased from a producer subject to the provisions of this chapter or rules adopted hereunder;

(2) A milk dealer has committed any act injurious to the public health or welfare or to trade and commerce in milk;

(3) A milk dealer has continued in a course of dealing of such nature as to satisfy the director of his inability or unwillingness to properly conduct the business of handling or selling milk, or to satisfy the director of his intent to deceive or defraud producers subject to the provisions of this chapter or rules adopted hereunder;

(4) A milk dealer has rejected without reasonable cause any milk purchased or has rejected without reasonable cause or reasonable advance notice milk delivered in ordinary continuance of a previous course of dealing, except where the contract has been lawfully terminated;

(5) Where the milk dealer is insolvent or has made a general assignment for the benefit of creditors or has been adjudged bankrupt or where a money judgment has been secured against him upon which an execution has been returned wholly or partially satisfied;

(6) Where the milk dealer has been a party to a combination to fix prices, contrary to law; a cooperative association organized under chapter



~~((24.32))~~ 23.86 RCW and making collective sales and marketing milk pursuant to the provisions of such chapter, directly or through a marketing agent, shall not be deemed or construed to be a conspiracy or combination in restraint of trade or an illegal monopoly;

(7) Where there has been a failure either to keep records or to furnish statements or information required by the director;

(8) Where it is shown that any material statement upon which the license was issued is or was false or misleading or deceitful in any particular;

(9) Where the applicant is a partnership or a corporation and any individual holding any position or interest or power of control therein has previously been responsible in whole or in part for any act for which a license may be denied, suspended, or revoked, pursuant to the provisions of this chapter or rules adopted hereunder;

(10) Where the milk dealer has violated any provisions of this chapter or rules adopted hereunder;

(11) Where the milk dealer has ceased to operate the milk business for which the license was issued.

Sec. 37. Section 3, chapter 139, Laws of 1959 as last amended by section 10, chapter 254, Laws of 1988 and RCW 20.01.030 are each amended to read as follows:

This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.86 RCW (~~(or chapter 24.32 RCW)~~), except as to that portion of the activities of the association or federation that involve the handling or dealing in the agricultural products of nonmembers of the organization: PROVIDED, That the associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: PROVIDED FURTHER, That if the cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets the processed agricultural crops on behalf of the grower or its own behalf, the association or federation is subject to the provisions of RCW 20.01.500 through 20.01.560 and the license provision of this chapter excluding bonding provisions: PROVIDED FURTHER, That none of the foregoing exemptions in this subsection apply to any such cooperative or federation dealing in or handling grain in any manner, and not licensed under the provisions of chapter 22.09 RCW;

(2) Any person who sells exclusively his or her own agricultural products as the producer thereof;

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of the public livestock market's obligation. However, any such market operating as a livestock dealer or order buyer, or both, is subject to all provisions

of this chapter except for the payment of the license fee required in RCW 20.01.040;

(4) Any retail merchant having a bona fide fixed or permanent place of business in this state, but only for the retail merchant's retail business conducted at such fixed or established place of business;

(5) Any person buying farm products for his or her own use or consumption;

(6) Any warehouseman or grain dealer licensed under the state grain warehouse act, chapter 22.09 RCW, with respect to his or her handling of any agricultural product as defined under that chapter;

(7) Any nurseryman who is required to be licensed under the horticultural laws of the state with respect to his or her operations as such licensee;

(8) Any person licensed under the now existing dairy laws of the state with respect to his or her operations as such licensee;

(9) Any producer who purchases less than fifteen percent of his or her volume to complete orders;

(10) Any person, association, or corporation regulated under chapter 67.16 RCW and the rules adopted thereunder while performing acts regulated by that chapter and the rules adopted thereunder;

(11) Any boom loader who loads exclusively his or her own hay or straw as the producer thereof.

Sec. 38. Section 72, chapter 120, Laws of 1969 ex. sess. as amended by section 2, chapter 45, Laws of 1982 and RCW 24.06.360 are each amended to read as follows:

A foreign corporation, in order to procure a certificate of authority to conduct affairs in this state, shall make application therefor to the secretary of state, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) The date of incorporation and the period of duration of the corporation.

(3) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(4) The address of the proposed registered office of the corporation in this state, and the name of its proposed registered agent in this state at such address.

(5) For the purpose or purposes of the corporation which it proposes to pursue in conducting its affairs in this state.

(6) The names and respective addresses of the directors and officers of the corporation.

(7) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to conduct affairs in this state.

~~((8) For any foreign agricultural cooperative association, evidence that the association has complied with the provisions of RCW 24.32.210:))~~

Sec. 39. Section 43.07.120, chapter 8, Laws of 1965 as last amended by section 187, chapter 35, Laws of 1982 and RCW 43.07.120 are each amended to read as follows:

(1) The secretary of state shall collect the fees herein prescribed for the secretary of state's official services:

(a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office for which no other fee is provided, fifty cents per page for the first ten pages and twenty-five cents per page for each additional page;

(b) For any certificate under seal, five dollars;

(c) For filing and recording trademark, fifty dollars;

(d) For each deed or patent of land issued by the governor, if for one hundred and sixty acres of land, or less, one dollar, and for each additional one hundred and sixty acres, or fraction thereof, one dollar;

(e) For recording miscellaneous records, papers, or other documents, five dollars for filing each case.

(2) The secretary of state may adopt rules under chapter ~~((34.04))~~ 34.05 RCW establishing reasonable fees for the following services rendered under Title 23A RCW, chapter 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, ~~((24.32;))~~ 24.36, or 25.10 RCW:

(a) Any service rendered in-person at the secretary of state's office;

(b) Any expedited service;

(c) The electronic transmittal of documents;

(d) The providing of information by microfiche or other reduced-format compilation;

(e) The handling of checks or drafts for which sufficient funds are not on deposit;

(f) The resubmission of documents previously submitted to the secretary of state where the documents have been returned to the submitter to make such documents conform to the requirements of the applicable statute;

(g) The handling of telephone requests for information; and

(h) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge of the superior court shall be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or

resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law.

Sec. 40. Section 1, chapter 122, Laws of 1971 ex. sess. as last amended by section 188, chapter 35, Laws of 1982 and RCW 43.07.130 are each amended to read as follows:

There is created within the state treasury a revolving fund, to be known as the "secretary of state's revolving fund," which shall be used by the office of the secretary of state to defray the costs of printing, reprinting, or distributing printed matter authorized by law to be issued by the office of the secretary of state, and any other cost of carrying out the functions of the secretary of state under Title 23A RCW, or chapters 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, (~~(24.32,)~~) 24.36, or 25.10 RCW.

The secretary of state is hereby authorized to charge a fee for such publications in an amount which will compensate for the costs of printing, reprinting, and distributing such printed matter. Fees recovered by the secretary of state under RCW 43.07.120(2), 23A.36.050, 23A.40.030, 24.03.410, 24.06.455, or 46.64.040, and such other moneys as are expressly designated for deposit in the secretary of state's revolving fund shall be placed in the secretary of state's revolving fund.

Sec. 41. Section 193, chapter 35, Laws of 1982 and RCW 43.07.190 are each amended to read as follows:

Where the secretary of state determines that a summary face sheet or cover sheet would expedite review of any documents made under Title 23A RCW, or chapter 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, (~~(24.32,)~~) 24.36, or 25.10 RCW, the secretary of state may require the use of a summary face sheet or cover sheet that accurately reflects the contents of the attached document. The secretary of state may, by rule adopted under chapter (~~(34.04)~~) 34.05 RCW, specify the required contents of any summary face sheet and the type of document or documents in which the summary face sheet will be required, in addition to any other filing requirements which may be applicable.

Sec. 42. Section 6, chapter 2, Laws of 1983 as last amended by section 17, chapter 117, Laws of 1986 and RCW 23A.32.050 are each amended to read as follows:

A foreign corporation, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the secretary of state, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) If the name of the corporation does not contain the word "corporation", "company", "incorporated", or "limited", or does not contain an abbreviation of one of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this state.

(3) The date of incorporation and the period of duration of the corporation.

(4) The address of the principal office of the corporation.

(5) The purpose or purposes of the corporation which it proposes to pursue in the transaction of business in this state.

(6) The names and respective addresses of the directors and officers of the corporation.

(7) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes and series, if any within a class.

(8) A statement that a registered agent has been appointed and the name and address of such agent, and that a registered office exists and the address of such registered office is identical to that of the registered agent.

(9) The date of the beginning of its current annual accounting period.

(10) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to transact business in this state and to determine and assess the fees payable as in this title prescribed.

~~((11) For any foreign agricultural cooperative association, evidence that the association has complied with the provisions of RCW 24.32.210:))~~

Such application shall be made in the form prescribed by the secretary of state and shall be executed in duplicate by the corporation by one of its officers.

Such application shall be accompanied by a certificate of good standing which has been issued no more than sixty days before the date of filing of the application for a certificate of authority to do business in this state and has been certified to by the proper officer of the state or country under the laws of which it is incorporated.

Sec. 43. Section 6, chapter 205, Laws of 1982, as last amended by section 19, chapter 240, Laws of 1988 and RCW 18.11.070 are each amended to read as follows:

(1) It is unlawful for any person to act as an auctioneer or for an auction company to engage in any business in this state without a license.

(2) This chapter does not apply to:

(a) An auction of goods conducted by an individual who personally owns those goods and who did not acquire those goods for resale;

(b) An auction conducted by or under the direction of a public authority;

(c) An auction held under judicial order in the settlement of a decedent's estate;

(d) An auction which is required by law to be at auction;

(e) An auction conducted by or on behalf of a political organization or a charitable corporation or association if the person conducting the sale receives no compensation;

(f) An auction of livestock or agricultural products which is conducted under chapter 16.65 or 20.01 RCW. Auctions not regulated under chapter 16.65 or 20.01 RCW shall be fully subject to the provisions of this chapter; ((or))

(g) An auction held under chapter 19.150 RCW; or

(h) An auction of fur pelts conducted by any cooperative association organized under chapter 23.86 RCW or its wholly owned subsidiary. In order to qualify for this exemption, the fur pelts must be from members of the association. However, the association, without loss of the exemption, may auction pelts that it purchased from nonmembers for the purpose of completing lots or orders, so long as the purchased pelts do not exceed fifteen percent of the total pelts auctioned.

NEW SECTION. Sec. 44. The following acts or parts of acts are each repealed:

(1) Section 18, chapter 19, Laws of 1913, section 3, chapter 99, Laws of 1925 ex. sess. and RCW 23.86.040;

(2) Section 3, chapter 19, Laws of 1913, section 2, chapter 302, Laws of 1981, section 172, chapter 35, Laws of 1982 and RCW 23.86.060;

(3) Section 1, chapter 258, Laws of 1953, section 4, chapter 12, Laws of 1959 and RCW 23.86.110;

(4) Section 9, chapter 19, Laws of 1913, section 33, chapter 297, Laws of 1981 and RCW 23.86.120;

(5) Section 10, chapter 19, Laws of 1913 and RCW 23.86.130;

(6) Section 5, chapter 12, Laws of 1959 and RCW 23.86.140;

(7) Section 12, chapter 19, Laws of 1913 and RCW 23.86.150;

(8) Section 15, chapter 19, Laws of 1913 and RCW 23.86.180;

(9) Section 1, chapter 115, Laws of 1921, section 1, chapter 195, Laws of 1941 and RCW 24.32.010;

(10) Section 2, chapter 115, Laws of 1921, section 707, chapter 212, Laws of 1987 and RCW 24.32.020;

(11) Section 3, chapter 115, Laws of 1921 and RCW 24.32.030;

(12) Section 4, chapter 115, Laws of 1921 and RCW 24.32.040;

(13) Section 5, chapter 115, Laws of 1921, section 1, chapter 16, Laws of 1931, section 1, chapter 132, Laws of 1959 and RCW 24.32.050;

(14) Section 6, chapter 115, Laws of 1921, section 1, chapter 102, Laws of 1925 ex. sess., section 2, chapter 195, Laws of 1941, section 1, chapter 99, Laws of 1943 and RCW 24.32.060;

(15) Section 7, chapter 115, Laws of 1921, section 2, chapter 16, Laws of 1931, section 2, chapter 132, Laws of 1959, section 705, chapter 212, Laws of 1987 and RCW 24.32.070;

(16) Section 8, chapter 115, Laws of 1921, section 3, chapter 16, Laws of 1931, section 3, chapter 132, Laws of 1959 and RCW 24.32.080;

(17) Section 9, chapter 115, Laws of 1921, section 4, chapter 16, Laws of 1931 and RCW 24.32.090;

- (18) Section 10, chapter 115, Laws of 1921 and RCW 24.32.100;
- (19) Section 11, chapter 115, Laws of 1921, section 1, chapter 69, Laws of 1929, section 5, chapter 16, Laws of 1931, section 1, chapter 64, Laws of 1969 and RCW 24.32.110;
- (20) Section 12, chapter 115, Laws of 1921, section 2, chapter 64, Laws of 1969 and RCW 24.32.150;
- (21) Section 13, chapter 115, Laws of 1921, section 6, chapter 16, Laws of 1931, section 2, chapter 99, Laws of 1943 and RCW 24.32.160;
- (22) Section 14, chapter 115, Laws of 1921 and RCW 24.32.200;
- (23) Section 15, chapter 115, Laws of 1921, section 1, chapter 138, Laws of 1927, section 7, chapter 16, Laws of 1931, section 4, chapter 132, Laws of 1959, section 1, chapter 45, Laws of 1982 and RCW 24.32.210;
- (24) Section 16, chapter 115, Laws of 1921 and RCW 24.32.240;
- (25) Section 17, chapter 115, Laws of 1921, section 1, chapter 285, Laws of 1927, section 3, chapter 195, Laws of 1941 and RCW 24.32.250;
- (26) Section 18, chapter 115, Laws of 1921 and RCW 24.32.260;
- (27) Section 19, chapter 115, Laws of 1921 and RCW 24.32.270;
- (28) Section 20, chapter 115, Laws of 1921, section 4, chapter 195, Laws of 1941 and RCW 24.32.280;
- (29) Section 21, chapter 115, Laws of 1921, section 8, chapter 16, Laws of 1931, section 5, chapter 132, Laws of 1959 and RCW 24.32.290;
- (30) Section 22, chapter 115, Laws of 1921, section 1, chapter 86, Laws of 1979, section 37, chapter 297, Laws of 1981 and RCW 24.32.300;
- (31) Section 23, chapter 115, Laws of 1921, section 6, chapter 132, Laws of 1959 and RCW 24.32.310;
- (32) Section 23–a, chapter 115, Laws of 1921 and RCW 24.32.320;
- (33) Section 24, chapter 115, Laws of 1921 and RCW 24.32.330;
- (34) Section 25, chapter 115, Laws of 1921 and RCW 24.32.340;
- (35) Section 26, chapter 115, Laws of 1921 and RCW 24.32.350;
- (36) Section 27, chapter 115, Laws of 1921 and RCW 24.32.355;
- (37) Section 28, chapter 115, Laws of 1921, section 68, chapter 81, Laws of 1971, section 25, chapter 202, Laws of 1988 and RCW 24.32.360;
- (38) Section 29, chapter 115, Laws of 1921 and RCW 24.32.400;
- (39) Section 30, chapter 115, Laws of 1921 and RCW 24.32.410;
- (40) Section 31, chapter 115, Laws of 1921 and RCW 24.32.900; and
- (41) Section 14, chapter 457, Laws of 1987 and RCW 21.20.321.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 308

[Substitute House Bill No. 1217]

## WATER AND SEWER DISTRICTS—POWERS, ANNEXATIONS, AND MERGERS

AN ACT Relating to water and sewer districts; amending RCW 56.08.010, 57.08.010, 56.24.070, 57.24.010, 56.08.080, 56.08.090, 57.08.015, 57.08.016, 56.32.010, 56.32.080, 57.32.010, and 57.36.010; adding a new section to chapter 36.93 RCW; and adding a new section to chapter 57.08 RCW.

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

Sec. 1. Section 1, chapter 449, Laws of 1987 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 and towns, 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)~~). A sewer district 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, approved septic tanks or approved septic tank systems, other facilities and systems for the collection, interception, treatment, and disposal of wastewater, and for the control of pollution from wastewater and for the protection, preservation, and rehabilitation of surface and underground waters, 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 and may construct, acquire, or own buildings and other necessary district facilities. Such sewage facilities may include facilities which result in combined sewage disposal, treatment, or drainage and electric generation, provided that the electricity generated thereby is a byproduct of the system of sewers. Such electricity may be used by the sewer district or sold to any entity authorized by law to distribute electricity. Such electricity is a byproduct when the electrical generation is subordinate to the primary purpose of sewage disposal, treatment, or drainage. 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. For the purposes of sewage facilities which include facilities which result in combined sewage disposal, treatment, or drainage and electric generation where the electric generation is a byproduct, nothing in this section may be construed to authorize a district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner. 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 permit payment of the cost of connection and the reasonable connection charge to be paid with interest in installments over a period not exceeding fifteen years. The county treasurer may charge and collect a fee of three dollars per parcel for each year for the treasurer's services. Such fees shall be a charge to be included as part of each annual installment, and shall be credited to the county current expense fund by the county treasurer. 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. 2. Section 8, chapter 114, Laws of 1929 as last amended by section 1, chapter 11, Laws of 1988 and RCW 57.08.010 are each amended to read as follows:

A water district may acquire by purchase or condemnation, or both, all property and property rights and all water and water rights, both within and without the district, necessary for its purposes. A water 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 water 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 assessment rolls to be prepared and filed by eminent domain commissioners or commissioners appointed by the court shall be prepared and filed by the water district, and the duties devolving upon the city treasurer are hereby imposed upon the county treasurer. A water district may construct, condemn and purchase, purchase, add to, maintain and supply waterworks to furnish the district and inhabitants thereof, and any city or town therein and any other persons, both within and without the district, with an ample supply of water for all uses and purposes public and private with full authority to regulate and control the use, content, distribution, and price thereof in such a manner as is not in conflict with general law and may construct, acquire, or own buildings and other necessary district facilities. A water district contiguous to Canada may contract with a Canadian corporation for the purchase of water and for the construction, purchase, maintenance and supply of waterworks to furnish the district and inhabitants thereof and residents of Canada with an ample supply of water under terms approved by the board of commissioners. Such waterworks may include facilities which result in combined water supply and electric generation, provided that the electricity generated thereby is a byproduct of the water supply system. Such electricity may be used by the water district or sold to any entity authorized by law to distribute electricity. Such electricity is a byproduct when the electrical generation is subordinate to the primary purpose of water supply. For such purposes, a water district may take, condemn and purchase, purchase, acquire and retain water from any public or navigable lake, river or watercourse, or any underflowing water and, by means of aqueducts or pipe line conduct the same throughout such water district and any city or town therein and carry it along and upon public highways, roads and streets, within and without such district. For the purpose of constructing or laying aqueducts or pipe lines, dams, or waterworks or other necessary structures in storing and retaining water or for any other lawful purpose such water district may occupy the beds and shores up to the high water mark of any such lake, river, or other watercourse, and may acquire by purchase or condemnation such property or property rights or privileges as may be necessary to protect its water supply from pollution. For the purposes of waterworks which include facilities for the generation of electricity as a byproduct, nothing in this section may be construed to authorize a water district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner.

A water district may purchase and take water from any municipal corporation.

A water district may fix rates and charges for water supplied and may charge property owners seeking to connect to the district's water supply

system, 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 permit payment of the cost of connection and the reasonable connection charge to be paid with interest in installments over a period not exceeding fifteen years. The county treasurer may charge and collect a fee of three dollars for each year for the treasurer's services. Such fees shall be a charge to be included as part of each annual installment, and shall be credited to the county current expense fund by the county treasurer.

Sec. 3. Section 1, chapter 11, Laws of 1967 ex. sess. as last amended by section 13, chapter 162, Laws of 1988 and RCW 56.24.070 are each amended to read as follows:

Territory ((adjoining or in close proximity to a district)) within the county or counties in which a district is located, or territory adjoining or in close proximity to a district but which is located in another county, may be annexed to and become a part of the district. ((In addition, any nonadjoining territory in a county of the fifth class or smaller composed entirely of islands may be annexed to and become part of a district operating within the county.)) All annexations shall be accomplished in the following manner: Twenty percent of the number of registered voters residing in the territory proposed to be annexed who voted at the last election may file a petition with the district commissioners and cause the question to be submitted to the electors of the territory whether the territory will be annexed and become a part of the district. If the commissioners concur in the petition, they shall file it with the county election officer, who shall, within ten days, examine the signatures thereon and certify to the sufficiency or insufficiency thereof; and for such purpose the county election officer shall have access to all registration books in the possession of the officers of any city or town in the proposed district. If the petition contains a sufficient number of signatures, the election officer shall transmit it, together with a certificate of sufficiency attached thereto to the sewer commissioners of the district. If there are no electors residing in the territory to be annexed, the petition may be signed by such a number as appear of record to own at least a majority of the acreage in the territory, and the petition shall disclose the total number of acres of land in the territory and the names of all record owners of land therein. If the commissioners are satisfied as to the sufficiency of the petition and concur therein, they shall send it, together with their certificate of concurrence attached thereto to the county legislative authority.

The county legislative authority, upon receipt of a petition certified to contain a sufficient number of signatures of electors, or upon receipt of a petition signed by such a number as own at least a majority of the acreage,

together with a certificate of concurrence signed by the sewer commissioners, at a regular or special meeting shall cause to be published once a week for at least two weeks in a newspaper in general circulation throughout the territory proposed to be annexed a notice that the petition has been filed, stating the time of the meeting at which it shall be presented, and setting forth the boundaries of the territory proposed to be annexed.

Sec. 4. Section 15, chapter 18, Laws of 1959 as last amended by section 14, chapter 162, Laws of 1988 and RCW 57.24.010 are each amended to read as follows:

Territory ((adjoining or in close proximity to a district)) within the county or counties in which a district is located, or territory adjoining or in close proximity to a district but which is located in another county, may be annexed to and become a part of the district. ((In addition, any nonadjoining territory in a county of the fifth class or smaller composed entirely of islands may be annexed to and become part of a district operating within the county.)) All annexations shall be accomplished in the following manner: Twenty percent of the number of registered voters residing in the territory proposed to be annexed who voted at the last election may file a petition with the district commissioners and cause the question to be submitted to the electors of the territory whether such territory will be annexed and become a part of the district. If the commissioners concur in the petition, they shall file it with the county election officer of each county in which the real property proposed to be annexed is located, who shall, within ten days, examine and validate the signatures thereon and certify to the sufficiency or insufficiency thereof; and for such purpose the county election officer shall have access to all registration books in the possession of the officers of any city or town in the proposed district. If the petition contains a sufficient number of signatures, the county election officer of the county in which the real property proposed to be annexed is located shall transmit it, together with a certificate of sufficiency attached thereto to the water commissioners of the district. If there are no electors residing in the territory to be annexed, the petition may be signed by such a number as appear of record to own at least a majority of the acreage in the territory, and the petition shall disclose the total number of acres of land in the territory and the names of all record owners of land therein. If the commissioners are satisfied as to the sufficiency of the petition and concur therein, they shall send it, together with their certificate of concurrence attached thereto to the county legislative authority of each county in which the territory proposed to be annexed is located.

The county legislative authority, upon receipt of a petition certified to contain a sufficient number of signatures of electors, or upon receipt of a petition signed by such a number as own at least a majority of the acreage, together with a certificate of concurrence signed by the water commissioners, at a regular or special meeting shall cause to be published once a week

for at least two weeks in a newspaper in general circulation throughout the territory proposed to be annexed a notice that the petition has been filed, stating the time of the meeting at which it shall be presented, and setting forth the boundaries of the territory proposed to be annexed.

Sec. 5. Section 1, chapter 51, Laws of 1953 as amended by section 1, chapter 172, Laws of 1984 and RCW 56.08.080 are each amended to read as follows:

The board of commissioners of a sewer district may sell, at public or private sale, property belonging to the district if the board determines ~~((by unanimous vote of the elected members of the board))~~ that the property is not and will not be needed for district purposes and if the board gives notice of intention to sell as in this section provided: PROVIDED, That no notice of intention is required to sell personal property of less than five hundred dollars in value. ~~((If property is sold without notice, such property may not be purchased by a commissioner or an employee of the district, or relatives of commissioners or employees.))~~

The notice of intention to sell shall be published once a week for three consecutive weeks in a newspaper of general circulation in the district. The last publication shall be at least twenty days but not more than thirty days before the date of sale. The notice shall describe the property and state the time and place at which it will be sold or offered for sale, the terms of sale, whether the property is to be sold at public or private sale, and if at public sale the notice shall call for bids, fix the conditions thereof and shall reserve the right to reject any and all bids.

Sec. 6. Section 2, chapter 51, Laws of 1953 as last amended by section 1, chapter 162, Laws of 1988 and RCW 56.08.090 are each amended to read as follows:

(1) Subject to the provisions of subsection (2) of this section, no real property valued at five hundred dollars or more of the district shall be sold for less than ninety percent of the value thereof as established by a written appraisal made not more than six months prior to the date of sale by three disinterested real estate brokers licensed under the laws of the state or professionally designated real estate appraisers as defined in RCW 74.46.020. The appraisal shall be signed by the appraisers and filed with the secretary of the board of commissioners of the district, who shall keep it at the office of the district open to public inspection. Any notice of intention to sell real property of the district shall recite the appraised value thereof: PROVIDED, That there shall be no private sale of real property where the appraised value exceeds the sum of five hundred dollars.

(2) If no purchasers can be obtained for the property at ninety percent or more of its appraised value after one hundred eighty days of offering the property for sale, the board of commissioners of the sewer district may adopt a resolution stating that the district has been unable to sell the property at the ninety percent amount. The sewer district then may sell the

property at the highest price it can obtain at public auction. A notice of intention to sell at public auction shall be published once a week for three consecutive weeks in a newspaper of general circulation in the sewer district. The last publication shall be at least twenty days but not more than thirty days before the date of sale. The notice shall describe the property, state the time and place at which it will be offered for sale and the terms of sale, and shall call for bids, fix the conditions thereof, and reserve the right to reject any and all bids.

Sec. 7. Section 1, chapter 50, Laws of 1953 as amended by section 2, chapter 299, Laws of 1977 ex. sess. and RCW 57.08.015 are each amended to read as follows:

The board of commissioners of a water district may sell, at public or private sale, property belonging to the district if the board determines (~~by unanimous vote of the elected members of the board~~) that the property is not and will not be needed for district purposes and if the board gives notice of intention to sell as in this section provided: PROVIDED, That no such notice of intention shall be required to sell personal property of less than (~~two hundred=fifty~~) five hundred dollars in value.

The notice of intention to sell shall be published once a week for three consecutive weeks in a newspaper of general circulation in the district. The last publication shall be at least twenty days but not more than thirty days before the date of sale. The notice shall describe the property and state the time and place at which it will be sold or offered for sale, the terms of sale, whether the property is to be sold at public or private sale, and if at public sale the notice shall call for bids, fix the conditions thereof and shall reserve the right to reject any and all bids.

Sec. 8. Section 2, chapter 50, Laws of 1953 as last amended by section 2, chapter 162, Laws of 1988 and RCW 57.08.016 are each amended to read as follows:

(1) Subject to the provisions of subsection (2) of this section, no real property valued at five hundred dollars or more of the district shall be sold for less than ninety percent of the value thereof as established by a written appraisal made not more than six months prior to the date of sale by three disinterested real estate brokers licensed under the laws of the state or professionally designated real estate appraisers as defined in RCW 74.46.020. The appraisal shall be signed by the appraisers and filed with the secretary of the board of commissioners of the district, who shall keep it at the office of the district open to public inspection. Any notice of intention to sell real property of the district shall recite the appraised value thereof: PROVIDED, That there shall be no private sale of real property where the appraised value exceeds the sum of five hundred dollars.

(2) If no purchasers can be obtained for the property at ninety percent or more of its appraised value after one hundred eighty days of offering the property for sale, the board of commissioners of the water district may

adopt a resolution stating that the district has been unable to sell the property at the ninety percent amount. The water district then may sell the property at the highest price it can obtain at public auction. A notice of intention to sell at public auction shall be published once a week for three consecutive weeks in a newspaper of general circulation in the water district. The last publication shall be at least twenty days but not more than thirty days before the date of sale. The notice shall describe the property, state the time and place at which it will be offered for sale and the terms of sale, and shall call for bids, fix the conditions thereof, and reserve the right to reject any and all bids.

Sec. 9. Section 2, chapter 197, Laws of 1967 as amended by section 1, chapter 86, Laws of 1975 1st ex. sess. and RCW 56.32.010 are each amended to read as follows:

Two or more sewer districts(~~(, adjoining or in close proximity to each other;)~~) may be joined into one consolidated sewer district. The consolidation may be initiated in either of the following ways: Ten percent of the legal electors residing within each of the sewer districts proposed to be consolidated may petition the board of sewer commissioners of each of their respective sewer districts to cause the question to be submitted to the legal electors of the sewer districts proposed to be consolidated; or, the boards of sewer commissioners of each of the sewer districts proposed to be consolidated may by resolution determine that the consolidation of such districts shall be conducive to the public health, welfare, and convenience and to be of special benefit to the lands of such districts.

Sec. 10. Section 9, chapter 197, Laws of 1967 as amended by section 6, chapter 86, Laws of 1975 1st ex. sess. and RCW 56.32.080 are each amended to read as follows:

Whenever ~~((there are))~~ two sewer districts(~~(, the territories of which are adjoining or in close proximity to each other))~~ desire to merge, either district hereinafter referred to as the "merging district", may merge into the other districts, hereinafter referred to as the "merger district", and the merger district will survive under its original name or number.

Sec. 11. Section 1, chapter 267, Laws of 1943 as last amended by section 28, chapter 17, Laws of 1982 1st ex. sess. and RCW 57.32.010 are each amended to read as follows:

Two or more water districts(~~(, adjoining or in close proximity to each other;)~~) may be joined into one consolidated water district. The consolidation may be initiated in either of the following ways: Ten percent of the legal electors residing within each of the water districts proposed to be consolidated may petition the board of water commissioners of each of their respective water districts to cause the question to be submitted to the legal electors of the water districts proposed to be consolidated; or the boards of

water commissioners of each of the water districts proposed to be consolidated may by resolution determine that the consolidation of the districts shall be conducive to the public health, welfare, and convenience and to be of special benefit to the lands of the districts.

Sec. 12. Section 1, chapter 28, Laws of 1961 as last amended by section 29, chapter 17, Laws of 1982 1st ex. sess. and RCW 57.36.010 are each amended to read as follows:

Whenever ~~((there are))~~ two water districts~~((, the territories of which are adjoining or in close proximity to each other))~~ desire to merge, either district, hereinafter referred to as the "merging district", may merge into the other district, hereinafter referred to as the "merger district", and the merger district will survive under its original number. ~~((The term "in proximity to" as used hereinabove shall mean within one mile of each other, measured in a straight line between the closest points of approach of the territorial boundaries of the two districts:))~~

NEW SECTION. Sec. 13. A new section is added to chapter 36.93 RCW to read as follows:

The proposal by a water district or sewer district to annex territory that is not adjacent to the district shall not be deemed to be violative of the objectives of a boundary review board solely due to the fact that the territory is not adjacent to the water district or sewer district. The proposed consolidation or merger of two or more water districts or two or more sewer districts that are not adjacent to each other shall not be deemed to be violative of the objectives of a boundary review board solely due to the fact that the districts are not adjacent.

NEW SECTION. Sec. 14. A new section is added to chapter 57.08 RCW to read as follows:

A water district may enter into a contract with any person, corporation, or other entity, public or private, that owns a water system located in the water district to manage, operate, maintain, or repair the water system. Such a contract may be entered into only if the general comprehensive plan of the water district reflects the water system that is to be so managed, operated, maintained, or repaired.

A water district shall be liable to provide the services provided in such a contract only if the required contractual payments are made to the district, and such payments shall be secured by a lien on the property served by the water system to the same extent that rates and charges imposed by the water district constitute liens on the property served by the district. The responsibility for all costs incurred by the water system in complying with water quality laws, regulations, and standards shall be solely that of the water system and not the water district, except to the extent payments have been made to the district for the costs of such compliance.



A water district periodically may transfer to another account surplus moneys that may accumulate in an account established by the district to receive payments for the provision of services for such a water system.

Passed the House March 13, 1989.

Passed the Senate April 19, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

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## CHAPTER 309

[Substitute House Bill No. 1408]

### PUBLIC EMPLOYEES' RETIREMENT SYSTEM—SERVICE CREDIT—DEFINITION OF "POSITION"

AN ACT Relating to service credit in the public employees' retirement system; and amending RCW 41.40.010.

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

Sec. 1. Section 1, chapter 274, Laws of 1947 as last amended by section 7, chapter 13, Laws of 1985 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, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum 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.

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 the member makes member contributions under this chapter for each month of such academic year, and 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.

During the regular contract year or school year of employment, members employed by school districts shall receive service credit in any month in which the school is closed for a vacation period of five calendar days or more. The member shall have been employed or on paid leave of absence for at least three and one-half hours each day the school was open or shall have received compensation for service averaging at least three and one-half hours for each such day.

(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.

During the regular contract year or school year of employment, members employed by school districts shall receive service credit in any month in which the school is closed for a vacation period of five calendar days or more. The member shall have been employed or on paid leave of absence for at least four and one-half hours each day the school was open or shall have received compensation for service averaging at least four and one-half hours for each such day.

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. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor for which compensation is paid.

(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).

Passed the House March 14, 1989.

Passed the Senate April 18, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

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## CHAPTER 310

[House Bill No. 1334]

### SIX-PLUS-SIXTY SENIORS SCHOOL VOLUNTEER PROGRAM

AN ACT Relating to senior citizens volunteering in the schools; adding a new section to Title 28A RCW; and creating a new section.

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

**NEW SECTION.** Sec. 1. A new section is added to Title 28A RCW to read as follows:

(1) Senior citizens have a wealth of experience and knowledge which can be of value to the children of our state. To encourage the exchange of knowledge and experience between senior citizens and our children, the six-plus-sixty volunteer program is created. The purpose of the program is to encourage senior citizens to volunteer in our public schools.

(2) The superintendent of public instruction may grant funds to selected school districts for planning and implementation of a volunteer program utilizing senior citizens. The funds may be used to provide information on volunteer opportunities to the community, to schools, and to senior citizens and may also be used to provide training to the senior citizens who participate in the program. Funds may also be used to compensate volunteers for their transportation costs by paying mileage, providing transportation on school buses, and providing a school lunch.

(3) The superintendent shall appoint an advisory committee composed of certificated and noncertificated staff, administrators, senior citizens, and the state center for voluntary action under chapter 43.150 RCW. The committee shall propose criteria to the superintendent to evaluate grant proposals for the six-plus-sixty volunteer program.

**\*NEW SECTION.** Sec. 2. (1) *The superintendent of public instruction shall develop a model intergenerational child care program. The superintendent of public instruction shall design the program to:*

(a) *Provide child care to children five years of age and under, whose mothers are under the age of eighteen, and other children five years of age and under as space is available;*

(b) *Involve senior citizens in the community in the provision of care and also involve in the provision of care other persons in the community including students at public and private colleges and universities and students at vocational-technical institutes;*

(c) *Seek funding from multiple sources, including but not limited to, business and industry, private foundations, local governments, the federal government, and other state agencies;*

(d) *Select at least one site for the program, in an area that has a rate of teenage pregnancy higher than the state-wide average and also has a large senior citizen population;*

(e) *Develop innovative service delivery models including combining programs which may include existing programs such as: Project even start under chapter 28A.130 RCW; the early childhood education and assistance program under chapter 28A.34A RCW; a before-and-after school care program authorized under chapter 28A.34 RCW; a child care program at a college or university; and an existing child care program funded with any combination of private or public moneys; and*



*(f) Select facilities, if possible, that have access to or are part of other community services such as senior centers, community centers, park facilities, schools, colleges or universities, vocational-technical institutes, private business or industry, or health care institutions.*

*(2) In developing and implementing the program, the department shall work with state, federal, and local agencies.*

\*Sec. 2 was vetoed, see message at end of chapter.

Passed the House April 20, 1989.

Passed the Senate April 6, 1989.

Approved by the Governor May 11, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1989.

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

"I am returning herewith, without my approval as to section 2, Engrossed House Bill No. 1334 entitled:

"AN ACT Relating to senior citizens volunteering in the schools."

Section 1 creates the six-plus-sixty volunteer program to encourage senior citizens to volunteer in our public schools. Section 2 requires the Superintendent of Public Instruction to develop a model intergenerational child care program. Both the Superintendent of Public Instruction and I support these programs as outlined. The six-plus-sixty program is permissive and allows the superintendent to develop the program if monies are available. The model child care program in section 2 is mandated without any funds available and, therefore, the program cannot achieve its expected result.

With the exception of section 2, Engrossed House Bill No. 1334 is approved."

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## CHAPTER 311

[Substitute House Bill No. 1031]

### STATE BUDGET REQUESTS—ORGANIZATION AND REQUIRED INFORMATION

AN ACT Relating to state budget requests; amending RCW 43.88.030; and adding new sections to chapter 43.88 RCW.

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

**NEW SECTION.** Sec. 1. (1) Annual ongoing or routine maintenance costs shall be programmed in the operating budget rather than in the capital budget.

(2) All debt-financed pass-through money to local governments shall be programmed in the capital budget.

**\*NEW SECTION.** Sec. 2. *The director of financial management shall conduct, or cause to be conducted, a technical review and analysis of the cost and program requirements of major capital projects, as defined by the director, included in the governor's capital budget request. The technical review and analysis shall be performed by competent professional staff and shall*

*cover, but not be limited to, space standards, construction standards and costs, and architectural, structural, mechanical, and electrical features.*

\*Sec. 2 was vetoed, see message at end of chapter.

Sec. 3. Section 2, chapter 502, Laws of 1987 and RCW 43.88.030 are each amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period based upon the estimated revenues as approved by the economic and revenue forecast council for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document. However, the estimated revenues for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues must be set forth in the budget document. The governor may additionally submit, as an appendix to each agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity and object; and

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium;

(g) A showing and explanation of amounts of general fund obligations for debt service and any transfers of moneys that otherwise would have been available for general fund appropriations;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods.

(3) A separate budget document or schedule may be submitted consisting of:

(a) Expenditures incident to current or pending capital projects and to proposed new capital projects, relating the respective amounts proposed to be raised therefor by appropriations in the budget and the respective amounts proposed to be raised therefor by the issuance of bonds during the fiscal period;

(b) A capital program consisting of proposed capital projects for at least the two fiscal periods succeeding the next fiscal period. The capital program shall include for each proposed project a statement of the reason or purpose for the project along with an estimate of its cost;

(c) Such other information bearing upon capital projects as the governor shall deem to be useful to the legislature;

(d) Such other information relating to capital improvement projects as the legislature may direct by law or concurrent resolution.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative

to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

**NEW SECTION.** Sec. 4. Sections 1 and 2 of this act are each added to chapter 43.88 RCW.

Passed the House March 10, 1989.

Passed the Senate April 19, 1989.

Approved by the Governor May 11, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1989.

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

"I am returning herewith, without my approval as to section 2, Substitute House Bill No. 1031 entitled:

"AN ACT Relating to state budget request."

Over the last two years, the Legislative Budget Committee, in response to legislative request, has examined the State's Capital Budget process. Concurrently, the Office of Financial Management (OFM) has conducted similar studies. Both of these groups have expressed a need for greater technical review and analysis of capital projects by a group independent of the requesting agency. I concur with this finding. However, section 2 of this bill proposes that OFM conduct such a review of capital budget requests without providing the requisite funding in the bill or in the 1989-91 Budget. While I support the idea of additional technical review, I cannot approve section 2 without the requisite funding.

With the exception of section 2, Substitute House Bill No. 1031 is approved."

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## CHAPTER 312

[Substitute Senate Bill No. 5241]

### WASHINGTON INVESTMENT OPPORTUNITIES OFFICE

AN ACT Relating to local development; adding a new section to chapter 42.17 RCW; adding new sections to chapter 43.31 RCW; adding a new section to chapter 43.170 RCW; and making an appropriation.

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

**NEW SECTION.** Sec. 1. The legislature finds that the growth of small and young businesses will have a favorable impact on the Washington economy by creating jobs, increasing competition in the market place, and expanding tax revenues. Access to financial markets by entrepreneurs is vital to this process. Without reasonable access to financing, talented and aggressive entrepreneurs are cut out of the economic system and the state's economy suffers. It is the purpose of sections 1 through 5 of this act to guarantee that entrepreneurs and investors have an institutionalized means

of meeting their respective needs for access to capital resources and information about promising business investments in Washington state.

**NEW SECTION.** Sec. 2. As used in sections 1 through 5 of this act, the term:

(1) "Entrepreneur" means an individual, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, cooperative, corporation, or any other organization operating in this state, engaged in manufacturing, wholesaling, transportation services, traded services, or the development of destination tourism resorts, with fewer than two hundred fifty employees and paying more than fifty percent of its contributions or payments for the purposes of unemployment insurance to this state.

(2) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

(3) "Traded services" means those commercial and professional services that are developed for sale outside the state.

(4) "Wholesaling" means activities related to the sale or storage of commodities in large quantities.

(5) "Transportation services" means those services which involve the transport of passengers or goods.

(6) "Destination tourism resort" means a tourism and recreation complex that is developed primarily as a location for recreation and tourism activities that will be used primarily by nonresidents of the immediate area.

**NEW SECTION.** Sec. 3. There is created in the business assistance center of the department of trade and economic development the Washington investment opportunities office.

**NEW SECTION.** Sec. 4. The Washington investment opportunities office shall:

(1) Maintain a list of all entrepreneurs engaged in manufacturing, wholesaling, transportation services, development of destination tourism resorts, or traded services throughout the state seeking capital resources and interested in the services of the investment opportunities office.

(2) Maintain a file on each entrepreneur which may include the entrepreneur's business plan and any other information which the entrepreneur offers for review by potential investors.

(3) Assist entrepreneurs in procuring the managerial and technical assistance necessary to attract potential investors. Such assistance shall include the automatic referral to the small business innovators opportunity program of any entrepreneur with a new product meriting the services of the program.

(4) Provide entrepreneurs with information about potential investors and provide investors with information about those entrepreneurs which meet the investment criteria of the investor.

(5) Promote small business securities financing.

(6) Remain informed about investment trends in capital markets and preferences of individual investors or investment firms throughout the nation through literature surveys, conferences, and private meetings.

(7) Publicize the services of the investment opportunities office through public meetings throughout the state, appropriately targeted media, and private meetings. Whenever practical, the office shall use the existing services of local associate development organizations in outreach and identification of entrepreneurs and investors.

(8) Report to the ways and means committees and commerce and labor committees of the senate and the house of representatives by December 1, 1989, and each year thereafter, on the accomplishments of the office. Such reports shall include:

(a) The number of entrepreneurs on the list referred to in subsection (1) of this section, segregated by standard industrial classification codes;

(b) The number of investments made in entrepreneurs, segregated as required by (a) of this subsection, as a result of contact with the investment opportunities office, the dollar amount of each such investment, the source, by state or nation, of each investment, and the number of jobs created as a result of each investment;

(c) The number of entrepreneurs on the list referred to in subsection (1) of this section segregated by counties, the number of investments, the dollar amount of investments, and the number of jobs created through investments in each county as a result of contact with the investment opportunities office;

(d) A categorization of jobs created through investments made as a result of contact with the investment opportunities office, the number of jobs created in each such category, and the average pay scale for jobs created in each such category;

(e) The results of client satisfaction surveys distributed to entrepreneurs and investors using the services of the investment opportunities office; and

(f) Such other information as the managing director finds appropriate.

**NEW SECTION.** Sec. 5. The business assistance center may charge reasonable fees or other appropriate charges to participants using the services of the investment opportunities office for the purpose of defraying all

or part of the costs of the business assistance center in administering this program.

NEW SECTION. Sec. 6. The director of the business assistance center may enter into contracts with nongovernmental agencies to provide any of the services under section 4 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 42.17 RCW to read as follows:

Notwithstanding the provisions of RCW 42.17.260 through 42.17.340, no financial or proprietary information supplied by investors or entrepreneurs under chapter 43.31 RCW shall be made available to the public.

NEW SECTION. Sec. 8. Sections 1 through 6 of this act are each added to chapter 43.31 RCW.

NEW SECTION. Sec. 9. A new section is added to chapter 43.170 RCW to read as follows:

Any innovation or inventor receiving assistance under this program shall be referred to the investment opportunities office operated by the department of trade and economic development.

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. The sum of one hundred fifteen thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the department of trade and economic development for the purposes of this act.

Passed the Senate April 23, 1989.

Passed the House April 23, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 313

[Substitute House Bill No. 2070]

### STATE BUILDING CODE—APPLICATION TO MOVED BUILDINGS

AN ACT Relating to the state building code; amending RCW 19.27.074; adding a new section to chapter 19.27 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that moved buildings or structures can provide affordable housing for many persons of lower income; that many of the moved structures or buildings were legally built to the construction standards of their day; and that requiring the moved building

or structure to meet all new construction codes may limit their use as an affordable housing option for persons of lower income.

The legislature further finds that application of the new construction code standards to moved structures and buildings present unique difficulties and that it is the intent of the legislature that any moved structure or building that meets the codes at the time it was constructed does not need to comply with any updated state building code unless the structure is substantially remodeled or rebuilt.

**NEW SECTION.** Sec. 2. A new section is added to chapter 19.27 RCW to read as follows:

(1) Residential buildings or structures moved into or within a county or city are not required to comply with all of the requirements of the codes enumerated in chapters 19.27 and 19.27A RCW, as amended and maintained by the state building code council, if the original occupancy classification of the building or structure is not changed as a result of the move.

(2) This section shall not apply to residential structures or buildings that are substantially remodeled or rehabilitated, nor to any work performed on a new or existing foundation.

(3) For the purposes of determining whether a moved building or structure has been substantially remodeled or rebuilt, any cost relating to preparation, construction, or renovation of the foundation shall not be considered.

**\*Sec. 3. Section 2, chapter 360, Laws of 1985 and RCW 19.27.074 are each amended to read as follows:**

**(1) The state building code council shall:**

**(a) Maintain the codes to which reference is made in RCW 19.27.031 in a status which is consistent with the state's interest as set forth in RCW 19.27.020. In maintaining these codes, the council shall regularly review updated versions of the codes referred to in RCW 19.27.031 and other pertinent information and shall amend the codes as deemed appropriate by the council;**

**(b) Approve or deny all county or city amendments to any code referred to in RCW 19.27.031 to the degree the amendments apply to single family or multifamily residential buildings;**

**(c) As required by the legislature, develop and adopt any codes relating to buildings; ~~((and))~~**

**(d) Propose a budget for the operation of the state building code council to be submitted to the office of financial management pursuant to RCW 43.88.090, and**

**(e) Adopt rules pursuant to chapter 34.05 RCW for the purpose of this subsection.**

**(2) The state building code council may:**

**(a) Appoint technical advisory committees which may include members of the council;**

**(b) Employ permanent and temporary staff and contract for services; and**



***(c) Conduct research into matters relating to any code or codes referred to in RCW 19.27.031 or any related matter.***

***All meetings of the state building code council shall be open to the public under the open public meetings act, chapter 42.30 RCW. All actions of the state building code council which adopt or amend any code of state-wide applicability shall be pursuant to the administrative procedure act, chapter ((34.04)) 34.05 RCW.***

***All council decisions relating to the codes enumerated in RCW 19.27-.031 shall require approval by at least a majority of the members of the council.***

***All decisions to adopt or amend codes of state-wide application shall be made prior to December 1 of any year and shall not take effect before the end of the regular legislative session in the next year.***

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

Passed the House April 19, 1989.

Passed the Senate April 7, 1989.

Approved by the Governor May 11, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1989.

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

"I am returning herewith, without my approval as to section 3, Substitute House Bill No. 2070 entitled:

"AN ACT Relating to the state building code."

The provisions of Substitute House Bill No. 2070 address problems arising from the application of the State Building Code to buildings and structures that are to be moved. Section 3 is not related to this issue in any way. The section would have the effect of requiring the State Building Code Council to adopt rules pursuant to RCW 34.05, the Administrative Procedure Act, for the purpose of proposing a biennial budget for submission to the Office of Financial Management.

This provision would impose an undue and unnecessary administrative burden on the State Building Code Council, the Department of Community Development, and the Office of Financial Management. The provision would not provide additional benefits to the public which would justify the additional administrative requirements. State agencies are not currently required to adopt administrative rules when proposing budgets, as required in this provision, and there is no compelling reason to establish extraordinary requirements to apply to the budget of the State Building Code Council.

The provision would also require the State Building Code Council to adopt rules pursuant to RCW 34.05, the Administrative Procedure Act, regarding changes to codes adopted or amended by the State Building Code and to consider local government amendments to the State Building Code with impact on residential buildings. This provision would be duplicative of provisions of section 3 of Substitute Senate Bill No. 5905, which I have signed and which has thereby been enacted into law.

With the exception of section 3, Substitute House Bill No. 2070, is approved."

## CHAPTER 314

[Substitute Senate Bill No. 5819]

WILDLIFE OFFENSES—SEIZURE AND FORFEITURE OF PERSONAL PROPERTY  
USED TO COMMIT

AN ACT Relating to the seizure and forfeiture of personal property for wildlife offenses; amending RCW 77.12.170, 77.21.040, and 77.21.060; adding new sections to chapter 77.12 RCW; creating a new section; and repealing RCW 77.12.100.

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

**NEW SECTION.** Sec. 1. In order to improve the enforcement of wildlife laws it is important to increase the penalties upon poachers by seizing the conveyances and gear that are used in poaching activities and to cause forfeiture of those items to the department.

**NEW SECTION.** Sec. 2. (1) Wildlife agents and ex officio wildlife agents may seize without a warrant wildlife, as defined in RCW 77.08.010(16), they have probable cause to believe have been taken, killed, transported, or possessed in violation of this title or rule of the commission or director. Agents may also seize without warrant boat(s), vehicle(s), all conveyances, airplane(s), motorized implement(s), gear, appliance(s), or other articles they have probable cause to believe: (a) Are held with intent to violate; or (b) were used in the violation of Title 77 RCW, or any regulation pursuant thereto when the species involved is one which is listed in RCW 77.21.070, or any wildlife involved in trafficking under RCW 77.16-.040 or illegal netting of game fish under RCW 77.16.060. However, agents may not seize any item or article, other than evidence, from a violator if under the circumstances it is reasonable to conclude that the violation was inadvertent. The articles seized shall be forfeited to the state, upon conviction, plea of guilty, or bail forfeiture. Articles seized may be recovered by their owner by depositing into court a cash bond equal to the value of the seized articles. The cash bond is subject to forfeiture in lieu of the seized articles.

(2)(a) In the event of a seizure of an article under subsection (1) of this section, proceedings for forfeiture shall be deemed commenced by bail forfeiture, plea of guilty, or upon conviction. The seizing authority shall serve notice within fifteen days following the seizure on the owner of the property seized and on any person having any known right or interest in the property seized. Notice may be served by any method authorized by law or court rule, including service by certified mail with return receipt requested, and service by such mail shall be deemed complete upon mailing within the fifteen-day period following the seizure.

(b) If no person notifies the department in writing of the person's claim of ownership or right to possession of articles seized pursuant to subsection

(1) of this section within forty-five days of the seizure, the articles shall be deemed forfeited.

(c) If any person notifies the department in writing within forty-five days of the seizure, the person shall be afforded an opportunity to be heard as to the claim or right. The hearing shall be before the director or his designee, or before an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. The department hearing and any appeal therefrom shall be under Title 34 RCW. The burden of producing evidence shall be upon the person claiming to be the lawful owner or person claiming lawful right of possession of the articles seized. The department shall promptly return the seized articles to the claimant upon a determination by the director or designee, an administrative law judge, or a court that the claimant is the present lawful owner or is lawfully entitled to possession of the articles seized, and that the seized articles were improperly seized.

(d)(i) No conveyance, including vessels, vehicles, or aircraft, is subject to forfeiture under this section by reason of any act or omission established by the owner of the conveyance to have been committed or omitted without his knowledge or consent.

(ii) 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 nor consented to the act or omission.

(e) When seized property is forfeited under this section the department may retain it for official use unless the property is required to be destroyed, or upon application by any law enforcement agency of the state, release such property to such agency for the use of enforcing Title 77 RCW, or sell such property, and deposit the proceeds to the wildlife fund in the state treasury, as provided for in RCW 77.12.170.

NEW SECTION. Sec. 3. (1) The burden of proof of any exemption or exception to seizure or forfeiture of personal property involved with wildlife offenses is upon the person claiming it.

(2) An authorized state, county, or municipal officer may be subject to civil liability under section 2 of this act for willful misconduct or gross negligence in the performance of his or her duties.

(3) The director of wildlife, the wildlife commission, or the department of wildlife may be subject to civil liability for their willful or reckless misconduct in matters involving the seizure and forfeiture of personal property involved with wildlife offenses.

Sec. 4. Section 334, chapter 258, Laws of 1984 as amended by section 25, chapter 506, Laws of 1987 and RCW 77.12.170 are each amended to read as follows:

(1) There is established in the state treasury the state wildlife fund which consists of moneys received from:

- (a) Rentals or concessions of the department;
- (b) The sale of real or personal property held for department purposes;
- (c) The sale of licenses, permits, tags, stamps, and punchcards required by this title;
- (d) Fees for informational materials published by the department;
- (e) Fees for personalized vehicle license plates as provided in chapter 46.16 RCW;
- (f) Articles or wildlife sold by the director under this title;
- (g) Compensation for wildlife losses or gifts or grants received under RCW 77.12.320; ~~((and))~~
- (h) Excise tax on anadromous game fish collected under chapter 82.27 RCW; and
- (i) The sale of personal property seized by the department for wildlife violations.

(2) State and county officers receiving any moneys listed in subsection (1) of this section shall deposit them in the state treasury to be credited to the state wildlife fund.

Sec. 5. Section 77.12.110, chapter 36, Laws of 1955 as last amended by section 72, chapter 506, Laws of 1987 and RCW 77.21.040 are each amended to read as follows:

~~(1) ((In addition to other penalties provided by law, a court may forfeit, for the use of the department, wildlife seized under this title and proven, in either a criminal or civil action, to have been unlawfully taken, killed, transported, or possessed and articles or devices seized under this title and proven, in either a criminal or civil action, to have been unlawfully used or held with intent to unlawfully use. Unless forfeited by the court, the department shall return an item seized under this title to its owner after the completion of the case and all fines have been paid. If the owner of a seized item cannot be found, the court may forfeit that item after summons has been served by publication as in civil actions and a hearing has been held.~~

~~(2))~~ Wildlife unlawfully taken or possessed remains the property of the state.

~~((3))~~ (2) The director may sell articles or devices seized and forfeited under this title by the court at public auction. The time, place, and manner of holding the sale shall be determined by the director. The director shall publish notice of the sale once a week for at least two consecutive weeks prior to the sale in at least one newspaper of general circulation in the county in which the sale is to be held. Proceeds from the sales shall be deposited in the state treasury to be credited to the state wildlife fund.

Sec. 6. Section 77.32.260, chapter 36, Laws of 1955 as last amended by section 73, chapter 506, Laws of 1987 and RCW 77.21.060 are each amended to read as follows:

(1) Upon conviction of a violation of this title or rules adopted pursuant to this title, the court may forfeit a license, in addition to other penalties

provided by law. Upon subsequent conviction, the forfeiture of the license is mandatory. The director may prohibit issuance of a license to a person convicted two or more times or prescribe the conditions for subsequent issuance of a license.

(2) It shall be unlawful for a person to conduct an activity requiring a wildlife license, tag, or stamp for which they have had a license forfeiture or for which the director has prohibited the issuance of a license.

NEW SECTION. Sec. 7. Sections 2 and 3 of this act are each added to chapter 77.12 RCW.

NEW SECTION. Sec. 8. Section 77.12.100, chapter 36, Laws of 1955, section 23, chapter 78, Laws of 1980, section 21, chapter 506, Laws of 1987 and RCW 77.12.100 are each repealed.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

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## CHAPTER 315

[Substitute House Bill No. 1504]

### INDOOR AIR QUALITY—PUBLIC BUILDINGS

AN ACT Relating to indoor air quality in publicly owned or leased buildings; and adding a new chapter to Title 70 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that many Washington residents spend a significant amount of their time working indoors and that exposure to indoor air pollutants may occur in public buildings, schools, work places, and other indoor environments. Scientific studies indicate that pollutants common in the indoor air may include radon, asbestos, volatile organic chemicals including formaldehyde and benzene, combustion by-products including carbon monoxide, nitrogen oxides, and carbon dioxide, metals and gases including lead, chlorine, and ozone, respirable particles, tobacco smoke, biological contaminants, micro-organisms, and other contaminants. In some circumstances, exposure to these substances may cause adverse health effects, including respiratory illnesses, multiple chemical sensitivities, skin and eye irritations, headaches, and other related symptoms. There is inadequate information about indoor air quality within the state of Washington, including the sources and nature of indoor air pollution.

The intent of the legislature is to develop a control strategy that will improve indoor air quality, provide for the evaluation of indoor air quality in public buildings, and encourage voluntary measures to improve indoor air quality.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of labor and industries.

(2) "Public agency" means a state office, commission, committee, bureau, or department.

(3) "Industry standard" means the 62-1981R standard established by the American society of heating, refrigerating, and air conditioning engineers as codified in M-1602 of the building officials and code administrators international manual as of January 1, 1990.

**NEW SECTION.** Sec. 3. The department shall, in coordination with other appropriate state agencies:

(1) Recommend a policy for evaluation and prioritization of state-owned or leased buildings with respect to indoor air quality;

(2) Recommend stronger workplace regulation of indoor air quality under the Washington industrial safety and health act;

(3) Review indoor air quality programs in public schools administered by the superintendent of public instruction and the department of social and health services;

(4) Provide educational and informational pamphlets or brochures to state agencies on indoor air quality standards; and

(5) Recommend to the legislature measures to implement the recommendations, if any, for the improvement of indoor air quality in public buildings within a reasonable period of time.

**NEW SECTION.** Sec. 4. The state building code council is directed to:

(1) Review the state building code to determine the adequacy of current mechanical ventilation and filtration standards prescribed by the state compared to the industry standard; and

(2) Make appropriate changes in the building code to bring the state prescribed standards into conformity with the industry standard.

**NEW SECTION.** Sec. 5. Public agencies are encouraged to:

(1) Evaluate the adequacy of mechanical ventilation and filtration systems in light of the recommendations of the American society of heating, refrigerating, and air conditioning engineers and the building officials and code administrators international; and

(2) Maintain and operate any mechanical ventilation and filtration systems in a manner that allows for maximum operating efficiency consistent with the recommendations of the American society of heating, refrigerating, and air conditioning engineers and the building officials and code administrators international.

**NEW SECTION.** Sec. 6. (1) The superintendent of public instruction may implement a model indoor air quality program in a school district selected by the superintendent.

- (2) The superintendent shall ensure that the model program includes:
- (a) An initial evaluation by an indoor air quality expert of the current indoor air quality in the school district. The evaluation shall be completed within ninety days after the beginning of the school year;
  - (b) Establishment of procedures to ensure the maintenance and operation of any ventilation and filtration system used. These procedures shall be implemented within thirty days of the initial evaluation;
  - (c) A reevaluation by an indoor air quality expert, to be conducted approximately two hundred seventy days after the initial evaluation; and
  - (d) The implementation of other procedures or plans that the superintendent deems necessary to implement the model program.
- (3) The superintendent shall make a report by December 1, 1990, to the appropriate committees of the legislature that includes:
- (a) A summary and evaluation of the model program;
  - (b) An evaluation of the adequacy of mechanical ventilation and filtration systems used in public schools; and
  - (c) Recommendations to ensure acceptable indoor air quality in all public schools.

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 70 RCW.

Passed the House March 8, 1989.

Passed the Senate April 14, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 316

[Substitute House Bill No. 2011]

### COMMERCIAL FISHING LICENSES—RATES AND REQUIREMENTS

AN ACT Relating to commercial fishing licenses; amending RCW 75.28.035, 75.28.095, 75.28.110, 75.28.113, 75.28.116, 75.28.120, 75.28.125, 75.28.130, 75.28.134, 75.28.140, 75.28.255, 75.28.280, 75.28.287, 75.28.290, 75.28.340, and 75.28.690; reenacting and amending RCW 75.28.300; adding new sections to chapter 75.28 RCW; repealing RCW 75.28.081, 75.28.123, 75.28.285, and 75.28.370; and providing an effective date.

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

Sec. 1. Section 75.28.100, chapter 12, Laws of 1955 as last amended by section 107, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.035 are each amended to read as follows:

An application for issuance or renewal of a commercial fishing license ((or permit)) shall contain the name and address of the vessel owner, the

name and address of the vessel operator, the name and number of the vessel, a description of the vessel and fishing gear to be carried on the vessel, and other information required by the department.

At the time of issuance of a commercial fishing license (~~(or permit)~~) the director shall furnish the licensee with a vessel registration and two license decals.

Vessel registrations and license (~~(and permit)~~) decals issued by the director shall be displayed as provided by rule of the director.

A commercial fishing license (~~(or permit)~~) is not valid if the vessel is operated by a person other than the operator listed on the license (~~(or permit)~~). The director may authorize additional operators for the license (~~(or permit)~~). Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the fee for an additional operator is ~~((ten))~~ twenty dollars.

The vessel owner shall notify the director on forms provided by the department of changes of ownership or operator and a new license (~~(or permit)~~) shall be issued upon payment of a fee of (~~((ten))~~) twenty dollars.

A defaced, mutilated, or lost license or license decal shall be replaced immediately. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the replacement fee is ~~((two))~~ ten dollars.

Sec. 2. Section 1, chapter 90, Laws of 1969 as last amended by section 1, chapter 9, Laws of 1988 and RCW 75.28.095 are each amended to read as follows:

(1) A charter boat license is required for a vessel to be operated as a charter boat from which food fish are taken for personal use. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual license fees are:

Species	Resident Fee	Nonresident Fee
(a) Food fish other than salmon	<del>\$((+00))</del> <u>135</u>	<del>\$((200))</del> <u>270</u>
(b) Salmon and other food fish	<del>\$((200))</del> <u>275</u>	<del>\$((200))</del> <u>550</u>

(2) "Charter boat" means a vessel from which persons may, for a fee, fish for food fish, and which delivers food fish into state ports or delivers food fish taken from state waters into United States ports. "Charter boat" does not mean:

(a) Vessels not generally engaged in charter boat fishing which are under private lease or charter and operated by the lessee for the lessee's personal recreational enjoyment; or



(b) Vessels used by guides for clients fishing for food fish for personal use in freshwater rivers, streams, and lakes, other than Lake Washington or that part of the Columbia River below the bridge at Longview.

(3) A vessel shall not engage in both charter or sports fishing and commercial fishing on the same day. A vessel may be licensed for both charter boat fishing and for commercial fishing at the same time. ~~((The license or delivery permit allowing the activity not being engaged in shall be deposited with the fisheries patrol officer for that area or an agent designated by the director.))~~

Sec. 3. Section 75.28.110, chapter 12, Laws of 1955 as last amended by section 1, chapter 107, Laws of 1985 and RCW 75.28.110 are each amended to read as follows:

(1) The following commercial salmon fishing licenses are required for the licensee to use the specified gear to fish for salmon and other food fish in state waters. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual license fees are:

Gear	Resident Fee	Nonresident Fee
(a) Purse seine	<del>\$(300)</del> <u>410</u>	<del>\$(600)</del> <u>820</u>
(b) Gill net	<del>\$(200)</del> <u>275</u>	<del>\$(400)</del> <u>550</u>
(c) Troll	<del>\$(200)</del> <u>275</u>	<del>\$(400)</del> <u>550</u>
(d) Reef net	<del>\$(200)</del> <u>275</u>	<del>\$(400)</del> <u>550</u>

(2) Holders of commercial salmon fishing licenses may retain incidentally caught food fish other than salmon, subject to rules of the director.

(3) A salmon troll license allows fishing in all licensing districts and includes a salmon delivery ~~((permit))~~ license.

(4) A separate gill net license is required to fish for salmon in each of the licensing districts established in RCW 75.28.012.

Sec. 4. Section 75.18.080, chapter 12, Laws of 1955 as last amended by section 115, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.113 are each amended to read as follows:

(1) A person operating a commercial fishing vessel used in taking salmon in offshore waters and delivering the salmon to a place or port in the state shall obtain a salmon delivery ~~((permit))~~ license from the director. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual fee for a salmon delivery ~~((permit))~~ license is two hundred ~~seventy-five~~ seventy-five dollars for residents and five hundred fifty dollars for nonresidents. Persons operating fishing vessels licensed under RCW 75.28.125 may apply the delivery ~~((permit))~~ license fee of ~~((ten))~~ fifty dollars against the salmon delivery ~~((permit))~~ license fee.

(2) If the director determines that the operation of a vessel under a salmon delivery ~~((permit))~~ license results in the depletion or destruction of

the state's salmon resource or the delivery into this state of salmon products prohibited by law, the director may revoke the ((permit)) license.

Sec. 5. Section 1, chapter 80, Laws of 1984 and RCW 75.28.116 are each amended to read as follows:

The owner of a commercial salmon fishing vessel which is not qualified for a license ((or permit)) under RCW 75.30.120 is required to obtain a salmon single delivery ((permit)) license in order to make one landing of salmon taken in offshore waters. The director shall not issue a salmon single delivery ((permit)) license unless, as determined by the director, a bona fide emergency exists. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the ((permit)) license fee is one hundred thirty-five dollars for residents and two hundred seventy dollars for nonresidents.

Sec. 6. Section 75.28.120, chapter 12, Laws of 1955 as last amended by section 117, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.120 are each amended to read as follows:

The following commercial fishing licenses are required for the licensee to use the specified gear to fish for food fish other than salmon in state waters. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual license fees are:

Gear	Resident Fee	Nonresident Fee
(1) Jig	\$((27.50)) <u>50</u>	\$((55)) <u>100</u>
(2) Set line	\$((35)) <u>50</u>	\$((70)) <u>100</u>
(3) Set net	\$((35)) <u>50</u>	\$((70)) <u>100</u>
(4) Drag seine	\$((45)) <u>50</u>	\$((70)) <u>100</u>
(5) Gill net	\$((200)) <u>275</u>	\$((400)) <u>550</u>
(6) Purse seine	\$((300)) <u>410</u>	\$((600)) <u>820</u>
(7) Troll	\$((27.50)) <u>50</u>	\$((55)) <u>100</u>
(8) Bottom fish pots	\$((35)) <u>50</u>	\$((60)) <u>100</u>
((Each pot over 100	<del>\$0.25</del>	<del>\$0.50)</del>
(9) Lampara	\$((57.50)) <u>100</u>	\$((115)) <u>200</u>
(10) Dip bag net	\$((27.50)) <u>50</u>	\$((55)) <u>100</u>
(11) Brush weir	\$((85)) <u>100</u>	\$((160)) <u>200</u>
(12) Other gear	\$100	\$200

Sec. 7. Section 5, chapter 309, Laws of 1959 as last amended by section 119, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.125 are each amended to read as follows:

A delivery ((permit)) license is required to deliver shellfish or food fish other than salmon taken in offshore waters to a port in the state. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual ((permit)) license fee is ((ten)) fifty dollars for residents and ((twenty)) one hundred dollars for nonresidents.

~~((A permittee))~~ Licenses issued under RCW 75.28.113 (salmon delivery ((permit) is not required to obtain)) license, RCW 75.28.130(4) (crab pot, other than Puget Sound), or RCW 75.28.140(2) (trawl, other than Puget Sound) shall include a delivery ((permit under this section)) license.

Sec. 8. Section 75.28.130, chapter 12, Laws of 1955 as last amended by section 120, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.130 are each amended to read as follows: ·

The following commercial fishing licenses are required for the licensee to use the specified gear to fish for shellfish in state waters. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual license fees are:

Gear	Resident Fee	Nonresident Fee
(1) Ring net	<del>\$(27.50))</del> <u>50</u>	<del>\$(45))</del> <u>100</u>
(2) Shellfish pots (excluding crab)	<del>\$(35))</del> <u>50</u>	<del>\$(60))</del> <u>100</u>
<del>((Each pot over 100</del>	<del>\$0.25</del>	<del>\$0.50))</del>
(3) Crab pots ( <u>Puget Sound</u> )	<del>\$(35))</del> <u>50</u>	<del>\$(60))</del> <u>100</u>
<del>((Each pot over 100</del>	<del>\$0.25</del>	<del>\$0.50))</del>
(4) Crab pots (other than Puget Sound)	\$200	\$400
(5) Shellfish diver (excluding clams)	<del>\$(27.50))</del> <u>50</u>	<del>\$(55))</del> <u>100</u>
(6) Squid gear, all types	\$100	\$200
(7) Ghost shrimp gear	\$100	\$200
(8) Commercial razor clam license	\$50	\$100
(9) Geoduck diver license	\$100	\$200
(10) Other shellfish gear	\$100	\$200

Sec. 9. Section 2, chapter 31, Laws of 1983 1st ex. sess. and RCW 75.28.134 are each amended to read as follows:

(1) In addition to a shellfish pot license, a Hood Canal shrimp endorsement is required to take shrimp commercially in that portion of Hood Canal lying south of the Hood Canal floating bridge. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual endorsement fee is ((one)) two hundred ((sixty-five)) twenty-five dollars for a resident and ((three)) four hundred ((forty)) fifty dollars for a nonresident.

(2) Not more than fifty shrimp pots may be used while commercially fishing for shrimp in that portion of Hood Canal lying south of the Hood Canal floating bridge.

Sec. 10. Section 75.28.140, chapter 12, Laws of 1955 as last amended by section 121, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.140 are each amended to read as follows:

The following commercial fishing licenses are required for the licensee to use the specified gear to fish for shellfish and food fish other than salmon in state waters. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual license fees are:

Gear	Resident Fee	Nonresident Fee
(1) Trawl (Puget Sound)	<del>\$(87.50)</del> <u>100</u>	<del>\$(135.00)</del> <u>200</u>
(2) Trawl (other than Puget Sound)	<u>\$150</u>	<u>\$300</u>

Sec. 11. Section 5, chapter 212, Laws of 1955 as amended by section 122, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.255 are each amended to read as follows:

The following commercial fishing licenses are required for the licensee to fish for the specified species in state waters with gear authorized by rule of the director. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual license fees are:

Species	Resident Fee	Nonresident Fee
(1) Columbia River smelt	<del>\$(200)</del> <u>275</u>	<del>\$(200)</del> <u>550</u>
(2) Carp	<del>\$(5)</del> <u>50</u>	<del>\$(5)</del> <u>100</u>

Sec. 12. Section 75.28.280, chapter 12, Laws of 1955 as last amended by section 19, chapter 457, Laws of 1985 and RCW 75.28.280 are each amended to read as follows:

A mechanical harvester license is required to operate a mechanical or hydraulic device for commercially harvesting clams, other than geoduck clams, on a clam farm unless the requirements of RCW 75.20.100 are fulfilled for the proposed activity. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual license fee is ~~((three))~~ four hundred ten dollars for residents and eight hundred twenty dollars for nonresidents.

Sec. 13. Section 4, chapter 253, Laws of 1969 ex. sess. as last amended by section 130, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.287 are each amended to read as follows:

(1) A geoduck tract license is required for the commercial harvest of geoducks from each subtidal tract for which harvest rights have been granted by the department of natural resources. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual license fee is one hundred thirty-five dollars for residents and two hundred seventy dollars for nonresidents.

(2) Every diver engaged in the commercial harvest of geoduck or other clams shall obtain a nontransferable geoduck diver license. (~~The annual license fee is fifty dollars for residents and nonresidents.~~)

Sec. 14. Section 75.28.290, chapter 12, Laws of 1955 as last amended by section 131, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.290 are each amended to read as follows:

An oyster reserve license is required for the commercial taking of shellfish from state oyster reserves. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual license fee is ((fifteen)) fifty dollars for residents and one hundred dollars for nonresidents.

NEW SECTION. Sec. 15. A new section is added to chapter 75.28 RCW to read as follows:

An oyster cultch permit is required for commercial cultching of oysters on state oyster reserves. The director shall require that ten percent of the cultch bags or other collecting materials be provided to the state after the oysters have set, for the purposes of increasing the supply of oysters on state oyster reserves and enhancing oyster supplies on public beaches.

Sec. 16. Section 75.28.300, chapter 12, Laws of 1955 as last amended by section 1, chapter 248, Laws of 1985 and by section 20, chapter 457, Laws of 1985 and RCW 75.28.300 are each reenacted and amended to read as follows:

A wholesale fish dealer's license is required for:

(1) A business in the state to engage in the commercial processing of food fish or shellfish, including custom canning or processing of personal use food fish or shellfish.

(2) A business in the state to engage in the wholesale selling, buying, or brokering of food fish or shellfish. A wholesale fish dealer's license is not required of those businesses which buy exclusively from Washington licensed wholesale dealers and sell solely at retail.

(3) Fishermen who land and sell their catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state.

(4) A business to engage in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other byproducts from food fish or shellfish.

(5) A business employing a fish buyer as defined under RCW 75.28.340.

Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual license fee is ((thirty=seven)) one hundred dollars ((and fifty cents)). A wholesale fish dealer's license is not required for persons engaged in the processing, wholesale selling, buying, or brokering of private sector cultured aquatic products as

defined in RCW 15.85.020. However, if a means of identifying such products is required by rules adopted under RCW 15.85.060, the exemption from licensing requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules.

Sec. 17. Section 2, chapter 248, Laws of 1985 and RCW 75.28.340 are each amended to read as follows:

(1) A fish buyer's ((permit)) license is required of and shall be carried by each individual engaged by a wholesale fish dealer ((as a fish buyer)) to purchase food fish or shellfish from a licensed commercial fisherman. A fish buyer may represent only one wholesale fish dealer.

(2) Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual fee for a fish buyer's ((permit)) license is ((seven)) twenty dollars ((and fifty cents)).

((3) As used in this chapter, "fish-buyer" means an individual who purchases food fish or shellfish and is a permit holder under this section:))

Sec. 18. Section 2, chapter 227, Laws of 1981 as amended by section 137, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.690 are each amended to read as follows:

(1) A deckhand license is required for a crew member on a licensed salmon charter boat to sell salmon roe as provided in subsection (2) of this section. Unless adjusted by the director pursuant to the director's authority granted in section 19 of this 1989 act, the annual license fee is ((ten)) twenty dollars.

(2) 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:

(a) The salmon is taken while fishing on the charter boat;

(b) The roe is the property of the angler until the roe is given to the deckhand. The charter boat's passengers are notified of this fact by the deckhand;

(c) The roe is sold to a licensed wholesale dealer; and

(d) The deckhand is licensed as provided in subsection (1) of this section and has the license in possession whenever salmon roe is sold.

NEW SECTION. Sec. 19. A new section is added to chapter 75.28 RCW to read as follows:

On January 1, 1993, the director shall adjust all fees under this chapter in accordance with the implicit price deflator published by the United States department of commerce. This section shall cease to exist on January 1, 1994, unless extended by law for an additional fixed period of time.

NEW SECTION. Sec. 20. A new section is added to chapter 75.28 RCW to read as follows:

All revenues generated from the license fee increases in sections 1 through 14 and 16 through 19 of this act shall be deposited in the general

fund and shall be appropriated for the food fish and shellfish enhancement programs.

**NEW SECTION.** Sec. 21. The following acts or parts of acts are each repealed:

(1) Section 14, chapter 283, Laws of 1971 ex. sess., section 2, chapter 40, Laws of 1975-'76 2nd ex. sess., section 111, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.081;

(2) Section 2, chapter 300, Laws of 1983 and RCW 75.28.123;

(3) Section 75.28.285, chapter 12, Laws of 1955, section 1, chapter 27, Laws of 1965 ex. sess., section 3, chapter 31, Laws of 1983 1st ex. sess., section 127, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.285; and

(4) Section 75.28.370, chapter 12, Laws of 1955, section 2, chapter 66, Laws of 1979, section 134, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.370.

**NEW SECTION.** Sec. 22. This act shall take effect on January 1, 1990. The director of fisheries may immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

Passed the House April 23, 1989.

Passed the Senate April 23, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 317

[Senate Bill No. 5950]

### CHILD SEXUAL ABUSE ACTIONS—TIME FOR COMMENCEMENT OF ACTION

AN ACT Relating to childhood sexual abuse; amending RCW 4.16.340 and 9A.04.080; creating a new section; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. (1) The legislature finds that possible confusion may exist in interpreting the statute of limitations provisions for child sexual abuse civil actions in RCW 4.16.190 and 4.16.340 regarding the accrual of a cause of action for a person under age eighteen. The legislature finds that amending RCW 4.16.340 will clarify that the time limit for commencement of an action under RCW 4.16.340 is tolled until the child reaches age eighteen. The 1989 amendment to RCW 4.16.340 is intended as a clarification of existing law and is not intended to be a change in the law.

(2) The legislature further finds that the enactment of chapter 145, Laws of 1988, which deleted specific reference to RCW 9A.44.070, 9A.44.080, and 9A.44.100(1)(b) from RCW 9A.04.080 and also deleted those specific referenced provisions from the laws of Washington, did not intend

to change the statute of limitations governing those offenses from seven to three years.

Sec. 2. Section 1, chapter 144, Laws of 1988 and RCW 4.16.340 are each amended to read as follows:

(1) All claims or causes of action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse shall be commenced within three years of the act alleged to have caused the injury or condition, or three years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act, whichever period expires later: PROVIDED, That the time limit for commencement of an action under this section is tolled for a child until the child reaches the age of eighteen years.

(2) The victim need not establish which act in a series of continuing sexual abuse or exploitation incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse or exploitation.

(3) The knowledge of a custodial parent or guardian shall not be imputed to a person under the age of eighteen years.

(4) For purposes of this section, "child" means a person under the age of eighteen years.

(5) As used in this section, "childhood sexual abuse" means any act committed by the defendant against a complainant who was less than eighteen years of age at the time of the act and which act would have been a violation of chapter 9A.44 RCW or RCW 9.68A.040 or prior laws of similar effect at the time the act was committed.

Sec. 3. Section 14, chapter 145, Laws of 1988 as amended by section 3, chapter —, Laws of 1989, and RCW 9A.04.080 are each amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

- (i) Murder;
- (ii) Arson if a death results.

(b) The following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results.

(c) Violations of the following ((offenses)) statutes shall not be prosecuted more than three years after the victim's eighteenth birthday or more than seven years after their commission, whichever is later: ((Rape of a



~~child in the first or second degree or child molestation in the first or second degree, or rape in the first degree if the victim was under fourteen years of age at the commission of the offense, rape in the second degree if the victim was under fourteen years of age at the commission of the offense, or incest:))~~

(i) RCW 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080, or 9A.44.100(1)(b); or

(ii) If the victim was under the age of fourteen years of age at the time of the commission of the offense, RCW 9A.44.040, 9A.44.050, or 9A.64.020.

(d) The following offenses shall not be prosecuted more than six years after their commission: Violations of RCW 9A.82.060 or 9A.82.080.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) No other felony may be prosecuted more than three years after its commission.

(h) No gross misdemeanor may be prosecuted more than two years after its commission.

(i) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

**NEW SECTION.** Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 17, 1989.

Passed the House April 13, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 318

[Substitute Senate Bill No. 6009]

PARENTING PLANS—RESIDENTIAL PROVISIONS—CONTEMPT PROCEEDINGS  
TO FORCE COMPLIANCE

AN ACT Relating to parents' compliance with residential provisions for a child; amending RCW 26.09.160, 9A.40.070, 26.09.260, and 9A.40.080; adding a new section to chapter 26.09 RCW; and prescribing penalties.

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

Sec. 1. Section 16, chapter 157, Laws of 1973 1st ex. sess. as amended by section 12, chapter 460, Laws of 1987 and RCW 26.09.160 are each amended to read as follows:

(1) The performance of parental functions and the duty to provide child support are distinct responsibilities in the care of a child. If a party fails to comply with a provision of a decree or temporary order of injunction, the obligation of the other party to make payments for support or maintenance or to permit contact with children is not suspended. An attempt by a parent, in either the negotiation or the performance of a parenting plan, to condition one aspect of the parenting plan upon another (~~((may be deemed to be in bad faith. If the court finds that a parent acted in bad faith in an attempt to condition parental functions, in a refusal)),~~ to refuse to perform the duties provided in the parenting plan, or ((in the hindrance of)) to hinder the performance by the other parent((; the court has broad discretion to punish the conduct by a punitive award or other remedies, including civil or criminal contempt, and may consider the conduct in awarding attorneys' fees)) of duties provided in the parenting plan, may be punished by the court by holding the party in contempt of court and by awarding to the aggrieved party reasonable attorneys' fees and costs incidental in bringing a motion for contempt of court.

(2)(a) A motion may be filed to initiate a contempt action to coerce a parent to comply with an order establishing residential provisions for a child. If the court finds there is reasonable cause to believe the parent has not complied with the order, the court may issue an order to show cause why the relief requested should not be granted.

(b) If, based on all the facts and circumstances, the court finds after hearing that the parent has not complied with the order establishing residential provisions for the child, the court may find the parent in contempt of court. Upon a finding of contempt, the court shall order:

(i) The noncomplying parent to provide the moving party additional time with the child. The additional time shall be equal to the time missed with the child, due to the parent's noncompliance;

(ii) The parent to pay, to the moving party, all court costs and reasonable attorneys' fees incurred as a result of the noncompliance, and any reasonable expenses incurred in locating or returning a child; and

(iii) The parent to pay, to the moving party, a civil penalty, not less than the sum of one hundred dollars.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order, but in no event for more than one hundred eighty days.

(3) On a second failure within three years to comply with a residential provision of a court-ordered parenting plan, a motion may be filed to initiate contempt of court proceedings according to the procedure set forth in subsection (2) (a) and (b) of this section. On a finding of contempt under this subsection, the court shall order:

(a) The noncomplying parent to provide the other parent or party additional time with the child. The additional time shall be twice the amount of the time missed with the child, due to the parent's noncompliance;

(b) The noncomplying parent to pay, to the other parent or party, all court costs and reasonable attorneys' fees incurred as a result of the noncompliance, and any reasonable expenses incurred in locating or returning a child; and

(c) The noncomplying parent to pay, to the moving party, a civil penalty of not less than two hundred fifty dollars.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order but in no event for more than one hundred eighty days.

(4) For purposes of subsections (1), (2), and (3) of this section, the parent shall be deemed to have the present ability to comply with the order establishing residential provisions unless he or she establishes otherwise by a preponderance of the evidence. The parent shall establish a reasonable excuse for failure to comply with the residential provision of a court-ordered parenting plan by a preponderance of the evidence.

(5) Any monetary award ordered under subsections (1), (2), and (3) of this section may be enforced, by the party to whom it is awarded, in the same manner as a civil judgment.

(6) Subsections (1), (2), and (3) of this section authorize the exercise of the court's power to impose remedial sanctions for contempt of court and is in addition to any other contempt power the court may possess.

(7) Upon motion for contempt of court under subsections (1) through (3) of this section, if the court finds the motion was brought without reasonable basis, the court shall order the moving party to pay to the nonmoving party, all costs, reasonable attorneys' fees, and a civil penalty of not less than one hundred dollars.

Sec. 2. Section 2, chapter 95, Laws of 1984 and RCW 9A.40.070 are each amended to read as follows:

(1) A relative of a person is guilty of custodial interference in the second degree if, with the intent to deny access to such person by a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person, the relative takes, entices, retains, detains, or conceals the person from a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person. This subsection shall not apply to a parent's noncompliance with a court-ordered parenting plan.

(2) A parent of a child is guilty of custodial interference in the second degree if: (a) The parent takes, entices, retains, detains, or conceals the child, with the intent to deny access, from the other parent having the lawful right to time with the child pursuant to a court-ordered parenting plan; or (b) the parent has not complied with the residential provisions of a court-ordered parenting plan after a finding of contempt under section 1(3) of this act; or (c) if the court finds that the parent has engaged in a pattern of willful violations of the court-ordered residential provisions.

(3) Nothing in (b) of this subsection prohibits conviction of custodial interference in the second degree under (a) or (c) of this subsection in absence of findings of contempt.

(4) The first conviction of custodial interference in the second degree is a gross misdemeanor. The second or subsequent conviction of custodial interference in the second degree is a class C felony.

Sec. 3. Section 26, chapter 157, Laws of 1973 1st ex. sess. as amended by section 19, chapter 460, Laws of 1987 and RCW 26.09.260 are each amended to read as follows:

(1) The court shall not modify a prior custody decree or a parenting plan unless it finds, upon the basis of facts that have arisen since the prior decree or plan or that were unknown to the court at the time of the prior decree or plan, that a substantial change has occurred in the circumstances of the child or the parents and that the modification is necessary to serve the best interests of the child. In applying these standards, the court shall retain the residential schedule established by the decree or parenting plan unless:

(a) The parents agree to the modification;

(b) The child has been integrated into the family of the petitioner with the consent of the other parent in substantial deviation from the parenting plan; ((or))

(c) The child's present environment is detrimental to the child's physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

(d) The court has found the nonmoving parent in contempt of court at least twice within three years because the parent failed to comply with the residential time provisions in the court-ordered parenting plan, or the parent has been convicted of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070.

(2) A conviction of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial change of circumstances for the purposes of this section.

~~((2))~~ (3) If the court finds that a motion to modify a prior decree or parenting plan has been brought in bad faith, the court shall assess the attorney's fees and court costs of the nonmoving parent against the moving party.

NEW SECTION. Sec. 4. A new section is added to chapter 26.09 RCW to read as follows:

All court orders containing parenting plan provisions or orders of contempt, entered pursuant to section 1 of this act, shall include the following language:

WARNING: VIOLATION OF THE RESIDENTIAL PROVISIONS OF THIS ORDER WITH ACTUAL KNOWLEDGE OF ITS TERMS IS PUNISHABLE BY CONTEMPT OF COURT, AND MAY BE A CRIMINAL OFFENSE UNDER RCW 9A.40.070(2). VIOLATION OF THIS ORDER MAY SUBJECT A VIOLATOR TO ARREST.

Sec. 5. Section 3, chapter 95, Laws of 1984 and RCW 9A.40.080 are each amended to read as follows:

(1) Any reasonable expenses incurred in locating or returning a child or incompetent person shall be assessed against a defendant convicted under RCW 9A.40.060 or 9A.40.070.

(2) In any prosecution of custodial interference in the first or second degree, it is a complete defense, if established by the defendant by a preponderance of the evidence, that:

(a) The defendant's purpose was to protect the child, incompetent person, or himself or herself from imminent physical harm, ((and)) that the belief in the existence of the imminent physical harm was reasonable, and that the defendant sought the assistance of the police, sheriff's office, protective agencies, or the court of any state before committing the acts giving rise to the charges or within a reasonable time thereafter;

(b) The complainant had, prior to the defendant committing the acts giving rise to the crime, for a protracted period of time, failed to exercise his or her rights to physical custody or access to the child under a court-

ordered parenting plan or order granting visitation rights, provided that such failure was not the direct result of the defendant's denial of access to such person;

(c) The acts giving rise to the charges were consented to by the complainant; or

(d) The offender, after providing or making a good faith effort to provide notice to the person entitled to access to the child, failed to provide access to the child due to reasons that a reasonable person would believe were directly related to the welfare of the child, and allowed access to the child in accordance with the court order within a reasonable period of time. The burden of proof that the denial of access was reasonable is upon the person denying access to the child.

(3) Consent of a child less than sixteen years of age or of an incompetent person does not constitute a defense to an action under RCW 9A.40.060 or 9A.40.070.

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 April 20, 1989.  
Passed the House April 13, 1989.  
Approved by the Governor May 11, 1989.  
Filed in Office of Secretary of State May 11, 1989.

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CHAPTER 319

[Substitute House Bill No. 2036]

METROPOLITAN PARK DISTRICTS—REVENUE BONDS—ISSUANCE AND SALE

AN ACT Relating to metropolitan park districts; amending RCW 35.61.100, 35.61.110, and 35.61.132; and adding new sections to chapter 35.61 RCW.

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

NEW SECTION, Sec. 1. A new section is added to chapter 35.61 RCW to read as follows:

A metropolitan park district may issue and sell revenue bonds as provided in chapter 39.46 RCW to be made payable from the operating revenues of the metropolitan park district.

Sec. 2. Section 35.61.100, chapter 7, Laws of 1965 as last amended by section 21, chapter 186, Laws of 1984 and RCW 35.61.100 are each amended to read as follows:

Every metropolitan park district through its board of commissioners may contract indebtedness and evidence such indebtedness by the issuance and sale of warrants, short-term obligations as provided by chapter 39.50 RCW, or general obligation bonds, for park, boulevard, aviation landings,

playgrounds, and parkway purposes, and the extension and maintenance thereof, not exceeding, together with all other outstanding nonvoter approved general indebtedness, (~~three-fortieths~~) one-eighth of one percent of the value of the taxable property in such metropolitan park district, as the term "value of the taxable property" is defined in RCW 39.36.015. General obligation bonds shall not be issued with a maximum term in excess of twenty years. Such general obligation bonds shall be issued and sold in accordance with chapter 39.46 RCW.

Sec. 3. Section 35.61.110, chapter 7, Laws of 1965 as amended by section 15, chapter 42, Laws of 1970 ex. sess. and RCW 35.61.110 are each amended to read as follows:

Every metropolitan park district may contract indebtedness (~~(in excess of three-fortieths of one percent of the value of the taxable property but)~~) not exceeding in amount, together with existing voter-approved indebtedness and nonvoter-approved indebtedness, equal to two and one-half percent of the value of the taxable property in said district, as the term "value of the taxable property" is defined in RCW 39.36.015, whenever three-fifths of the voters voting at an election held in the metropolitan park district assent thereto; the election may be either a special or a general election, and the park commissioners of the metropolitan park district may cause the question of incurring such indebtedness, and issuing negotiable bonds of such metropolitan park district, to be submitted to the qualified voters of the district at any time.

Sec. 4. Section 35.61.132, chapter 7, Laws of 1965 and RCW 35.61.132 are each amended to read as follows:

Every metropolitan park district may, by unanimous decision of its board of park commissioners, sell, exchange, or otherwise dispose of any real or personal property acquired for park or recreational purposes when such property is (~~(no longer suitable)~~) declared surplus for park or other recreational purposes: PROVIDED, That where the property is acquired by donation or dedication for park or recreational purposes, the consent of the donor or dedicator, his or her heirs, successors, or assigns is first obtained if the consent of the donor is required in the instrument conveying the property to the metropolitan park district. In the event the donor or dedicator, his or her heirs, successors, or assigns cannot be located after a reasonable search, the metropolitan park district may petition the superior court in the county where the property is located for approval of the sale. If sold, all sales shall be by public bids and sale made only to the highest and best bidder.

NEW SECTION. Sec. 5. A new section is added to chapter 35.61 RCW to read as follows:

A metropolitan park district which contains a city with a population greater than one hundred thousand may commission its own police officers

with full police powers to enforce the laws and regulations of the city or county on metropolitan park district property. Police officers initially employed after June 30, 1989, pursuant to this section shall be required to successfully complete basic law enforcement training in accordance with chapter 43.101 RCW.

NEW SECTION. Sec. 6. A new section is added to chapter 35.61 RCW to read as follows:

The board of park commissioners of any metropolitan park district which includes a city with a population greater than one hundred thousand may submit to the electorate of the territory sought to be annexed a proposition that all property within the area annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing metropolitan park district to pay for all or any portion of the then outstanding indebtedness of the metropolitan park district.

Passed the House March 13, 1989.

Passed the Senate April 6, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 320

[Substitute Senate Bill No. 5314]

### SCHOOL EMPLOYEES—REVOCATION OF CERTIFICATES AND TERMINATION OF EMPLOYMENT FOR CRIMES AGAINST CHILDREN

AN ACT Relating to persons working at public schools; amending RCW 28A.70.160 and 28A.70.180; adding new sections to Title 28A RCW; and adding a new section to chapter 43.43 RCW.

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

Sec. 1. Section 28A.70.160, chapter 223, Laws of 1969 ex. sess. as last amended by section 137, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.70.160 are each amended to read as follows:

(1) Any certificate ~~((to teach))~~ or permit authorized under the provisions of this chapter, chapter 28A.67 RCW, or rules and regulations promulgated thereunder may be revoked or suspended by the authority authorized to grant the same upon complaint of any school district superintendent or educational service district superintendent for immorality, violation of written contract, unprofessional conduct, intemperance, or crime against the law of the state(;);

(2) Any such certificate or permit authorized under this chapter or chapter 28A.67 RCW shall be revoked by the authority authorized to grant the certificate upon a guilty plea or the conviction of any felony crime involving the physical neglect of ((children)) a child under chapter 9A.42 RCW, the physical injury or death of ((children)) a child under chapter 9A.32 or 9A.36 RCW (excepting ~~((possible))~~ motor vehicle violations under



chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or ((the sexual abuse of children, or any unprofessional conduct, after)) violation of similar laws of another jurisdiction. The person whose certificate is in question ((has been)) shall be given an opportunity to be heard. Mandatory permanent revocation upon a guilty plea or the conviction of felony crimes specified under this subsection shall apply to such convictions or guilty pleas which occur after the effective date of this 1989 act. Revocation of any certificate or permit authorized under this chapter or chapter 28A.67 RCW for a guilty plea or criminal conviction occurring prior to the effective date of this 1989 act shall be subject to the provisions of subsection (1) of this section.

Sec. 2. Section 28A.70.180, chapter 223, Laws of 1969 ex. sess. and RCW 28A.70.180 are each amended to read as follows:

In case any certificate or permit authorized under this chapter or chapter 28A.67 RCW is revoked, the holder shall not be eligible to receive another ((teacher's)) certificate or permit for a period of twelve months after the date of revocation. However, if the certificate or permit authorized under this chapter or chapter 28A.67 RCW was revoked because of a guilty plea or the conviction of a felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction, the certificate or permit shall not be reinstated.

NEW SECTION. Sec. 3. A new section is added to Title 28A RCW to read as follows:

(1) The school district board of directors shall immediately terminate the employment of any classified employee who has contact with children during the course of his or her employment upon a guilty plea or conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction.

(2) The employee shall have a right of appeal under chapter 28A.88 RCW including any right of appeal under a collective bargaining agreement.

**NEW SECTION.** Sec. 4. A new section is added to Title 28A RCW to read as follows:

The school district board of directors shall include in any contract for services with an entity or individual other than an employee of the school district a provision requiring the contractor to prohibit any employee of the contractor from working at a public school who has contact with children at a public school during the course of his or her employment and who has pled guilty to or been convicted of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. The contract shall also contain a provision that any failure to comply with this section shall be grounds for the school district immediately terminating the contract.

**NEW SECTION.** Sec. 5. A new section is added to Title 28A RCW to read as follows:

The school district shall immediately terminate the employment of any person whose certificate or permit authorized under chapter 28A.70 or 28A.67 RCW is subject to revocation under RCW 28A.70.160(2) upon a guilty plea or conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. Employment shall remain terminated unless the employee successfully prevails on appeal. This section shall only apply to employees holding a certificate or permit who have contact with children during the course of their employment.

**NEW SECTION.** Sec. 6. A new section is added to chapter 43.43 RCW to read as follows:

(1) Upon a guilty plea or conviction of a person of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, or the sale or purchase of a minor child under RCW 9A.64.030, the prosecuting attorney shall determine whether the person holds a certificate or permit issued under chapter 28A.70 or 28A.67

RCW or is employed by a school district. If the person is employed by a school district or holds a certificate or permit issued under chapter 28A.70 or 28A.67 RCW, the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person who has a certificate or permit issued under chapter 28A.70 or 28A.67 RCW or is employed by a school district has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall immediately transmit that information to the superintendent of public instruction. It shall be the duty of the superintendent of public instruction to provide this information to the state board of education and the school district employing the individual who pled guilty or was convicted of the crimes identified in subsection (1) of this section.

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.

Passed the Senate April 22, 1989.

Passed the House April 22, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 321

[Senate Bill No. 5736]

### SCHOOL CONSTRUCTION PROJECTS—LOCAL FUNDING REQUIREMENTS

AN ACT Relating to local funding requirements for school construction projects; amending RCW 28A.47.801, 28A.47.802, 28A.47.803, and 28A.56.200; and declaring an emergency.

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

Sec. 1. Section 2, chapter 244, Laws of 1969 ex. sess. as last amended by section 18, chapter 154, Laws of 1980 and RCW 28A.47.801 are each amended to read as follows:

(1) Funds appropriated to the state board of education from the common school construction fund shall be allotted by the state board of education in accordance with student enrollment (~~(as computed for the purposes of RCW 28A.41.140)~~) and the provisions of RCW (~~(28A.47.800 through 28A.47.811. PROVIDED, That)~~) 28A.47.830.

(2) No allotment shall be made to a school district ((for the purpose aforesaid)) until such district has provided matching funds equal to or greater than the difference between the total approved project cost and the amount of state assistance to the district for financing the project computed pursuant to RCW 28A.47.803, with the following exceptions:

(a) The state board may waive the matching requirement for districts which have provided funds for school building construction purposes through the authorization of bonds or through the authorization of excess tax levies or both in an amount equivalent to two and one-half percent of the value of its taxable property, as defined in RCW 39.36.015(~~or such lesser amount as may be required by the state board of education. PROVIDED FURTHER, That~~).

(b) No such matching funds shall be required as a condition to the allotment of funds for the purpose of making major or minor structural changes to existing school facilities in order to bring such facilities into compliance with the handicapped access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act.

(3) For the purpose of computing the state matching percentage under RCW 28A.47.803 when a school district is granted authority to enter into contracts, adjusted valuation per pupil shall be calculated using headcount student enrollments from the most recent October enrollment reports submitted by districts to the superintendent of public instruction, adjusted as follows:

(a) In the case of projects for which local bonds were approved after the effective date of this act:

(i) For districts which have been designated as serving high school districts under RCW 28A.56.200, students residing in the nonhigh district so designating shall be excluded from the enrollment count if the student is enrolled in any grade level not offered by the nonhigh district;

(ii) The enrollment of nonhigh school districts shall be increased by the number of students residing within the district who are enrolled in a serving high school district so designated by the nonhigh school district under RCW 28A.56.200, including only students who are enrolled in grade levels not offered by the nonhigh school district; and

(iii) The number of preschool handicapped students included in the enrollment county shall be multiplied by one-half;

(b) In the case of construction or modernization of high school facilities in districts serving students from nonhigh school districts, the adjusted valuation per pupil shall be computed using the combined adjusted valuations and enrollments of each district, each weighted by the percentage of the district's resident high school students served by the high school district; and

(c) The number of kindergarten students included in the enrollment count shall be multiplied by one-half.

(4) The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

(5) For the purposes of this section, "preschool handicapped students" means developmentally disabled children of preschool age who are entitled to services under chapter 28A.13 RCW and are not included in the kindergarten enrollment count of the district.

Sec. 2. Section 3, chapter 244, Laws of 1969 ex. sess. as amended by section 2, chapter 56, Laws of 1974 ex. sess. and RCW 28A.47.802 are each amended to read as follows:

In allotting the state funds provided by RCW 28A.47.800 through 28A.47.811, ~~((and in accordance with student enrollment as computed for the purposes of RCW 28A.41.140;))~~ the state board of education shall:

(1) Prescribe rules and regulations not inconsistent with RCW 28A.47.800 through 28A.47.811 governing the administration, control, terms, conditions, and disbursement of allotments to school districts to assist them in providing school plant facilities;

(2) Approve, whenever the board deems such action advisable, allotments to districts that apply for state assistance;

(3) Authorize the payment of approved allotments by warrant of the state treasurer; and

(4) In the event that the amount of state assistance applied for pursuant to the provisions hereof exceeds the funds available for such assistance during any biennium, make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance or prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the board.

Sec. 3. Section 4, chapter 244, Laws of 1969 ex. sess. as last amended by section 1, chapter 98, Laws of 1975 1st ex. sess. and RCW 28A.47.803 are each amended to read as follows:

Allocations to school districts of state funds provided by RCW 28A.47.800 through 28A.47.811 shall be made by the state board of education and the amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the state board of education.

(2) The state matching percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per ~~((full-time equivalent))~~ pupil divided by the ratio of the total state adjusted valuation per ~~((full-time))~~ pupil shall be subtracted from three, and then the result of

the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per ((full-time equivalent)) pupil divided by the ratio of the total state adjusted valuation per ((full-time)) pupil).

Computed State Ratio	3-	District adjusted valuation per ((full time equivalent)) pupil	+	Total state ad- justed valuation per ((full-time equivalent)) pupil	= --%    State Assist- ance
	3+	District adjusted valuation per ((full time equivalent)) pupil	+	Total state ad- justed valuation per ((full-time equivalent)) pupil	

PROVIDED, That in the event the percentage of state assistance to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state assistance under RCW 28A.47.800 through 28A.47.811, the state board of education may establish for such district a percentage of state assistance not in excess of twenty percent of the approved cost of the project, if the state board finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed percent of state assistance developed in (2) above, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each percent of growth, with a maximum of twenty percent.

(4) The approved cost of the project determined in the manner herein prescribed times the percentage of state assistance derived as provided for herein shall be the amount of state assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the state board of education: PROVIDED, FURTHER, That additional state assistance may be allowed if it is found by the state board of education that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden imposed by virtue of the admission of non-resident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in

state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d) and (e) hereinafore, creating a like emergency.

Sec. 4. Section 1, chapter 239, Laws of 1981 and RCW 28A.56.200 are each amended 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 serving high school ((serving)) district or districts which its high school students shall attend. A nonhigh school district shall designate a district as a serving high school district when more than thirty-three and one-third percent of the high school students residing within the boundaries of the nonhigh school district are enrolled in the serving district.

(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)~~), however 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)) as serving high school districts at the time the county auditor is requested by the high school district to place a measure on the ballot regarding a proposal or proposals for the issuance of bonds or the authorization of an excess tax levy to provide capital funds for building programs. 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).

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

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## CHAPTER 322

[Substitute Senate Bill No. 6033]

### NUCLEAR AND RADIOACTIVE WASTE MANAGEMENT—DEPARTMENT OF ECOLOGY—DUTIES

AN ACT Relating to radioactive affairs; amending RCW 43.200.015, 43.200.020, 43.200.030, 43.200.050, 43.200.070, and 43.200.150; repealing RCW 43.200.025, 43.200.040,

43.200.050, 43.200.060, 43.200.090, 43.200.100, 43.200.110, 43.200.120, 43.200.130, 43.200.140, 43.200.142, 43.200.144, 43.200.150, 43.200.160, and 43.200.904; and providing contingent effective dates.

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

Sec. 1. Section 1, chapter 161, Laws of 1984 as amended by section 1, chapter 293, Laws of 1985 and RCW 43.200.015 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) ~~("Board" means the nuclear waste board established in RCW 43.200.040.~~

(2) ~~"Federal department of energy" means the federal department of energy or any successor agency assigned responsibility for the long-term disposal of high-level radioactive waste.~~

(3) ~~"Nuclear regulatory commission" means the United States nuclear regulatory commission or any successor agency responsible for approving construction of a repository for the long-term disposal of high-level radioactive waste and spent nuclear fuel.~~

(4) ~~"Hanford candidate site" means the site identified by the United States department of energy as a potentially acceptable site for the disposal of spent nuclear fuel and high-level radioactive waste pursuant to the nuclear waste policy act of 1982.~~

(5)) "High-level radioactive waste" means "high-level radioactive waste" as the term is defined in 42 U.S.C. Sec. 10101 (P.L. 97-425).

((6)) (2) "Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than one hundred nanocuries of transuranic contaminants per gram of material, nor spent ((reactor)) nuclear fuel, nor material classified as either high-level radioactive waste or waste that is unsuited for disposal by near-surface burial under any applicable federal regulations.

((7)) (3) "Radioactive waste" means both high-level and low-level radioactive waste.

((8)) (4) "Spent nuclear fuel" means spent nuclear fuel as the term is defined in 42 U.S.C. Sec. 10101.

((9)) (5) "Department" means the department of ecology.

Sec. 2. Section 2, chapter 19, Laws of 1983 1st ex. sess. as amended by section 2, chapter 161, Laws of 1984 and RCW 43.200.020 are each amended to read as follows:

~~((The nuclear waste board shall carry out the authority and responsibility set forth in this chapter.))~~ The department of ecology is designated as the executive branch agency for participation in the federal nuclear waste policy act of 1982 and the federal low-level radioactive waste policy act of



1980, however the legislature retains an autonomous role with respect to participation in all aspects of the federal nuclear waste policy act of 1982. The ~~((board and the))~~ department may receive federal financial assistance for carrying out radioactive waste management activities, including assistance for expenses, salaries, travel, and monitoring and evaluating the program of repository exploration and siting undertaken by the federal government.

~~((The board shall submit a written report at least semiannually to the governor and to each member of the legislature on the radioactive waste program, its progress in carrying out its responsibilities, and any recommendations for legislative or administrative action that will improve the state's management and control activity in maximizing public health and safety.))~~

Sec. 3. Section 3, chapter 19, Laws of 1983 1st ex. sess. as amended by section 4, chapter 161, Laws of 1984 and RCW 43.200.030 are each amended to read as follows:

All departments, agencies, and officers of this state and its subdivisions shall cooperate with the ~~((board))~~ department of ecology in the furtherance of any of its activities pursuant to this chapter.

Sec. 4. Section 5, chapter 19, Laws of 1983 1st ex. sess. as amended by section 6, chapter 161, Laws of 1984 and RCW 43.200.050 are each amended to read as follows:

(1) An advisory council is hereby established of ~~((not less than fifteen))~~ nineteen members, eleven of whom shall be appointed by the governor ((to provide advice)) and eight of whom shall be legislators. The advisory council shall advise, counsel, and make recommendations to the ((board)) department on all aspects of the radioactive waste management program. The council shall particularly advise the ~~((board))~~ department on maximizing opportunities for public involvement in the program, soliciting public input, and assisting in the need for wide understanding of the issues involved in nuclear waste management. The governor shall appoint the chairman of the advisory council ~~((who shall also serve as chairman of the nuclear waste board)).~~

(2) The nonlegislative members of the council appointed by the governor shall be selected from all areas of the state and shall include a broad range of citizens((-representatives of local governments, and representatives of such other interests as the governor determines will best further the purposes of this chapter)). A representative of an affected Indian tribe ~~((may))~~ shall be ((an ex-officio nonvoting)) appointed by the governor as a member of the council. Terms of the nonlegislative council members shall not exceed two years and they shall continue to serve until their successors are appointed. Vacancies in a nonlegislative position shall be filled in the same manner as original appointments. ~~((Members may be reappointed.))~~ The

governor may reappoint a nonlegislative member and may appoint a replacement for ((any)) a nonlegislative council member who is temporarily unable to fulfill the responsibilities required of a council member. The replacement shall serve at the pleasure of the governor. Nonlegislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060.

(3) Four members from the house of representatives shall be appointed to the council by the speaker of the house of representatives and four members from the senate shall be appointed by the president of the senate. No more than two members of each house may be of the same political party. The legislative members shall serve at the pleasure of the appointing officer. The legislative members shall receive reimbursement for travel expenses in accordance with RCW 44.04.120.

(4) The council shall hold its meetings at various locations within the state.

Sec. 5. Section 7, chapter 19, Laws of 1983 1st ex. sess. as last amended by section 5, chapter 2, Laws of 1986 and RCW 43.200.070 are each amended to read as follows:

The ~~((board and/or the))~~ department of ecology shall adopt such rules as are necessary to carry out responsibilities under this chapter. The department of ecology is authorized to adopt such rules as are necessary to carry out its responsibilities under chapter 43.145 RCW.

Sec. 6. Section 14, chapter 161, Laws of 1984 as amended by section 4, chapter 293, Laws of 1985 and RCW 43.200.150 are each amended to read as follows:

The department shall provide administrative and technical staff support as requested by the ~~((board))~~ advisory council established by RCW 43.200.050. ~~((As directed by the board, the department shall be responsible for obtaining and coordinating technical expertise necessary for board participation in nuclear waste programs and shall be responsible for ongoing technical coordination and administration of program activities.))~~ Other state agencies shall assist the ~~((board))~~ council in fulfilling its duties to the fullest extent possible. The ~~((board and/or the))~~ department may contract with other state agencies to obtain expertise or input uniquely available from that agency. ~~((The board may contract with private parties to obtain expertise or input necessary to perform any study required in this chapter, for which it shall seek funding from the federal government.))~~

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 161, Laws of 1984 and RCW 43.200.025;

(2) Section 4, chapter 19, Laws of 1983 1st ex. sess., section 5, chapter 161, Laws of 1984, section 91, chapter 287, Laws of 1984 and RCW 43-200.040;

(3) Section 5, chapter 19, Laws of 1983 1st ex. sess. as last amended by section 4 of this act and RCW 43.200.050;

(4) Section 6, chapter 19, Laws of 1983 1st ex. sess., section 7, chapter 161, Laws of 1984 and RCW 43.200.060;

(5) Section 14, chapter 19, Laws of 1983 1st ex. sess. and RCW 43-200.090;

(6) Section 9, chapter 161, Laws of 1984 and RCW 43.200.100;

(7) Section 10, chapter 161, Laws of 1984 and RCW 43.200.110;

(8) Section 11, chapter 161, Laws of 1984 and RCW 43.200.120;

(9) Section 12, chapter 161, Laws of 1984 and RCW 43.200.130;

(10) Section 13, chapter 161, Laws of 1984 and RCW 43.200.140;

(11) Section 2, chapter 293, Laws of 1985, section 85, chapter 505, Laws of 1987 and RCW 43.200.142;

(12) Section 3, chapter 293, Laws of 1985 and RCW 43.200.144;

(13) Section 14, chapter 161, Laws of 1984 as last amended by section 6 of this act and RCW 43.200.150;

(14) Section 5, chapter 293, Laws of 1985 and RCW 43.200.160; and

(15) Section 6, chapter 293, Laws of 1985 and RCW 43.200.904.

**NEW SECTION.** Sec. 8. If the Hanford federal agreement and consent order announced February 27, 1989, is executed within ninety days after the end of the legislative session in which this bill is passed by the legislature, section 7 (1), (2), (4) through (12), (14), and (15) of this act shall take effect ninety days after the end of the legislative session in which this bill is passed by the legislature. If the Hanford federal agreement and consent order is not executed during that ninety-day period, section 7 (1), (2), (4) through (12), (14), and (15) of this act shall take effect on the date the agreement and consent order is executed, or June 30, 1990, whichever is earlier. Section 7 (3) and (13) of this act shall take effect June 30, 1994.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

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## CHAPTER 323

[Substitute Senate Bill No. 5357]

### INSURANCE EDUCATION PROVIDERS—REGULATION

AN ACT Relating to insurance education providers; amending RCW 48.17.560 and 48-17.120; adding new sections to chapter 48.17 RCW; prescribing penalties; providing an effective date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 48.17 RCW to read as follows:

It is unlawful for any unauthorized person to remove, reproduce, duplicate, or distribute in any form, any question(s) used by the state of Washington to determine the qualifications and competence of insurance agents, brokers, solicitors, or adjusters required by Title 48 RCW to be licensed. This section shall not prohibit an insurance education provider from creating and using sample test questions in courses approved pursuant to RCW 48.17.150.

Any person violating this section shall be subject to penalties as provided by RCW 48.01.080 and 48.17.560.

**NEW SECTION.** Sec. 2. A new section is added to chapter 48.17 RCW to read as follows:

"Insurance education provider" means any insurer, health care service contractor, health maintenance organization, professional association, educational institution created by Washington statutes, or vocational school licensed under Title 28C RCW or independent contractor to which the commissioner has granted authority to conduct and certify completion of a course satisfying the insurance education requirements of RCW 48.17.150.

Sec. 3. Section .17.56, chapter 79, Laws of 1947 as last amended by section 8, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.17.560 are each amended to read as follows:

After hearing or upon stipulation by the licensee or insurance education provider, and in addition to or in lieu of the suspension, revocation, or refusal to renew any such license or insurance education provider approval, the commissioner may levy a fine upon the licensee or insurance education provider. (1) For each offense ~~((m))~~ the fine shall be an amount ~~((not less than fifty dollars and))~~ not more than ~~((five hundred dollars, but in no case more than a total of))~~ one thousand dollars. (2) The order levying such fine shall specify ~~((the period within which))~~ that the fine shall be fully paid ~~((; and which period shall be))~~ not less than fifteen nor more than thirty days from the date of the order. (3) Upon failure to pay any such fine when due, the commissioner shall revoke the licenses of the licensee or the approval(s) of the insurance education provider, if not already revoked ~~((, and))~~. The fine shall be recovered in a civil action brought ~~((m))~~ on behalf of the commissioner by the attorney general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund.

**NEW SECTION.** Sec. 4. A new section is added to chapter 48.17 RCW to read as follows:

If an investigation of any provider culminates in a finding by the commissioner or by any court of competent jurisdiction, that the provider has failed to comply with or has violated any statute or regulation pertaining to

insurance education, the provider shall pay the expenses reasonably attributable and allocable to such investigation.

(1) The commissioner shall calculate such expenses and render a bill therefor by registered mail to the provider. Within thirty days after receipt of such bill, the provider shall pay the full amount to the commissioner. The commissioner shall transmit such payment to the state treasurer. The state treasurer shall credit the payment to the office of the insurance commissioner regulatory account, treating such payment as recovery of a prior expenditure.

(2) In any action brought under this section, if the insurance commissioner prevails, the court may award to the office of the insurance commissioner all costs of the action, including a reasonable attorneys' fee to be fixed by the court.

**NEW SECTION.** Sec. 5. A new section is added to chapter 48.17 RCW to read as follows:

In addition to the regulatory requirements imposed pursuant to RCW 48.17.150, the commissioner may require each insurance education provider to post a bond, cash deposit, or irrevocable letter of credit. Every insurance education provider, other than an insurer, health care service contractor, health maintenance organization, or educational institution established by Washington statutes, is subject to the requirement.

(1) The provider shall file with each request for course approval and shall maintain in force while so approved, the bond, cash deposit, or irrevocable letter of credit in favor of the state of Washington, according to criteria which the commissioner shall establish by regulation. The amount of such bond, cash deposit, or irrevocable letter of credit, shall not exceed five thousand dollars for the provider's first approved course and one thousand dollars for each additional approved course.

(2) Proceeds from the bond, cash deposit, or irrevocable letter of credit shall inure to the commissioner for payment of investigation expenses or for payment of any fine ordered per Washington statutes or regulations governing insurance education: PROVIDED, That recoverable investigation expenses or fines shall not be limited to the amount of such required bond, cash deposit, or irrevocable letter of credit.

Sec. 6. Section .17.12, chapter 79, Laws of 1947 as last amended by section 2, chapter 111, Laws of 1981 and RCW 48.17.120 are each amended to read as follows:

(1) Each such examination shall be of sufficient scope (~~reasonably~~) and difficulty 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, and so as reasonably to assure that a passing score indicates that the applicant is qualified from the standpoint of knowledge and education.

(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.

**NEW SECTION.** Sec. 7. A new section is added to chapter 48.17 RCW to read as follows:

(1) The commissioner may require insurance education providers to furnish specific information regarding their curricula, faculty, methods of monitoring attendance, and other matters reasonably related to providing insurance education under this chapter. The commissioner may grant approvals to such providers who demonstrate the ability to conduct and certify completion of one or more courses satisfying the insurance education requirements of RCW 48.17.150.

(2) In granting approvals for courses required by RCW 48.17.150(1)(d):

(a) The commissioner may require the availability of a licensed agent with appropriate experience on the premises whenever instruction is being offered; and

(b) The commissioner shall not deny approval to any provider on the grounds that the proposed method of education employs nontraditional teaching techniques, such as substituting taped lectures for live instruction, offering instruction without fixed schedules, or providing education at individual learning rates.

**NEW SECTION.** Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

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## CHAPTER 324

[Senate Bill No. 5536]

### STATE EMPLOYEES' BENEFITS BOARD—MEMBERSHIP

AN ACT Relating to the state employees' benefits board; and amending RCW 41.05.055.

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

Sec. 1. Section 7, chapter 107, Laws of 1988 and RCW 41.05.055 are each amended to read as follows:

(1) The state employees' benefits board is created within the authority. The function of the board is to design and approve insurance benefit plans for state employees.

(2) The board shall be composed of seven members appointed by the governor as follows:

(a) Three representatives of state employees, one of whom shall represent an employee association certified as exclusive representative of at least one bargaining unit of classified employees (~~and~~), one of whom shall represent an employee union certified as exclusive representative of at least one bargaining unit of classified employees, and one of whom is retired, is covered by a program under the jurisdiction of the board, and represents an organized group of retired public employees;

(b) Three members with experience in health benefit management and cost containment; and

(c) The administrator.

(3) The governor shall appoint the initial members of the board to staggered terms not to exceed four years. Members appointed thereafter shall serve two-year terms. Members of the board shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060. The board shall prescribe rules for the conduct of its business. The administrator shall serve as chair of the board. Meetings of the board shall be at the call of the chair.

Passed the Senate April 20, 1989.

Passed the House April 6, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 325

[Substitute Senate Bill No. 5859]

### WASHINGTON SCHOOL DIRECTORS' ASSOCIATION—POWERS AND DUTIES

AN ACT Relating to the Washington school directors' association; amending RCW 28A-.61.030 and 28A.61.900; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 28A.61.030, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 187, Laws of 1983 and RCW 28A.61.030 are each amended to read as follows:

The school directors' association shall have the power:

(1) To prepare and adopt, amend and repeal a constitution and rules and regulations, and bylaws for its own organization including county or

regional units and for its government and guidance: PROVIDED, That action taken with respect thereto is consistent with the provisions of this chapter or with other provisions of law;

(2) To arrange for and call such meetings of the association or of the officers and committees thereof as are deemed essential to the performance of its duties;

(3) To provide for the payment of travel and subsistence expenses incurred by members and/or officers of the association and association staff while engaged in the performance of duties under direction of the association in the manner provided by RCW 28A.58.310;

(4) To employ an executive secretary and other staff and pay such employees out of the funds of the association;

(5) To conduct studies and disseminate information therefrom relative to increased efficiency in local school board administration;

(6) To buy, lease, sell, or exchange such personal and real property as necessary for the efficient operation of the association and to borrow money, issue deeds of trust or other evidence of indebtedness, or enter into contracts for the purchase, lease, remodeling, or equipping of office facilities or the acquisition of sites for such facilities;

(7) To purchase liability insurance for school directors, which insurance may indemnify said directors against any or all liabilities for personal or bodily injuries and property damage arising from their acts or omissions while performing or while in good faith purporting to perform their official duties as school directors;

(8) To provide advice and assistance to local boards to promote their primary duty of representing the public interest;

(9) Upon request by a local school district board(s) of directors, to make available on a cost reimbursable contract basis (a) specialized services, (b) research information, and (c) consultants to advise and assist district board(s) in particular problem areas: PROVIDED, That such services, information, and consultants are not already available from other state agencies, educational service districts, or from the information and research services authorized by RCW 28A.58.530(~~(-PROVIDED FURTHER, That any such contract shall be filed with the office of financial management and the legislative budget committee prior to the date any work commences under any such contract)~~).

Sec. 2. Section 6, chapter 187, Laws of 1983 and RCW 28A.61.900 are each amended to read as follows:

The powers and duties of the school director's association terminate on June 30, ~~((1989))~~ 1998. This chapter and RCW 41.06.086 expire June 30, ~~((1990))~~ 1999. The school director's association shall be reviewed before termination under chapter 43.131 RCW.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state



government and its existing public institutions, and shall take effect June 30, 1989.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 326

[Substitute Senate Bill No. 5108]

### ABUSED CHILDREN—VISITATION OF THE CHILD BY THE ABUSER

AN ACT Relating to visitation between an abused child and the abuser; and amending RCW 26.09.191 and 26.10.160.

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

Sec. 1. Section 10, chapter 460, Laws of 1987 and RCW 26.09.191 are each amended to read as follows:

(1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or a pattern of emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW 26.50.010(1) ((or an act of domestic violence which rises to the level of a felony)) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(2)(a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: ~~((a))~~ (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; ~~((b))~~ (ii) physical, sexual, or a pattern of emotional abuse of a child; or ~~((c))~~ (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) ((or an act of domestic violence which rises to the level of a felony, unless)) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(b) The limitations imposed by the court shall be reasonably calculated to protect the child from physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting residential time. If the court expressly finds limitation on the residential time with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting residential time, the court shall restrain the parent requesting residential time from all contact with the child.

(c) If the court expressly finds that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations ((or unless it is shown not to have had an impact on the child)) of (a) and (b) of this subsection, or if the court expressly finds the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a) and (b) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court.

(3) A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist:

(a) A parent's neglect or substantial nonperformance of parenting functions;

(b) A long-term emotional or physical impairment which interferes with the parent's performance of parenting functions as defined in RCW 26.09.004;

(c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;

(d) The absence or substantial impairment of emotional ties between the parent and the child;

(e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development;

(f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or

(g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(4) In entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of the temporary parenting plan.

(5) In determining whether any of the conduct described in this section has occurred, the court shall apply the civil rules of evidence, proof, and procedure.

Sec. 2. Section 44, chapter 460, Laws of 1987 and RCW 26.10.160 are each amended to read as follows:

(1) A parent not granted custody of the child is entitled to reasonable visitation rights ((unless the court finds, after a hearing, that visitation would endanger the child's physical, mental, or emotional health. The court may order visitation rights for any person when visitation may serve the best interest of the child whether or not there has been any change of circumstances)) except as provided in subsection (2) of this section.

(2)(a) Visitation with the child shall be limited if it is found that the parent seeking visitation has engaged in any of the following conduct: (i)

Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; or (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(b) The limitations imposed by the court shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting visitation. If the court expressly finds limitations on visitation with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting visitation, the court shall restrain the person seeking visitation from all contact with the child.

(c) If the court expressly finds that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a) and (b) of this subsection, or if the court expressly finds the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a) and (b) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court.

(3) Any person may petition the court for visitation rights at any time including, but not limited to, custody proceedings. The court may order visitation rights for any person when visitation may serve the best interest of the child whether or not there has been any change of circumstances.

(4) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child ((but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical, mental, or emotional health)). Modification of a parent's visitation rights shall be subject to the requirements of subsection (2) of this section.

Passed the Senate April 20, 1989.

Passed the House April 6, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

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## CHAPTER 327

[House Bill No. 1520]

### FERRY SYSTEM EMPLOYEES—SALARY SURVEY

AN ACT Relating to the salary survey for ferry system employees; amending RCW 47-64.006, 47.64.220, and 47.64.240; and declaring an emergency.

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

Sec. 1. Section 1, chapter 15, Laws of 1983 and RCW 47.64.006 are each amended to read as follows:

The legislature declares that it is the public policy of the state of Washington to: (1) Provide continuous operation of the Washington state ferry system at reasonable cost to users; (2) efficiently provide levels of ferry service consistent with trends and forecasts of ferry usage; (3) promote harmonious and cooperative relationships between the ferry system and its employees by permitting ferry employees to organize and bargain collectively; (4) protect the citizens of this state by assuring effective and orderly operation of the ferry system in providing for their health, safety, and welfare; (5) prohibit and prevent all strikes or work stoppages by ferry employees; (6) protect the rights of ferry employees with respect to employee organizations; and (7) promote ((equality in)) just and fair compensation, benefits, and working conditions ((between)) for ferry system employees(;) as compared with public and private sector employees ((within the state, and other Washington state employees)) in states along the west coast of the United States, including Alaska, and in British Columbia in directly comparable but not necessarily identical positions.

Sec. 2. Section 13, chapter 15, Laws of 1983 and RCW 47.64.220 are each amended to read as follows:

Prior to collective bargaining, the marine employees' commission shall conduct a salary survey which shall be a public document comparing wages, hours, employee benefits, and conditions of employment of involved ferry employees with those of public and private sector employees ((within the state and Washington state employees)) in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved. Such survey shall be for the purpose of disclosing generally prevailing levels of compensation, benefits, and conditions of employment. It shall be used to guide generally but not to define or limit collective bargaining between the parties. The commission shall make such other findings of fact as the parties may request during bargaining or impasse.

Sec. 3. Section 15, chapter 15, Laws of 1983 and RCW 47.64.240 are each amended to read as follows:

(1) If impasse persists fourteen days after the mediator has been appointed, or beyond any other date mutually agreed to by the parties, all impasse items shall be submitted to arbitration pursuant to this section, and that arbitration shall be binding upon the parties.

(2) Each party shall submit to the other within four days of request, a final offer on the impasse items with proof of service of a copy upon the other party. Each party shall also submit a copy of a draft of the proposed collective bargaining agreement to the extent to which agreement has been reached and the name of its selected arbitrator. The parties may continue to

negotiate all offers until an agreement is reached or a decision rendered by the panel of arbitrators.

As an alternative procedure, the two parties may agree to submit the dispute to a single arbitrator. If the parties cannot agree on the arbitrator within four days, the selection shall be made pursuant to subsection (5) of this section. The full costs of arbitration under this provision shall be shared equally by the parties to the dispute.

(3) The submission of the impasse items to the arbitrators shall be limited to those issues upon which the parties have not reached agreement. With respect to each such item, the arbitration panel award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitration board on each impasse item.

(4) The panel of arbitrators shall consist of three members appointed in the following manner:

(a) One member shall be appointed by the secretary of transportation;

(b) One member shall be appointed by the ferry employee organization;

(c) One member shall be appointed mutually by the members appointed by the secretary of transportation and the employee organization. The last member appointed shall be the chairman of the panel of arbitrators. No member appointed may be an employee of the parties;

(d) Ferry system management and the employee organization shall each pay the fees and expenses incurred by the arbitrator each selected. The fee and expenses of the chairman of the panel shall be shared equally by each party.

(5) If the third member has not been selected within four days of notification as provided in subsection (2) of this section, a list of seven arbitrators shall be submitted to the parties by the marine employees' commission. The two arbitrators selected by ferry system management and the ferry employee organization shall determine by lot which arbitrator shall remove the first name from the list submitted by the marine employees' commission. The second arbitrator and the first arbitrator shall alternately remove one additional name until only one name remains. The person whose name remains shall become the chairman of the panel of arbitrators and shall call a meeting within thirty days, or at such time mutually agreed to by the parties, at a location designated by him or her. In lieu of a list of seven nominees for the third member being submitted by the marine employees' commission, the parties may mutually agree to have either the Federal Mediation and Conciliation Service or the American Arbitration Association submit a list of seven nominees.

(6) If a vacancy occurs on the panel of arbitrators, the selection for replacement of that member shall be in the same manner and within the same time limits as the original member was chosen. No final award under

subsection (3) of this section may be made by the panel until three arbitrators have been chosen.

(7) The panel of arbitrators shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed in this section.

(8) From the time of appointment until such time as the panel of arbitrators makes its final determination, there shall be no discussion concerning recommendations for settlement of the dispute by the members of the panel of arbitrators with parties other than those who are direct parties to the dispute. The panel of arbitrators may conduct formal or informal hearings to discuss offers submitted by both parties.

(9) The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:

(a) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;

(b) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees ((within the state and Washington state employees)) in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;

(c) The interests and welfare of the public, the ability of the ferry system to finance economic adjustments, and the effect of the adjustments on the normal standard of services;

(d) The right of the legislature to appropriate and to limit funds for the conduct of the ferry system; and

(e) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature.

(10) The chairman of the panel of arbitrators may hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such powers to other members of the panel of arbitrators. The chairman of the panel of arbitrators may petition the superior court in Thurston county, or any county in which any hearing is held, to enforce the order of the chairman compelling the attendance of witnesses and the production of records.

(11) A majority of the panel of arbitrators shall within thirty days after its first meeting select the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties.

(12) The selections by the panel of arbitrators and items agreed upon by the ferry system management and the employee organization shall be deemed to be the collective bargaining agreement between the parties.

(13) The determination of the panel of arbitrators shall be by majority vote and shall be final and binding, subject to RCW 47.64.180 and 47.64.190. The panel of arbitrators shall give written explanation for its selection and inform the parties of its decision.

**NEW SECTION.** Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 18, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 328

[House Bill No. 1802]

### COURT OF APPEALS AND SUPERIOR COURT—CREATION OF ADDITIONAL JUDGESHIPS

AN ACT Relating to the court of appeals; amending RCW 2.08.061, 2.08.064, 2.32.180, 36.32.400, 41.04.180, and 2.06.020; amending section 5, chapter 323, Laws of 1987 (uncodified); adding a new section to chapter 2.06 RCW; and creating new sections.

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

**NEW SECTION.** Sec. 1. The legislature recognizes the dramatic increase in cases filed in superior court over the last six years in King, Pierce, and Snohomish counties. This increase has created a need for more superior court judges in those counties.

The increased caseload at the superior court level has also caused a similar increase in the case and petition filings in the court of appeals. Currently, the additional caseload is being handled by pro tempore judges and excessive caseloads for permanent judges. The addition of a permanent full-time judge will allow the court to more efficiently process the growing caseload.

By the creation of these additional positions, it is the intent of the legislature to promote the careful judicial review of cases by an elected judiciary.

Sec. 2. Section 3, chapter 125, Laws of 1951 as last amended by section 1, chapter 323, Laws of 1987 and RCW 2.08.061 are each amended to read as follows:

There shall be in the county of King no more than forty-six judges of the superior court; in the county of Spokane ten judges of the superior court; and in the county of Pierce ((fifteen)) nineteen judges of the superior court.

Sec. 3. Section 6, chapter 125, Laws of 1951 as last amended by section 3, chapter 357, Laws of 1985 and RCW 2.08.064 are each amended to read as follows:

There shall be in the counties of Benton and Franklin jointly, five judges of the superior court; in the county of Clallam, two judges of the superior court; in the county of Jefferson, one judge of the superior court; in the county of Snohomish, ~~((nine))~~ eleven 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; in the counties of Klickitat and Skamania jointly, one judge of the superior court.

Sec. 4. Section 1, chapter 126, Laws of 1913 as last amended by section 3, chapter 66, Laws of 1988 and RCW 2.32.180 are each amended to read as follows:

It shall be and is the duty of each and every superior court judge in counties or judicial districts in the state of Washington having a population of over thirty-five thousand inhabitants to appoint, or said judge may, in any county or judicial district having a population of over twenty-five thousand and less than thirty-five thousand, appoint a stenographic reporter to be attached to the court holden by him who shall have had at least three years' experience as a skilled, practical reporter, or who upon examination shall be able to report and transcribe accurately one hundred and seventy-five words per minute of the judge's charge or two hundred words per minute of testimony each for five consecutive minutes; said test of proficiency, in event of inability to meet qualifications as to length of time of experience, to be given by an examining committee composed of one judge of the superior court and two official reporters of the superior court of the state of Washington, appointed by the president judge of the superior court judges association of the state of Washington: PROVIDED, That a stenographic reporter shall not be required to be appointed for the seven additional judges of the superior court authorized for appointment by section 1, chapter 323, Laws of 1987 ~~((or))~~, the additional superior court judge authorized by section 1, chapter 66, Laws of 1988, or the additional superior court judges authorized by sections 2 and 3 of this 1989 act. The initial judicial appointee shall serve for a period of six years; the two initial reporter appointees shall serve for a period of four years and two years, respectively, from September 1, 1957; thereafter on expiration of the first terms of service, each newly appointed member of said examining committee to serve for a period of six years. In the event of death or inability of a member to serve, the president judge shall appoint a reporter or judge, as the case may be, to serve for the balance of the unexpired term of the member whose inability to serve caused such vacancy. The examining committee shall grant certificates to qualified applicants. Administrative and procedural rules and regulations shall be promulgated by said examining committee, subject to approval by the said president judge.



The stenographic reporter upon appointment shall thereupon become an officer of the court and shall be designated and known as the official reporter for the court or judicial district for which he is appointed: PROVIDED, That in no event shall there be appointed more official reporters in any one county or judicial district than there are superior court judges in such county or judicial district; the appointments in each class AA county shall be made by the majority vote of the judges in said county acting en banc; the appointments in class A counties and counties of the first class may be made by each individual judge therein or by the judges in said county acting en banc. Each official reporter so appointed shall hold office during the term of office of the judge or judges appointing him, but may be removed for incompetency, misconduct or neglect of duty, and before entering upon the discharge of his duties shall take an oath to perform faithfully the duties of his office, and file a bond in the sum of two thousand dollars for the faithful discharge of his duties. Such reporter in each court is hereby declared to be a necessary part of the judicial system of the state of Washington.

NEW SECTION, Sec. 5. The additional judicial positions created by sections 2 and 3 of this act in Pierce and Snohomish counties shall be effective only if the county through its duly constituted legislative authority documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities.

Sec. 6. Section 5, chapter 323, Laws of 1987 (uncodified) is amended to read as follows:

Sections 1 and 2 of this act shall take effect January 1, 1988. The additional judicial positions created by sections 1 and 2 of this act in King county and Chelan and Douglas counties shall be effective only if each county through its duly constituted legislative authority documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities. The legislative ~~((authority))~~ authorities of ~~((each county))~~ Chelan and Douglas counties may in ~~((its))~~ their discretion phase in any additional judicial positions over a period of time not to extend beyond January 1, 1990. The legislative authority of King county may in its discretion phase in any additional judicial positions over a period of time not to extend beyond January 1, 1991.

NEW SECTION, Sec. 7. (1) Three additional judicial positions created by section 2 of this 1989 act shall be effective January 1, 1990.

(2) One additional judicial position created by section 3 of this act shall be effective July 1, 1990; the second position shall be effective not later than June 30, 1991.

**\*Sec. 8. Section 36.32.400, chapter 4, Laws of 1963 as amended by section 7, chapter 106, Laws of 1975-'76 2nd ex. sess. and RCW 36.32.400 are each amended to read as follows:**

**Any county by a majority vote of its board of county commissioners may enter into contracts to provide health care services and/or group insurance for the benefit of its employees, and may pay all or any part of the cost thereof. Any two or more counties, by a majority vote of their respective boards of county commissioners may, if deemed expedient, join in the procuring of such health care services and/or group insurance, and the board of county commissioners of each participating county may, by appropriate resolution, authorize their respective counties to pay all or any portion of the cost thereof.**

**Nothing in this section shall impair the eligibility of any employee of a county, municipality, or other political subdivision under RCW 41.04.205.**

**For the purposes of this section, "employee" and "employees" shall not include superior court judges, whose benefits are provided by the state.**

**\*Sec. 8 was vetoed, see message at end of chapter.**

**\*Sec. 9. Section 1, chapter 75, Laws of 1963 as last amended by section 1, chapter 82, Laws of 1974 ex. sess. and RCW 41.04.180 are each amended to read as follows:**

**(1) Any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body may, whenever funds shall be available for that purpose provide for all or a part of hospitalization and medical aid for its employees and their dependents through contracts with regularly constituted insurance carriers or with health care service contractors as defined in chapter 48.44 RCW (~~or self-insurers as provided for in chapter 48.52 RCW~~;) for group hospitalization and medical aid policies or plans: PROVIDED, That any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body shall provide the employees thereof a choice of policies or plans through contracts with not less than two regularly constituted insurance carriers or health care service contractors or other health care plans(~~including but not limited to, trusts of self-insurance as provided for in chapter 48.52 RCW~~); AND PROVIDED FURTHER, That any county may provide such hospitalization and medical aid to county elected officials and their dependents on the same basis as such hospitalization and medical aid is provided to other county employees and their dependents: PROVIDED FURTHER, That provision for school district personnel shall not be made under this section but shall be as provided for in RCW 28A.58.420.**

**(2) For the purposes of this section, "employees" and "elected officials" shall not include superior court judges, whose benefits are provided by the state.**

\*Sec. 9 was vetoed, see message at end of chapter.

Sec. 10. Section 2, chapter 221, Laws of 1969 ex. sess. as amended by section 1, chapter 49, Laws of 1977 ex. sess. and RCW 2.06.020 are each amended to read as follows:

The court shall have three divisions, one of which shall be headquartered in Seattle, one of which shall be headquartered in Spokane, and one of which shall be headquartered in Tacoma:

(1) The first division shall have ~~((eight))~~ nine judges from three districts, as follows:

(a) District 1 shall consist of King county and shall have six judges;

(b) District 2 shall consist of Snohomish county and shall have ~~((one))~~ two judges; and

(c) District 3 shall consist of Island, San Juan, Skagit and Whatcom counties and shall have one judge.

(2) The second division shall have four judges from the following districts:

(a) District 1 shall consist of Pierce county and shall have two judges;

(b) District 2 shall consist of Clallam, Grays Harbor, Jefferson, Kitsap, Mason, and Thurston counties and shall have one judge;

(c) District 3 shall consist of Clark, Cowlitz, Lewis, Pacific, Skamania, and Wahkiakum counties and shall have one judge.

(3) The third division shall have four judges from the following districts:

(a) District 1 shall consist of Ferry, Lincoln, Okanogan, Pend Oreille, Spokane and Stevens counties and shall have two judges;

(b) District 2 shall consist of Adams, Asotin, Benton, Columbia, Franklin, Garfield, Grant, Walla Walla, and Whitman counties and shall have one judge;

(c) District 3 shall consist of Chelan, Douglas, Kittitas, Klickitat and Yakima counties and shall have one judge.

**NEW SECTION.** Sec. 11. A new section is added to chapter 2.06 RCW to read as follows:

The new judicial position for the first division, district 2, Snohomish county created pursuant to the 1989 amendment to RCW 2.06.020 shall become effective January 1, 1990, and shall be filled by gubernatorial appointment.

The person appointed by the governor shall hold office until the general election to be held in November 1990. At the general election, the judge appointed shall be entitled to run for a term of six years or until the second Monday in January 1997, and until a successor is elected and qualified. Thereafter, the judge shall be elected for a term of six years and until a

successor is elected and qualified, commencing with the second Monday in January succeeding the election.

Passed the House April 6, 1989.

Passed the Senate April 11, 1989.

Approved by the Governor May 11, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1989.

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

"I am returning herewith, without my approval as to sections 8 and 9, Engrossed House Bill No. 1802 entitled:

"AN ACT Relating to the court of appeals."

Under existing law, Superior Court judges are considered employees of the state and the county within which they preside and receive half of their salary from each. As a result of this dual status, they are eligible for medical benefits provided by both the state and their respective counties, if the county chooses to provide such coverage. A recent survey indicated that 18 of the state's 39 counties provide some form of medical benefit for Superior Court judges ranging from self-pay supplemental coverage to full benefits.

Sections 8 and 9 of this bill would exclude Superior Court judges whose benefits are provided by the state from the definition of employees eligible for county medical benefits. The apparent purpose of these amendments is to prevent judges from receiving full-blown, dual medical benefits from counties if they also receive state benefits, thereby avoiding the cost of dual coverage. This makes good fiscal sense.

However, the bill goes beyond simply prohibiting dual benefits. It would also prohibit coverage that some counties have chosen independently to provide, which is only supplemental to the primary state benefit and is no more extensive than coverage provided other county employees. In at least one large county, the supplemental county coverage is provided under a self-pay plan by the judge at no additional cost to the county.

I do not believe that counties should be prevented from entering into such supplemental coverage arrangements for their Superior Court Judges. I would, however, support future legislation similar to sections 8 and 9 that would permit counties the option of providing supplemental coverage if it does not exceed that offered to other county employees. The county could then decide to offer the supplemental coverage at county expense or via self-pay.

With the exception of sections 8 and 9, Engrossed House Bill No. 1802 is approved."

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## CHAPTER 329

[Substitute House Bill No. 1965]

### BOARDING HOMES—EXCLUSIONS FROM DEFINITION

AN ACT Relating to boarding homes; and amending RCW 18.20.020 and 71A.22.040.

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

Sec. 1. Section 2, chapter 253, Laws of 1957 as last amended by section 4, chapter 213, Laws of 1985 and RCW 18.20.020 are each amended to read as follows:

As used in this chapter:

(1) "Aged person" means a person of the age sixty-five years or more, or a person of less than sixty-five years who by reason of infirmity requires domiciliary care.

(2) "Boarding home" means any home or other institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include facilities certified as group training homes pursuant to RCW 71A-.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

(3) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

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

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

(6) "Authorized department" means any city, county, city-county health department or health district authorized by the secretary of social and health services to carry out the provisions of this chapter.

Sec. 2. Section 804, chapter 176, Laws of 1988 and RCW 71A.22.040 are each amended to read as follows:

Any person, corporation, or association may apply to the secretary for approval and certification of the applicant's facility as a day training center or a group training home for persons with developmental disabilities, or a combination of both. The secretary may either grant or deny certification or revoke certification previously granted after investigation of the applicant's facilities, to ascertain whether or not such facilities are adequate for the ~~((health, safety,))~~ care, treatment, maintenance, training, and support of persons with developmental disabilities, under standards in rules adopted by the secretary. Day training centers and group training homes must meet local health and safety standards as may be required by local health and fire-safety authorities.

Passed the House April 18, 1989.

Passed the Senate April 5, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 330

[Substitute House Bill No. 2066]

## SCHOOLS—STUDENT TRANSPORTATION SAFETY

AN ACT Relating to school students transportation safety evaluation; amending RCW 58.17.060 and 58.17.110; and creating a new section.

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

**NEW SECTION.** Sec. 1. (1) An interim task force is created on the safety of students traveling to and from school, whether by walking, riding school buses, or using other transportation.

(2) The task force shall study:

(a) Student pedestrian safety while traveling to and from school, including pedestrian needs, hazardous walking conditions, school crossing guards, and other related issues;

(b) The need for edge striping and curbing for roadways and identify sources of funding such projects; and

(c) The need for school districts, counties, cities, and the state to set standards for infrastructure improvements in conjunction with housing development.

(3) Staffing for the task force shall be provided by the traffic safety commission and the office of the superintendent of public instruction. The governor and the legislature may provide additional staff and facilities as may be reasonably required to assist the task force in carrying out its duties and responsibilities.

(4) The task force on transportation safety shall consist of:

(a) Two members of the house of representatives, one from each caucus, to be selected by the speaker;

(b) Two members of the senate, one from each caucus, to be selected by the president of the senate;

(c) The superintendent of public instruction or a designee;

(d) The secretary of transportation or a designee;

(e) The director of the traffic safety commission or a designee;

(f) A representative of the housing development industry;

(g) A county traffic safety engineer;

(h) A school board member;

(i) Two elected officials from local government;

(j) A local law enforcement representative; and

(k) A member of the Washington state parent/teachers association.

(5) The chair shall be one of the legislative members to be chosen by vote of the designated legislative members. The chair shall select the members of the task force who are not selected by another person or organization.

(6) The task force shall submit a final report to the legislature by March 31, 1990.

(7) This section expires March 31, 1990.

Sec. 2. Section 6, chapter 271, Laws of 1969 ex. sess. as last amended by section 5, chapter 354, Laws of 1987 ex. sess. and RCW 58.17.060 are each amended to read as follows:

(1) The legislative body of a city, town, or county shall adopt regulations and procedures, and appoint administrative personnel for the summary approval of short plats and short subdivisions or alteration or vacation thereof. When an alteration or vacation involves a public dedication, the alteration or vacation shall be processed as provided in RCW 58.17.212 or 58.17.215. Such regulations shall be adopted by ordinance and may contain wholly different requirements than those governing the approval of preliminary and final plats of subdivisions and may require surveys and monumentations and shall require filing of a short plat, or alteration or vacation thereof, for record in the office of the county auditor: PROVIDED, That such regulations must contain a requirement that land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short plat contains fewer than four parcels, nothing in this section shall prevent the owner who filed the short plat from filing an alteration within the five-year period to create up to a total of four lots within the original short plat boundaries: PROVIDED FURTHER, That such regulations are not required to contain a penalty clause as provided in RCW 36.32.120 and may provide for wholly injunctive relief.

An ordinance requiring a survey shall require that the survey be completed and filed with the application for approval of the short subdivision.

(2) Cities, towns, and counties shall include in their short plat regulations and procedures pursuant to subsection (1) of this section provisions for considering sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

Sec. 3. Section 11, chapter 271, Laws of 1969 ex. sess. as amended by section 5, chapter 134, Laws of 1974 ex. sess. and RCW 58.17.110 are each amended to read as follows:

The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine if appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and schoolgrounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school, and determine whether the public interest will be served by the subdivision and dedication. If it finds that the proposed plat

makes appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school, and that the public use and interest will be served by the platting of such subdivision, then it shall be approved. If it finds that the proposed plat does not make such appropriate provisions or that the public use and interest will not be served, then the legislative body may disapprove the proposed plat. Dedication of land to any public body, may be required as a condition of subdivision approval and shall be clearly shown on the final plat. The legislative body shall not as a condition to the approval of any plat require a release from damages to be procured from other property owners.

Passed the House April 19, 1989.

Passed the Senate April 14, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 331

[Substitute Senate Bill No. 5560]

### HEALTH INSURANCE—COVERAGE OF TEMPOROMANDIBULAR JOINT DISORDERS

AN ACT Relating to health insurance; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; creating new sections; and providing an effective date.

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

**NEW SECTION.** Sec. 1. The legislature finds that:

- (1) Temporomandibular joint disorders are conditions for which treatment often is not covered in medical and dental group insurance contracts;
- (2) Individuals with temporomandibular joint disorders experience substantial pain and financial hardship;
- (3) Public awareness is needed concerning temporomandibular joint disorders and would be promoted by a mandated offering of temporomandibular joint disorders coverage to group purchasers; and
- (4) A mandated offering of temporomandibular joint disorders coverage shall not prescribe minimum initial benefits so that the insurers and the purchasers are allowed broad flexibility in benefit design and application.

**NEW SECTION.** Sec. 2. A new section is added to chapter 48.21 RCW to read as follows:

- (1) Except as provided in this section, a group disability policy entered into or renewed after December 31, 1989, shall offer optional coverage for the treatment of temporomandibular joint disorders.



(a) Insurers offering medical coverage only may limit benefits in such coverages to medical services related to treatment of temporomandibular joint disorders. Insurers offering dental coverage only may limit benefits in such coverage to dental services related to treatment of temporomandibular joint disorders. No insurer offering medical coverage only may define all temporomandibular joint disorders as purely dental in nature, and no insurer offering dental coverage only may define all temporomandibular joint disorders as purely medical in nature.

(b) Insurers offering optional temporomandibular joint disorder coverage as provided in this section may, but are not required to, offer lesser or no temporomandibular joint disorder coverage as part of their basic group disability contract.

(c) Benefits and coverage offered under this section may be subject to negotiation to promote broad flexibility in potential benefit coverage. This flexibility shall apply to services to be reimbursed, determination of treatments to be considered medically necessary, systems through which services are to be provided, including referral systems and use of other providers, and related issues.

(2) Unless otherwise directed by law, the insurance commissioner shall adopt rules, to be implemented on January 1, 1993, establishing minimum benefits, terms, definitions, conditions, limitations, and provisions for the use of reasonable deductibles and copayments.

(3) An insurer need not make the offer of coverage required by this section to an employer or other group that offers to its eligible enrollees a self-insured health plan not subject to mandated benefit statutes under Title 48 RCW that does not provide coverage for temporomandibular joint disorders.

**NEW SECTION.** Sec. 3. A new section is added to chapter 48.44 RCW to read as follows:

(1) Except as provided in this section, a group health care service contract entered into or renewed after December 31, 1989, shall offer optional coverage for the treatment of temporomandibular joint disorders.

(a) Health care service contractors offering medical coverage only may limit benefits in such coverages to medical services related to treatment of temporomandibular joint disorders. Health care service contractors offering dental coverage only may limit benefits in such coverage to dental services related to treatment of temporomandibular joint disorders. No health care service contractor offering medical coverage only may define all temporomandibular joint disorders as purely dental in nature, and no health care service contractor offering dental coverage only may define all temporomandibular joint disorders as purely medical in nature.

(b) Health care contractors offering optional temporomandibular joint disorder coverage as provided in this section may, but are not required to,

offer lesser or no temporomandibular joint disorder coverage as part of their basic group disability contract.

(c) Benefits and coverage offered under this section may be subject to negotiation to promote broad flexibility in potential benefit coverage. This flexibility shall apply to services to be reimbursed, determination of treatments to be considered medically necessary, systems through which services are to be provided, including referral systems and use of other providers, and related issues.

(2) Unless otherwise directed by law, the insurance commissioner shall adopt rules, to be implemented on January 1, 1993, establishing minimum benefits, terms, definitions, conditions, limitations, and provisions for the use of reasonable deductibles and copayments.

(3) A contractor need not make the offer of coverage required by this section to an employer or other group that offers to its eligible enrollees a self-insured health plan not subject to mandated benefit statutes under Title 48 RCW that does not provide coverage for temporomandibular joint disorders.

**NEW SECTION.** Sec. 4. A new section is added to chapter 48.46 RCW to read as follows:

(1) Except as provided in this section, a health maintenance agreement entered into or renewed after December 31, 1989, shall offer optional coverage for the treatment of temporomandibular joint disorders.

(a) Health maintenance organizations offering medical coverage only may limit benefits in such coverages to medical services related to treatment of temporomandibular joint disorders. No health maintenance organizations offering medical and dental coverage may limit benefits in such coverage to dental services related to treatment of temporomandibular joint disorders. No health maintenance organization offering medical coverage only may define all temporomandibular joint disorders as purely dental in nature.

(b) Health maintenance organizations offering optional temporomandibular joint disorder coverage as provided in this section may, but are not required to, offer lesser or no temporomandibular joint disorder coverage as part of their basic group disability contract.

(c) Benefits and coverage offered under this section may be subject to negotiation to promote broad flexibility in potential benefit coverage. This flexibility shall apply to services to be reimbursed, determination of treatments to be considered medically necessary, systems through which services are to be provided, including referral systems and use of other providers, and related issues.

(2) Unless otherwise directed by law, the insurance commissioner shall adopt rules, to be implemented on January 1, 1993, establishing minimum benefits, terms, definitions, conditions, limitations, and provisions for the use of reasonable deductibles and copayments.

(3) A health maintenance organization need not make the offer of coverage required by this section to an employer or other group that offers to its eligible enrollees a self-insured health plan not subject to mandated benefit statutes under Title 48 RCW that does not provide coverage for temporomandibular joint disorders.

**NEW SECTION.** Sec. 5. (1) Not later than eighteen months after the effective date of this act, the insurance commissioner shall report to the legislature findings regarding the availability, cost, use, and nature of benefits for temporomandibular joint disorders coverage offered under sections 2, 3, and 4 of this act. Upon request, insurers, health care service contractors, and health maintenance organizations shall furnish such data and any other nonproprietary information the commissioner requires to facilitate the development of the report.

(2) If the commissioner finds in preparation of the report that group disability insurers, health care contractors, and health maintenance organizations have not offered meaningful and reasonably priced temporomandibular joint coverage pursuant to this act, the commissioner shall include legislative recommendations to resolve these problems in the report. Such recommendations should include an analysis of mandating temporomandibular joint coverage.

(3) The commissioner shall consult with a panel of experts acting as an advisory committee for the preparation of any rules adopted pursuant to this act. This panel of experts shall provide continued assistance to the commissioner in any ongoing revisions of such rules. Members of this panel shall include health care professionals, both medical and dental, specializing in the treatment of temporomandibular dysfunctions; an employer purchasing a group policy; and a representative of the insurers, health care contractors, or health maintenance organizations.

**NEW SECTION.** Sec. 6. This act shall take effect January 1, 1990, but the insurance commissioner may immediately take such steps as are necessary to ensure that this act is fully implemented on its effective date.

Passed the Senate April 17, 1989.

Passed the House April 10, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

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## CHAPTER 332

[Substitute House Bill No. 1065]

### SEXUAL OFFENDERS—PROSECUTION AND SENTENCING

AN ACT Relating to sexual offenses; amending RCW 9.94A.440 and 9A.04.080; reenacting and amending RCW 9.94A.120; adding a new section to chapter 10.46 RCW; creating new sections; and prescribing penalties.

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

**\*Sec. 1. Section 21, chapter 143, Laws of 1988, section 2, chapter 153, Laws of 1988 and section 3, chapter 154, Laws of 1988 and RCW 9.94A-.120 are each reenacted and amended to read as follows:**

**When a person is convicted of a felony, the court shall impose punishment as provided in this section.**

**(1) Except as authorized in subsections (2), (5), and (7) of this section, the court shall impose a sentence within the sentence range for the offense.**

**(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.**

**(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.**

**(4) 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 perform any one or more of the following:**

**(a) Devote time to a specific employment or occupation;**

**(b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;**

**(c) Pursue a prescribed, secular course of study or vocational training;**

**(d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;**

*(e) Report as directed to the court and a community corrections officer; or*

*(f) Pay a fine 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, 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, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.*

*(7)(a) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.040 or RCW 9A.44.050 and has no prior convictions for a sex offense or any other felony sexual offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.*

*After receipt of the reports, the court shall then determine whether the offender and the community will benefit from use of this special sexual offender sentencing alternative. If the court determines that both the offender and the community will benefit from use of this provision, the court shall then impose a sentence within the sentence range and, if this sentence is less than six years of confinement, the court may suspend the execution of the sentence and place the offender on community supervision for up to two years. As a condition of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:*

*(i) Devote time to a specific employment or occupation;*

*(ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment;*

*(iii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;*

*(iv) Report as directed to the court and a community corrections officer;*

*(v) Pay a fine, accomplish some community service work, or any combination thereof; or*

*(vi) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.*

*If the offender violates these sentence conditions the court may revoke the suspension and order execution of the sentence. All confinement time*

served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

*(b) When an offender is convicted of any felony sexual offense committed before July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of social and health services for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program provided at these facilities. The offender shall be transferred to the state pending placement in the treatment program. Any offender who has escaped from the treatment program shall be referred back to the sentencing court.*

*If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.*

*If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:*

- (i) Devote time to a specific employment or occupation;*
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;*
- (iii) Report as directed to the court and a community corrections officer;*
- (iv) Undergo available outpatient treatment.*

*If the offender violates any of the terms of community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.*

*After June 30, 1993, this subsection (b) shall cease to have effect.*

*(c) When an offender commits any felony sexual offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department*

may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his community supervision, the court may order the offender to serve out the balance of his community supervision term in confinement in the custody of the department of corrections.

Nothing in (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sexual offense committed prior to July 1, 1987.

(8)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense, a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150(1). When the court sentences an offender under this section to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150(1). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense, a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the

*time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, unless a condition is waived by the court, the sentence shall include, in addition to the other terms of the sentence, a one-year term of community placement on the following conditions:*

*(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;*

*(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;*

*(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;*

*(iv) An offender in community custody shall not unlawfully possess controlled substances; and*

*(v) The offender shall pay community placement fees as determined by the department of corrections.*

*(c) The court may also order any of the following special conditions:*

*(i) The offender shall remain within, or outside of, a specified geographical boundary;*

*(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;*

*(iii) The offender shall participate in crime-related treatment or counseling services;*

*(iv) The offender shall not consume alcohol;*

*(v) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or*

*(vi) The offender shall comply with any crime-related prohibitions.*

*(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.*

*(9) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.*

*(10) 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. Restitution to victims shall be paid prior to any other payments of monetary obligations. In any sentence under this chapter the court may also require the offender to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (a) to pay court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, (b) to make recoupment of the cost of defense attorney's fees if counsel is provided at public expense, (c)*



to contribute to a county or interlocal drug fund, (d) to pay for the cost of evaluation of the offender's amenability to treatment under RCW 9.94A.120(7) (a), (b), or (c), (e) to pay for the cost of treatment ordered under RCW 9.94A.120(7) (a), (b), or (c), and ((d)) (f) to make such other payments as provided by law. The offender's compliance with payment of monetary obligations shall be supervised by the department. The rate of payment shall be determined by the court or, in the absence of a rate determined by the court, the rate shall be set by the department. All monetary payments ordered shall be paid no later than ten years after the most recent of either the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. The payment for treatment shall be paid prior to any payment for assessments except restitution to victims.

(11) Except as provided under RCW 9.94A.140(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(12) All offenders sentenced to terms involving community supervision, community service, restitution, or fines shall be under the supervision of the secretary of the department of corrections or such person as the secretary may designate and shall follow explicitly the instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer of any change in the offender's address or employment.

(13) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(14) A departure from the standards in RCW 9.94A.400(1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210(2) through (6).

(15) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

***(16) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision.***

***(17) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release or in a program of home detention.***

\*Sec. 1 was vetoed, see message at end of chapter.

Sec. 2. Section 15, chapter 115, Laws of 1983 as last amended by section 13, chapter 145, Laws of 1988 and RCW 9.94A.440 are each amended to read as follows:

(1) Decision not to prosecute.

**STANDARD:** A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

**GUIDELINE/COMMENTARY:**

**Examples**

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) **Contrary to Legislative Intent** – It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) **Antiquated Statute** – It may be proper to decline to charge where the statute in question is antiquated in that:

(i) It has not been enforced for many years; and

(ii) Most members of society act as if it were no longer in existence; and

(iii) It serves no deterrent or protective purpose in today's society; and

(iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) **De Minimus Violation** – It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) **Confinement on Other Charges** – It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) Pending Conviction on Another Charge – It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution – It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant – It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) Immunity – It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) Victim Request – It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

#### Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

(2) Decision to prosecute.

STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid prefilng agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be provided pursuant to RCW 9.94A.120(7).

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

#### CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

##### CRIMES AGAINST PERSONS

- Aggravated Murder
- 1st Degree Murder
- 2nd Degree Murder
- 1st Degree Kidnaping
- 1st Degree Assault
- 1st Degree Rape
- 1st Degree Robbery
- 1st Degree Rape of a Child
- 1st Degree Arson
- 2nd Degree Kidnaping
- 2nd Degree Assault
- 2nd Degree Rape
- 2nd Degree Robbery
- 1st Degree Burglary
- 1st Degree Manslaughter
- 2nd Degree Manslaughter
- 1st Degree Extortion
- Indecent Liberties
- Incest
- 2nd Degree Rape of a Child
- Vehicular Homicide
- Vehicular Assault
- 3rd Degree Rape
- 3rd Degree Rape of a Child
- 1st Degree Child Molestation
- 2nd Degree Child Molestation

3rd Degree Child Molestation  
2nd Degree Extortion  
1st Degree Promoting Prostitution  
Intimidating a Juror  
Communication with a Minor  
Intimidating a Witness  
Intimidating a Public Servant  
Bomb Threat (if against person)  
3rd Degree Assault  
Unlawful Imprisonment  
Promoting a Suicide Attempt  
Riot (if against person)

**CRIMES AGAINST PROPERTY/OTHER CRIMES**

2nd Degree Arson  
1st Degree Escape  
2nd Degree Burglary  
1st Degree Theft  
1st Degree Perjury  
1st Degree Introducing Contraband  
1st Degree Possession of Stolen Property  
Bribery  
Bribing a Witness  
Bribe received by a Witness  
Bomb Threat (if against property)  
1st Degree Malicious Mischief  
2nd Degree Theft  
2nd Degree Escape  
2nd Degree Introducing Contraband  
2nd Degree Possession of Stolen Property  
2nd Degree Malicious Mischief  
1st Degree Reckless Burning  
Taking a Motor Vehicle without Authorization  
Forgery  
2nd Degree Perjury  
2nd Degree Promoting Prostitution  
Tampering with a Witness  
Trading in Public Office  
Trading in Special Influence  
Receiving/Granting Unlawful Compensation  
Bigamy  
Eluding a Pursuing Police Vehicle  
Willful Failure to Return from Furlough  
Riot (if against property)

**Thefts of Livestock**

**ALL OTHER UNCLASSIFIED FELONIES**

**Selection of Charges/Degree of Charge**

(1) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

(a) Will significantly enhance the strength of the state's case at trial;  
or

(b) Will result in restitution to all victims.

(2) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

- (a) Charging a higher degree;
- (b) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

**GUIDELINES/COMMENTARY:**

**Police Investigation**

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

- (1) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;
- (2) The completion of necessary laboratory tests; and
- (3) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

**Exceptions**

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

- (1) Probable cause exists to believe the suspect is guilty; and
- (2) The suspect presents a danger to the community or is likely to flee if not apprehended; or
- (3) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

#### Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

- (1) Polygraph testing;
- (2) Hypnosis;
- (3) Electronic surveillance;
- (4) Use of informants.

#### Pre-Filing Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

**\*Sec. 3. Section 14, chapter 145, Laws of 1988 and RCW 9A.04.080 are each amended to read as follows:**

**(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.**

**(a) The following offenses may be prosecuted at any time after their commission:**

- (i) Murder;**
- (ii) Arson if a death results.**

**(b) The following offenses shall not be prosecuted more than ten years after their commission:**

**(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;**

**(ii) Arson if no death results.**

**(c) The following offenses shall not be prosecuted more than seven years after their commission: Rape of a child in the first or second degree or child molestation in the first or second degree, or rape in the first degree if the victim was under fourteen years of age at the commission of the offense, rape in the second degree if the victim was under fourteen years of age at the commission of the offense, or incest.**

**(d) The following offenses shall not be prosecuted more than six years after their commission: Violations of RCW 9A.82.060 or 9A.82.080.**

**(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09 RCW.**

**(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.**

**(g) No other felony may be prosecuted more than three years after its commission.**

*(h) No gross misdemeanor may be prosecuted more than two years after its commission.*

*(i) No misdemeanor may be prosecuted more than one year after its commission.*

*(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.*

*(3) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.*

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

**NEW SECTION.** Sec. 4. (1) The administrator for the courts shall organize and administer a blue ribbon panel which shall conduct a study to evaluate the effectiveness of the special sexual offender sentencing alternatives provided for in RCW 9.94A.120(7) (a) and (b).

(2) The blue ribbon panel must include among its membership the following persons:

- (a) A member of the sentencing guidelines commission;
- (b) A department of corrections official with expertise in sexual offender treatment;
- (c) A therapist specializing in sexual offender treatment, with experience in treating offenders sentenced under RCW 9.94A.120(7)(a);
- (d) A therapist from the Harborview sexual assault center who specializes in treating victims of sexual abuse;
- (e) A defense attorney with expertise in defending persons accused of sexual assault;
- (f) A prosecutor with expertise in prosecuting sexual assault crimes;
- (g) A superior court judge with experience in sentencing and monitoring offenders sentenced under RCW 9.94A.120(7)(a); and
- (h) A member of the Washington council on crime and delinquency.

The panel may consist of additional members. When considering additional members, the administrator for the courts shall seek the recommendations of the other panel members.

(3)(a) The panel shall evaluate the effectiveness of the special sexual offender sentencing alternative to determine whether the offenders, victims, and the community are benefitting from the sentencing alternative;

(b) The panel shall devise a series of recommendations regarding the following:

- (i) The minimum qualifications, education, and experience a therapist must have before a therapist may assume responsibility for the sexual treatment ordered under RCW 9.94A.120(7);



(ii) A mandatory procedure for reporting violations of treatment or sentencing requirements in a timely manner to the sentencing judge and prosecuting attorney;

(iii) Guidelines for extending the two-year period of supervision if violations are not reported in a timely manner;

(iv) The appropriate length of treatment and community supervision during and after treatment; and

(v) Any other recommendations to improve the effectiveness of the treatment sentencing alternative.

(4) The panel shall report the study results to the legislature in writing no later than September 1, 1991.

NEW SECTION. Sec. 5. The sentencing guidelines commission shall evaluate the effectiveness of mandatory treatment for offenders convicted of any sexual offense who are committed to the department of corrections. The commission shall consider the types of sexual offenses, if any, that should require mandatory treatment, the necessity of including an early release provision as a component of the treatment program, and the types of offenders that should be ineligible for early release regardless of the effectiveness of the treatment. The commission shall report its findings and make recommendations to the legislature by December 31, 1989.

NEW SECTION. Sec. 6. The legislature finds that treatment of the emotional problems of child sexual abuse victims may be impaired by lengthy delay in trial of the accused and the resulting delay in testimony of the child victim. The trauma of the abusive incident is likely to be exacerbated by requiring testimony from a victim who has substantially completed therapy and is forced to relive the incident. The legislature finds that it is necessary to prevent, to the extent reasonably possible, lengthy and unnecessary delays in trial of a person charged with abuse of a minor.

NEW SECTION. Sec. 7. A new section is added to chapter 10.46 RCW to read as follows:

When a defendant is charged with a crime which constitutes a violation of RCW 9A.64.020 or chapter 9.68, 9.68A, or 9A.44 RCW, and the alleged victim of the crime is a person under the age of eighteen years, neither the defendant nor the prosecuting attorney may agree to extend the originally scheduled trial date unless the court within its discretion finds that there are substantial and compelling reasons for a continuance of the trial date and that the benefit of the postponement outweighs the detriment to the victim. The court may consider the testimony of lay witnesses and of

expert witnesses, if available, regarding the impact of the continuance on the victim.

Passed the House April 13, 1989.

Passed the Senate April 4, 1989.

Approved by the Governor May 11, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1989.

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

"I am returning herewith, without my approval as to sections 1 and 3, Substitute House Bill No. 1065 entitled:

"AN ACT Relating to sexual offenses."

Section 1 of this measure authorizes courts to assess fees for sex offender treatment and makes such fees a priority for collection. At this time, the only assessment receiving such priority is for restitution to victims. This is proper and should be maintained. However, other recipients of court-ordered assessments, including the crime victim's compensation fund and local governments, should not be required to await payment until sex offender treatment costs are paid. This priority places an improper burden on other recipients.

In addition, section 1 conflicts with the provisions of House Bill No. 1542, section 4. That measure revises the authority of the Department of Corrections with respect to collection and distribution of financial obligations of offenders.

Section 3 amends the statute of limitations for child sexual offenses. These same provisions are amended by Senate Bill No. 5950, section 3. That measure makes additional, necessary changes to the same statute. In order to avoid confusion, I am vetoing section 3 of this act.

With the exception of sections 1 and 3, Substitute House Bill No. 1065 is approved."

## CHAPTER 333

[Substitute House Bill No. 1173]

### DECEDENTS' ESTATE—TIME FOR FILING CLAIMS AGAINST ESTATE

AN ACT Relating to revision of nonclaim statutes; amending RCW 11.40.010, 11.40.011, 11.40.030, and 4.16.200; adding new sections to chapter 11.40 RCW; and declaring an emergency.

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

Sec. 1. Section 11.40.010, chapter 145, Laws of 1965 as last amended by section 33, chapter 117, Laws of 1974 ex. sess. and RCW 11.40.010 are each amended to read as follows:

~~((Every personal representative shall, immediately after his appointment, cause to be published in a legal newspaper published in the county in which the estate is being administered, a notice that he has been appointed and has qualified as such personal representative, and therewith a notice to the creditors of the deceased, requiring all persons having claims against the deceased to serve the same on the personal representative or his attorney of record, and file an executed copy thereof with the clerk of the court, within four months after the date of the first publication of such notice or within~~

~~four months after the date of the filing of the copy of said notice to creditors with the clerk of the court, whichever is the later. Such notice shall be published once in each week for three successive weeks and a copy of said notice shall be filed with the clerk of the court. If a claim be not filed within the time aforesaid, it shall be barred, except under those provisions included in RCW 11.40.011. Proof by affidavit of the publication of such notice shall be filed with the court by the personal representative. In cases where all the property is awarded to the widow, husband, or children as in this title provided, the notice to creditors herein provided for may be omitted:))~~ Every personal representative shall, after appointment and qualification, give a notice to the creditors of the deceased, stating such appointment and qualification as personal representative and requiring all persons having claims against the deceased to serve the same on the personal representative or the estate's attorney of record, within four months after the date of the first publication of such notice described in this section or within four months after the date of the filing of the copy of such notice with the clerk of the court, whichever is the later, or within the time otherwise provided in section 4 of this act. The four-month time period after the later of the date of the first publication of the notice to creditors or the date of the filing of such notice with the clerk of the court is referred to in this chapter as the "four-month time limitation." Such notice shall be given as follows:

(1) The personal representative shall give actual notice, as provided in section 4 of this act, to such creditors who become known to the personal representative within such four-month time limitation;

(2) The personal representative shall cause such notice to be published once in each week for three successive weeks in the county in which the estate is being administered; and

(3) The personal representative shall file a copy of such notice with the clerk of the court.

Except as otherwise provided in RCW 11.40.011 or section 4 of this act, any claim not filed within the four-month time limitation shall be forever barred, if not already barred by any otherwise applicable statute of limitations. Proof by affidavit of the giving and publication of such notice shall be filed with the court by the personal representative.

Sec. 2. Section 3, chapter 106, Laws of 1967 ex. sess. as amended by section 1, chapter 201, Laws of 1983 and RCW 11.40.011 are each amended to read as follows:

The ~~((four-month))~~ time limitations under this chapter for serving and filing of claims shall not accrue to the benefit of any liability or casualty insurer as to claims against the deceased and/or the marital community of which the deceased was a member and such claims, subject to applicable statutes of limitation, may at any time be:

(1) Served on the personal representative, or the attorney for the estate; or

(2) If the personal representative shall have been discharged, then the claimant as a creditor may cause a new personal representative to be appointed and the estate to be reopened in which case service may be had upon the new personal representative or his attorney of record.

Claims may be served and filed as herein provided, notwithstanding the conclusion of any probate proceedings: PROVIDED, That the amount of recovery under such claims shall not exceed the amount of applicable insurance coverages and proceeds: AND PROVIDED FURTHER, That such claims so served and filed shall not constitute a cloud or lien upon the title to the assets of the estate under probate nor delay or prevent the conclusion of probate proceedings or the transfer or distribution of assets of the estate subject to such probate. Nothing in this section serves to extend the applicable statute of limitations regardless of the appointment or failure to have appointed a personal representative for an estate.

NEW SECTION. Sec. 3. A new section is added to chapter 11.40 RCW, to be codified as RCW 11.40.012, to read as follows:

The personal representative shall exercise reasonable diligence to discover, within the four-month time limitation, reasonably ascertainable creditors of the deceased. The personal representative is deemed to have exercised reasonable diligence to ascertain the creditors upon (1) conducting, within the four-month time limitation, a reasonable review of the deceased's correspondence (including correspondence received after the date of death) and financial records (including checkbooks, bank statements, income tax returns, etc.), which are in the possession of or reasonably available to the personal representative, and (2) having made inquiry of the deceased's heirs, devisees, and legatees regarding claimants. If the personal representative conducts the review and makes an inquiry, the personal representative is presumed to have exercised reasonable diligence to ascertain creditors of the deceased and creditors not ascertained in the review or in an inquiry are presumed not reasonably ascertainable. These presumptions may be rebutted only by clear, cogent, and convincing evidence. The personal representative may evidence the review and inquiry by filing an affidavit to the effect in the probate proceeding. The personal representative may also petition the superior court having jurisdiction for an order declaring that the personal representative has made a review and inquiry and that any creditors not known to the personal representative after the review and inquiry are not reasonably ascertainable. Such petition and hearing shall be under the procedures provided in chapter 11.96 RCW, provided that the notice specified under RCW 11.96.100 shall also be given by publication.

NEW SECTION. Sec. 4. A new section is added to chapter 11.40 RCW, to be codified as RCW 11.40.013, to read as follows:

The actual notice described in RCW 11.40.010(1), as to creditors becoming known to the personal representative within the four-month time limitation, shall be given the creditors by personal service or regular first

class mail, addressed to the creditor's last known address, postage prepaid. The actual notice shall be given before the later of the expiration of the four-month time limitation or thirty days after any creditor became known to the personal representative within the four-month time limitation. Any known creditor is barred unless the creditor has filed a claim, as otherwise provided in this chapter, within the four-month time limitation or within thirty days following the date of actual notice to that creditor, whichever is later. If notice is given by mail, the date of mailing shall be the date of notice.

**NEW SECTION.** Sec. 5. A new section is added to chapter 11.40 RCW, to be codified as RCW 11.40.014, to read as follows:

Whether or not notice under RCW 11.40.010 has been given or should have been given, any person having a claim against the decedent who has not filed a claim within eighteen months from the date of the decedent's death shall be forever barred from making a claim against the decedent, or commencing an action against the decedent, if such claim or action is not already barred by any otherwise applicable statute of limitation. However, this eighteen-month limitation does not apply (1) to claims described in RCW 11.40.011, (2) to any claims where the personal representative has not given the actual notice described in section 1(1) of this act and during the eighteen-month period following the date of death, partial performance has been made on the obligation underlying the claim, or (3) to any claims where no personal representative has been appointed within twelve months after the date of death. Any otherwise applicable statute of limitations shall apply without regard to the tolling provisions of RCW 4.16.190. Any claim filed within eighteen months from the date of the decedent's death and not otherwise barred under this chapter shall be made in the form and manner provided under RCW 11.40.010, as if the notice under such section had been given.

**NEW SECTION.** Sec. 6. A new section is added to chapter 11.40 RCW, to be codified as RCW 11.40.015, to read as follows:

Notice under RCW 11.40.010 shall be in substantially the following form:

CAPTION OF CASE	}	No.
	}	
	}	NOTICE TO CREDITORS
	}	

The personal representative named below has been appointed and has qualified as personal representative of this estate. Persons having claims against the deceased must, prior to the time such claims would be barred by any otherwise applicable statute of limitations, serve their claims on the

personal representative or the attorneys of record at the address stated below and file an executed copy of the claim with the Clerk of this Court within four months after the date of first publication of this notice or within four months after the date of the filing of the copy of this Notice with the Clerk of the Court, whichever is later or, except under those provisions included in RCW 11.40.011 or section 4 of this act, the claim will be forever barred.

DATE OF FILING COPY OF NOTICE TO CREDITORS  
with Clerk of Court:\_\_\_\_\_.

DATE OF FIRST PUBLICATION: \_\_\_\_\_.

\_\_\_\_\_, Personal Representative

Address

Attorney for Estate:

Address:

Telephone:

Sec. 7. Section 11.40.030, chapter 145, Laws of 1965 as last amended by section 8, chapter 234, Laws of 1977 ex. sess. and RCW 11.40.030 are each amended to read as follows:

(1) ~~Unless the personal representative shall, within ((six months after the date of first publication of notice to creditors, or within six months after the date of filing of a copy of the notice to creditors with the clerk of the court))~~ two months after the expiration of the four-month time limitation, or within two months after receipt of an otherwise timely claim filed after expiration of the four-month time limitation, whichever is later, have obtained an order extending the time for his allowance or rejection of claims timely and properly served and filed, all claims not exceeding one thousand dollars presented within the time and in the manner provided in RCW 11.40.010 ~~((and)),~~ section 4 of this act, or 11.40.020 as now or hereafter amended, shall be deemed allowed and may not thereafter be rejected, unless the personal representative shall, ~~((within six months after the date of first publication of notice to creditors or within six months after the date of filing of a copy of the notice to creditors with the clerk of the court, whichever is later))~~ within two months after the expiration of the four-month time limitation, or as to an otherwise timely claim filed after expiration of the four-month time limitation, within two months after receipt of such claim, or within any extended time, notify the claimant of its rejection, in whole or in part.

(2) When a claim exceeding one thousand dollars is presented within the time and in the manner provided in RCW 11.40.010 and 11.40.020 as now or hereafter amended, it shall be the duty of the personal representative to indorse thereon his allowance or rejection. A claimant after a claim has been on file for at least thirty days may notify the personal representative that he will petition the court to have the claim allowed. If the personal

representative fails to file an allowance or rejection of such claim twenty days after the receipt of such notice, the claimant may note the matter up for hearing and the court shall hear the matter and determine whether the claim should be allowed or rejected, in whole or in part. If at the hearing the claim is substantially allowed the court may allow petitioner reasonable attorney's fees of not less than one hundred dollars chargeable against the estate.

(3) If the personal representative shall reject the claim, in whole or in part, he shall notify the claimant of said rejection and file in the office of the clerk, an affidavit showing such notification and the date thereof. Said notification shall be by personal service or certified mail addressed to the claimant at his address as stated in the claim; if a person other than the claimant shall have signed said claim for or on behalf of the claimant, and said person's business address as stated in said claim is different from that of the claimant, notification of rejection shall also be made by personal service or certified mail upon said person; the date of the postmark shall be the date of notification. The notification of rejection shall advise the claimant, and the person making claim on his, her, or its behalf, if any, that the claimant must bring suit in the proper court against the personal representative within thirty days after notification of rejection or before expiration of the time for serving and filing claims against the estate, whichever period is longer, and that otherwise the claim will be forever barred.

(4) The personal representative may, either before or after rejection of any claim compromise said claim, whether due or not, absolute or contingent, liquidated or unliquidated, if it appears to the personal representative that such compromise is in the best interests of the estate.

Sec. 8. Section 12, page 364, Laws of 1854 as last amended by section 38, Code of 1881 and RCW 4.16.200 are each amended to read as follows:

Limitations on actions against a person who dies before the expiration of the time otherwise limited for commencement thereof are as set forth in chapter 11.40 RCW. Subject to the limitations on claims against a deceased person under chapter 11.40 RCW, if a person entitled to bring an action dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced by his representatives after the expiration of the time and within one year from his death. ((If a person against whom an action may be brought dies before the expiration of the time limited for the commencement thereof and the cause of action survives, an action may be commenced against his representatives after the expiration of that time and within one year after the issuing of letters testamentary or of administration.))

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or the support of the state government and its existing public institutions, and shall take effect immediately. This act shall apply to probate proceedings that are open on or

are commenced after the effective date, except that section 5 of this act shall apply only to decedents dying after the effective date.

Passed the House April 17, 1989.

Passed the Senate April 3, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 334

[Substitute Senate Bill No. 5107]

### VULNERABLE ADULTS—ABUSE OR EXPLOITATION COLLECTION AND RELEASE OF PROTECTION PROCEEDING INFORMATION TO PROSPECTIVE EMPLOYERS

AN ACT Relating to vulnerable adults; amending RCW 43.43.830, 43.43.832, 43.43.834, 43.43.838, 43.43.840, 43.43.700, 43.43.705, 43.43.715, and 43.20A.710; reenacting and amending RCW 43.43.735 and 43.43.740; adding a new section to chapter 72.23 RCW; and creating a new section.

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

Sec. 1. Section 1, chapter 486, Laws of 1987 and RCW 43.43.830 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.840.

(1) "Applicant" means either:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization. However, for school districts and educational service districts, prospective employee includes only non-certificated personnel; or

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age ((σ)), developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, ((σ)) (iii) developmentally disabled persons, or (iv) vulnerable adults.

(2) "Business or organization" means a business or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, including school districts and educational service districts.

(3) "Civil adjudication" means a specific court finding of sexual abuse or exploitation or physical abuse in a dependency action under RCW



13.34.030(2)(b) or in a domestic relations action under Title 26 RCW. In the case of vulnerable adults, civil adjudication means a specific court finding of abuse or financial exploitation in a protection proceeding under chapter 74.34 RCW. It does not include administrative proceedings. The term "civil adjudication" is further limited to court findings that identify as the perpetrator of the abuse a named individual, over the age of eighteen years, who was a party to the dependency or dissolution proceeding or was a respondent in a protection proceeding in which the finding was made and who contested the allegation of abuse or exploitation.

(4) "Conviction record" means criminal history record information as defined in RCW 10.97.030 relating to a crime against persons committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Disciplinary board final decision" means any final decision issued by the disciplinary board or the director of the department of licensing for the following business or professions:

- (a) Chiropractic;
- (b) Dentistry;
- (c) Dental hygiene;
- (d) Drugless healing;
- (e) Massage;
- (f) Midwifery;
- (g) Osteopathy;
- (h) Physical therapy;
- (i) Physicians;
- (j) Practical nursing;
- (k) Registered nursing;
- (l) Psychology; and
- (m) Real estate brokers and salesmen.

(6) "Crime against persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnaping; first, second, or third degree assault; first, second, or third degree rape; first, second, or third degree ((statutory)) rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual

exploitation of minors; first or second degree criminal mistreatment; or any of these crimes as they may be renamed in the future.

(7) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(8) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons to which the applicant has access during the course of his or her employment or involvement with the business or organization.

(9) "Vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself or a patient in a state hospital as defined in chapter 72.23 RCW.

(10) "Financial exploitation" means the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage.

(11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults.

Sec. 2. Section 2, chapter 486, Laws of 1987 and RCW 43.43.832 are each amended to read as follows:

(1) The legislature finds that businesses and organizations providing services to children ((or)), developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol criminal identification system may disclose, upon the request of a business or organization as defined in RCW 43.43.830, a prospective employee's record for convictions of offenses against persons, convictions for crimes relating to financial exploitation, but only if the victim was a vulnerable adult, adjudications of child abuse in a civil action, the issuance of a protection order against the respondent under chapter 74.34 RCW, and disciplinary board final decisions. When necessary, applicants may be employed on a conditional basis pending completion of such a background investigation.

(2) The legislature also finds that the state board of education may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child ((and)), developmentally disabled

person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the department of social and health services, when considering persons for state positions directly responsible for the care, supervision, or treatment of children (~~(or the)~~), developmentally disabled persons, or vulnerable adults or when licensing or authorizing such persons or agencies pursuant to its authority under chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to license or regulate a facility which handles vulnerable adults, must consider the information listed in subsection (1) of this section. However, when necessary, persons may be employed on a conditional basis pending completion of the background investigation. The state personnel board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

Sec. 3. Section 3, chapter 486, Laws of 1987 and RCW 43.43.834 are each amended to read as follows:

(1) A business or organization shall not make an inquiry to the Washington state patrol under RCW 43.43.832 or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer that an inquiry may be made.

(2) A business or organization shall require each applicant to disclose to the business or organization whether the applicant has been:

(a) Convicted of any crime against persons;

(b) Convicted of crimes relating to financial exploitation if the victim was a vulnerable adult;

(c) Found in any dependency action under RCW 13.34.030(2)(b) to have sexually assaulted or exploited any minor or to have physically abused any minor;

~~((f))~~ (d) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor; ~~((or~~

~~(d))~~ (e) Found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person or to have ~~((physically))~~ abused or financially exploited any ~~((minor))~~ vulnerable adult; or

(f) Found by a court in a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult.

The disclosure shall be made in writing and signed by the applicant and sworn under penalty of perjury. The disclosure sheet shall specify all crimes against persons and all crimes relating to financial exploitation as defined in RCW 43.43.830 in which the victim was a vulnerable adult.

(3) The business or organization shall pay such reasonable fee for the records check as the state patrol may require under RCW 43.43.838.

(4) The business or organization shall notify the applicant of the state patrol's response within ten days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(5) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited. A business or organization violating this subsection is subject to a civil action for damages.

(6) An insurance company shall not require a business or organization to request background information on any employee before issuing a policy of insurance.

(7) The business and organization shall be immune from civil liability for failure to request background information on a prospective employee or volunteer unless the failure to do so constitutes gross negligence.

Sec. 4. Section 5, chapter 486, Laws of 1987 and RCW 43.43.838 are each amended to read as follows:

(1) After January 1, 1988, and notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall furnish a transcript of the conviction record, disciplinary board final decision, or civil adjudication record pertaining to any person for whom the state patrol or the federal bureau of investigation has a record upon the written request of:

(a) The subject of the inquiry;

(b) Any business or organization for the purpose of conducting evaluations under RCW 43.43.832;

(c) The department of social and health services;

(d) Any law enforcement agency, prosecuting authority, or the office of the attorney general; or

(e) The department of social and health services for the purpose of meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to regulate or license a facility which handles vulnerable adults. However, access to conviction records pursuant to this subsection (1)(e) does not limit or restrict the ability of the department to obtain additional information regarding conviction records and pending charges as set forth in RCW 74.15.030(2)(b).

After processing the request, if the conviction record, disciplinary board final decision, or adjudication record shows no evidence of a crime against persons or, in the case of vulnerable adults, no evidence of crimes relating to financial exploitation in which the victim was a vulnerable adult, an identification declaring the showing of no evidence shall be issued to the applicant by the state patrol and shall be issued within fourteen days of the request. Possession of such identification shall satisfy future background check requirements for the applicant.

(2) The state patrol shall by rule establish fees for disseminating records under this section to recipients identified in subsection (1)(a) and (b)

of this section. The state patrol shall also by rule establish fees for disseminating records in the custody of the national crime information center. The fees shall cover, as nearly as practicable, the direct and indirect costs to the state patrol of disseminating the records: PROVIDED, That no fee shall be charged to a nonprofit organization, including school districts and educational service districts, for the records check.

(3) No employee of the state, employee of a business or organization, or the business or organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or RCW 43.43.760.

(4) Before July 26, 1987, the state patrol shall adopt rules and forms to implement this section and to provide for security and privacy of information disseminated under this section, giving first priority to the criminal justice requirements of this chapter. The rules may include requirements for users, audits of users, and other procedures to prevent use of civil adjudication record information or criminal history record information inconsistent with this chapter.

(5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an employer to make an inquiry not specifically authorized by this chapter, or be construed to affect the policy of the state declared in chapter 9.96A RCW.

Sec. 5. Section 6, chapter 486, Laws of 1987 and RCW 43.43.840 are each amended to read as follows:

(1) The supreme court shall by rule require the courts of the state to notify the state patrol of any dependency action under RCW 13.34.030(2)(b) ((or)), domestic relations action under Title 26 RCW, or protection action under chapter 74.34 RCW, in which the court makes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.

(2) The department of licensing shall notify the state patrol of any disciplinary board final decision that includes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.

(3) When a business or an organization terminates, fires, dismisses, fails to renew the contract, or permits the resignation of an employee because of crimes against persons or because of crimes relating to the financial exploitation of a vulnerable adult, and if that employee is employed in a position requiring a certificate or license issued by a licensing agency such as the state board of education, the business or organization shall notify the licensing agency of such termination of employment.

Sec. 6. Section 1, chapter 152, Laws of 1972 ex. sess. as last amended by section 9, chapter 486, Laws of 1987 and RCW 43.43.700 are each amended to read as follows:

There is hereby established within the Washington state patrol a section on identification, child abuse, vulnerable adult abuse, and criminal history hereafter referred to as the section.

In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.

The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government.

The section shall also contain like information concerning persons, over the age of eighteen years, who have been found, pursuant to a dependency proceeding under RCW 13.34.030(2)(b) to have physically abused or sexually abused or exploited a child or, pursuant to a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult.

Sec. 7. Section 2, chapter 152, Laws of 1972 ex. sess. as last amended by section 10, chapter 486, Laws of 1987 and RCW 43.43.705 are each amended to read as follows:

Upon the receipt of identification data from criminal justice agencies within this state, the section shall immediately cause the files to be examined and upon request shall promptly return to the contributor of such data a transcript of the record of previous arrests and dispositions of the persons described in the data submitted.

Upon application, the section shall furnish to criminal justice agencies, or to the department of social and health services, hereinafter referred to as the "department", a transcript of the criminal offender record information ((or)), dependency record information, or protection proceeding record information available pertaining to any person of whom the section has a record.

For the purposes of RCW 43.43.700 through 43.43.800 the following words and phrases shall have the following meanings:

"Criminal offender record information" includes, and shall be restricted to identifying data and public record information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Criminal offender record information" shall not include intelligence, analytical, or investigative reports and files.

"Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating

to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

"Dependency record information" includes and shall be restricted to identifying data regarding a person, over the age of eighteen, who was a party to a dependency proceeding brought under chapter 13.34 RCW and who has been found, pursuant to such dependency proceeding, to have sexually abused or exploited or physically abused a child.

"Protection proceeding record information" includes and shall be restricted to identifying data regarding a person, over eighteen, who was a respondent to a protection proceeding brought under chapter 74.34 RCW and who has been found pursuant to such a proceeding to have abused or financially exploited a vulnerable adult.

The section may refuse to furnish any information pertaining to the identification or history of any person or persons of whom it has a record, or other information in its files and records, to any applicant if the chief determines that the applicant has previously misused information furnished to such applicant by the section or the chief believes that the applicant will not use the information requested solely for the purpose of due administration of the criminal laws or for the purposes enumerated in RCW 43.43.760(3). The applicant may appeal such determination and denial of information to the advisory council created in RCW 43.43.785 and the council may direct that the section furnish such information to the applicant.

Sec. 8. Section 4, chapter 152, Laws of 1972 ex. sess. as amended by section 10, chapter 201, Laws of 1985 and RCW 43.43.715 are each amended to read as follows:

The section shall, consistent with the procedures set forth in this 1972 act, cooperate with all other criminal justice agencies, and the department, within or without the state, in an exchange of information regarding convicted criminals and those suspected of or wanted for the commission of crimes, and persons who are the subject of dependency record information or protection proceeding record information, to the end that proper identification may rapidly be made and the ends of justice served.

Sec. 9. Section 8, chapter 152, Laws of 1972 ex. sess. as last amended by section 2, chapter 450, Laws of 1987 and by section 12, chapter 486, Laws of 1987 and RCW 43.43.735 are each reenacted and amended to read as follows:

(1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state, to cause the photographing and fingerprinting of all adults and juveniles lawfully arrested for the commission of any criminal offense constituting a felony or gross misdemeanor: PROVIDED, That an exception may be made when the arrest is for a violation punishable as a gross misdemeanor and the arrested person is not taken into custody.

(2) It shall be the right, but not the duty, of the sheriff or director of public safety of every county, and the chief of police of every city or town, and every chief officer of other law enforcement agencies operating within this state to photograph and record the fingerprints of all adults lawfully arrested, ~~((or))~~ all persons who are the subject of dependency record information, or all persons who are the subject of protection proceeding record information.

(3) Such sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may record, in addition to photographs and fingerprints, the palmprints, soleprints, toeprints, or any other identification data of all persons whose photograph and fingerprints are required or allowed to be taken under this section, ~~((or))~~ all persons who are the subject of dependency record information, or all persons who are the subject of protection proceeding record information, when in the discretion of such law enforcement officers it is necessary for proper identification of the arrested person or the investigation of the crime with which he is charged.

(4) It shall be the duty of the department of licensing or the court having jurisdiction over the dependency action and protection proceedings under chapter 74.34 RCW to cause the fingerprinting of all persons who are the subject of a disciplinary board final decision ~~((or)),~~ dependency record information, protection proceeding record information, or to obtain other necessary identifying information, as specified by the section in rules promulgated pursuant to chapter ~~((34.04))~~ 34.05 RCW to carry out the provisions of this subsection.

(5) The court having jurisdiction over the dependency or protection proceeding action may obtain and record, in addition to fingerprints, the photographs, palmprints, soleprints, toeprints, or any other identification data of all persons who are the subject of dependency record information or protection proceeding record information, when in the discretion of the court it is necessary for proper identification of the person.

Sec. 10. Section 9, chapter 152, Laws of 1972 ex. sess. as last amended by section 3, chapter 450, Laws of 1987 and by section 13, chapter 486, Laws of 1987 and RCW 43.43.740 are each reenacted and amended to read as follows:

(1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state to furnish within seventy-two hours from the time of arrest to the section the required sets of fingerprints together with other identifying data as may be prescribed by the chief, of any person lawfully arrested, fingerprinted, and photographed pursuant to RCW 43.43.735.

(2) Law enforcement agencies may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. Said records shall remain in the possession of



the law enforcement agency as part of the identification record and are not returnable to the subjects thereof.

(3) It shall be the duty of the court having jurisdiction over the dependency action to furnish dependency record information, obtained pursuant to RCW 43.43.735, to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court enters a finding, pursuant to a dependency action brought under chapter 13.34 RCW, that a person over the age of eighteen, who is a party to the dependency action, has sexually abused or exploited or physically abused a child.

(4) The court having jurisdiction over the dependency or protection proceeding action may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. These records shall remain in the possession of the court as part of the identification record and are not returnable to the subjects thereof.

(5) It shall be the duty of a court having jurisdiction over the protection proceeding to furnish protection proceeding record information, obtained under RCW 43.43.735 to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court enters a final order pursuant to a protection proceeding brought under chapter 74.34. RCW, that a person over the age of eighteen, who is the respondent to the protection proceeding, has abused or financially exploited a vulnerable adult as that term is defined in RCW 43.43.830.

(6) The section shall administer periodic compliance audits for the department of licensing and each court having jurisdiction over dependency and protection proceeding actions as defined in chapters ~~((13.32 [13.34] RCW))~~ 13.34 and 74.34 RCW, respectively. Such audits shall ensure that all dependency record information regarding persons over the age of eighteen years has been furnished to the section as required in subsection (3) of this section.

**NEW SECTION.** Sec. 11. The secretary of social and health services shall adopt additional requirements for the licensure or relicensure of agencies or facilities which provide care and treatment to vulnerable adults. These additional requirements shall ensure that any person associated with a licensed agency or facility having direct contact with a vulnerable adult shall not have been: (1) Convicted of a crime against persons as defined in RCW 43.43.830; (2) convicted of crimes relating to financial exploitation of a vulnerable adult as defined in RCW 43.43.830; (3) found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or (4) the subject in a protective proceeding under chapter 74.34 RCW.

In consultation with law enforcement personnel, the secretary of social and health services shall investigate the conviction record and the protection proceeding record information under chapter 43.43 RCW of each agency or

facility and its staff seeking licensure or relicensure. The secretary shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose.

NEW SECTION. Sec. 12. A new section is added to chapter 72.23 RCW to read as follows:

In consultation with law enforcement personnel, the secretary shall have the power and duty to investigate the conviction record and the protection proceeding record information under chapter 43.43 RCW of each prospective employee of a state hospital.

Sec. 13. Section 1, chapter 269, Laws of 1986 and RCW 43.20A.710 are each amended to read as follows:

The secretary shall investigate the conviction records ((or), pending charges or disciplinary board final decisions of persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children, mentally ill persons or developmentally disabled persons. The investigation may include an examination of state and national criminal identification data and the child abuse and neglect register established under chapter 26.44 RCW. The secretary shall use the information solely for the purpose of determining the character, suitability, and competence of these applicants. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose. If necessary, persons may be employed on a conditional basis pending completion of the background investigation.

Passed the Senate April 18, 1989.

Passed the House April 13, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 335

[Senate Bill No. 5185]

### ZONING—CHILD CARE FACILITIES IN RESIDENTIAL ZONES—NEED AND DEMAND REVIEW—WHEN REQUIRED

AN ACT Relating to child care zoning; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70 RCW; adding a new section to chapter 35.22 RCW; adding a new section to chapter 36.32; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that:

(1) A majority of women with preschool and school age children in Washington state are working outside of the home and are in need of child care services for their children;

(2) The supply of licensed child care facilities in Washington state is insufficient to meet the growing demand for child care services;

(3) The most convenient location of child care facilities for many working families is near the family's home or workplace.

NEW SECTION. Sec. 2. The purpose of this act is to encourage the dispersion of child care facilities throughout cities and counties in Washington state so that child care services are available at convenient locations to working parents.

NEW SECTION. Sec. 3. Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 4, 5, 6, 7, and 8 of this act:

(1) "Family day care home" means a person regularly providing care during part of the twenty-four-hour day to six or fewer children in the family abode of the person or persons under whose direct care the children are placed.

(2) "Mini-day care center" means a person or agency providing care during part of the twenty-four-hour day to twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through twelve children in the family abode of such person or persons.

(3) "Day care center" means a person or agency that provides care for thirteen or more children during part of the twenty-four-hour day.

(4) "Child care facility" means a family day care home, mini-day care center, and day care center.

NEW SECTION. Sec. 4. A new section is added to chapter 35.63 RCW to read as follows:

Each municipality that does not provide for the siting of family day care homes in zones or areas that are designated for single family or other residential uses, and for the siting of mini-day care centers and day care centers in zones or areas that are designated for any residential or commercial uses, shall conduct a review of the need and demand for child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

**NEW SECTION.** Sec. 5. A new section is added to chapter 35A.63 RCW to read as follows:

Each municipality that does not provide for the siting of family day care homes in zones or areas that are designated for single family or other residential uses, and for the siting of mini-day care centers and day care centers in zones or areas that are designated for any residential or commercial uses, shall conduct a review of the need and demand for child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

**NEW SECTION.** Sec. 6. A new section is added to chapter 36.70 RCW to read as follows:

Each county that does not provide for the siting of family day care homes in zones that are designated for single family or other residential uses, and for the siting of mini-day care centers and day care centers in zones that are designated for any residential or commercial uses, shall conduct a review of the need and demand for child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

**NEW SECTION.** Sec. 7. A new section is added to chapter 35.22 RCW to read as follows:

If a first class city zones pursuant to its inherent charter authority and not pursuant to chapter 35.63 RCW, and does not provide for the siting of family day care homes in zones or areas that are designated for single family or other residential uses, and for the siting of mini-day care centers and day care centers in zones or areas that are designated for any residential or commercial uses, the city shall conduct a review of the need and demand for

child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

NEW SECTION. Sec. 8. A new section is added to chapter 36.32 RCW to read as follows:

If a county operating under home rule charter zones pursuant to its inherent charter authority and not pursuant to chapter 35.63 RCW, nor chapter 36.70 RCW, and that county does not provide for the siting of family day care homes in zones or areas that are designated for single family or other residential uses, and for the siting of mini-day care centers and day care centers in zones or areas that are designated for any residential or commercial uses, the county shall conduct a review of the need and demand for child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

NEW SECTION. Sec. 9. The department of community development shall:

(1) Report to the appropriate committees of the legislature the results of the local reviews provided for in sections 4 through 8 of this act by December 31, 1990.

(2) In consultation with the department of social and health services, Washington state association of counties, the association of Washington cities, the Washington state family child care association, and the Washington association for the education of young children, develop a model ordinance for the siting of child care facilities. The model ordinance shall be developed by December 31, 1990.

**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 Senate April 23, 1989.

Passed the House April 6, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 336

[Substitute Senate Bill No. 5288]

### SALMON SMOLT—PRODUCTION—PRIVATE CONTRACTING OF

AN ACT Relating to aquaculturists and the production of salmon; adding new sections to chapter 75.08 RCW; and creating a new section.

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

**NEW SECTION.** Sec. 1. The legislature finds that:

(1) The fishery resources of Washington are critical to the social and economic needs of the citizens of the state;

(2) Salmon production is dependent on both wild and artificial production;

(3) The department of fisheries is directed to enhance Washington's salmon runs; and

(4) Full utilization of the state's salmon rearing facilities is necessary to enhance commercial and recreational fisheries.

**NEW SECTION.** Sec. 2. A new section is added to chapter 75.08 RCW to read as follows:

The director shall determine the cost of operating all state-funded salmon production facilities at full capacity and shall provide this information with the department's biennial budget request.

**NEW SECTION.** Sec. 3. A new section is added to chapter 75.08 RCW to read as follows:

The director may contract with cooperatives or private aquaculturists for the purchase of quality salmon smolts for release into public waters if all department fish rearing facilities are operating at full capacity. The intent of cooperative and private sector contracting is to explore the opportunities of cooperatively producing more salmon for the public fisheries without incurring additional capital expense for the department.

**NEW SECTION.** Sec. 4. A new section is added to chapter 75.08 RCW to read as follows:

If the director elects to contract with cooperatives or private aquaculturists for the purpose of purchasing quality salmon smolts, contracting shall be done by a competitive bid process. In awarding contracts to private

contractors, the director shall give preference to nonprofit corporations. The director shall establish the criteria for the contract, which shall include but not be limited to species, size of smolt, stock composition, quantity, quality, rearing location, release location, and other pertinent factors.

NEW SECTION. Sec. 5. A new section is added to chapter 75.08 RCW to read as follows:

Nothing in this act shall authorize the practice of private ocean ranching. Privately contracted smolts become the property of the state at the time of release.

NEW SECTION. Sec. 6. A new section is added to chapter 75.08 RCW to read as follows:

The department may make available to private contractors salmon eggs in excess of department hatchery needs for the purpose of contract rearing to release the smolts into public waters. The priority of providing eggs to contract rearing shall be higher than providing eggs to aquaculture purposes which are not destined for release into Washington public waters.

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.

Passed the Senate April 22, 1989.

Passed the House April 21, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

## CHAPTER 337

[Substitute Senate Bill No. 5443]

### DEPARTMENT OF LICENSING—MOTOR VEHICLE AND DRIVERS' LICENSING PROGRAM REVISIONS

AN ACT Relating to programs administered by the department of licensing; amending RCW 46.04.302, 46.12.290, 46.12.370, 46.20.205, 46.20.300, 46.20.308, 46.20.510, 46.65.065, 46.70.011, 46.70.027, 46.70.070, 46.70.101, 46.80.110, 46.82.320, 46.82.360, and 82.50.010; reenacting and amending RCW 46.12.020; adding new sections to chapter 46.04 RCW; adding new sections to chapter 46.70 RCW; creating a new section; prescribing penalties; and providing an effective date.

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

Sec. 1. Section 4, chapter 231, Laws of 1971 ex. sess. as amended by section 1, chapter 22, Laws of 1977 ex. sess. and RCW 46.04.302 are each amended to read as follows:

"Mobile home" or "manufactured home" means a structure, originally constructed to be transportable in one or more sections, ((which)) that is ((thirty-two body feet or more in length and is eight body feet or more in width, and which is)) built on a permanent chassis, and designed to be used

as a dwelling with or without a permanent foundation when connected to the required utilities(~~(, and includes the)~~) that include plumbing, heating, (air-conditioning,) and electrical systems contained therein(, except as hereinafter specifically excluded, and excluding modular homes). The structure must comply with the national Mobile Home Construction and Safety Standards Act of 1974 as adopted in chapter 43.22 RCW, if applicable. For purposes of titling and registration, a structure that met this definition when constructed continues to be a manufactured home notwithstanding that it is no longer transportable when affixed to land.

**NEW SECTION.** Sec. 2. A new section is added to chapter 46.04 RCW to read as follows:

"Park trailer" or "park model trailer" means a travel trailer designed to be used with temporary connections to utilities necessary for operation of installed fixtures and appliances. The trailer's gross area shall not exceed four hundred square feet when in the setup mode. "Park trailer" excludes a mobile home.

**NEW SECTION.** Sec. 3. A new section is added to chapter 46.04 RCW to read as follows:

"Travel trailer" means a trailer built on a single chassis transportable upon the public streets and highways that is designed to be used as a temporary dwelling without a permanent foundation and may be used without being connected to utilities.

Sec. 4. Section 14, chapter 231, Laws of 1971 ex. sess. as last amended by section 2, chapter 304, Laws of 1981 and RCW 46.12.290 are each amended to read as follows:

The provisions of chapter 46.12 RCW insofar as they are not inconsistent with the provisions of ~~((this 1971 amendatory act shall))~~ chapter 231, Laws of 1971 ex. sess. apply to mobile homes regulated by ((this 1971 amendatory act)) chapter 231, Laws of 1971 ex. sess.; PROVIDED, That RCW 46.12.080 and 46.12.250 through 46.12.270 shall not apply to mobile homes(~~(: PROVIDED FURTHER, That)).~~) In order to lawfully transfer ownership ((of)) or add a secured party to a ((community)) mobile home, ((both spouses)) all registered owners of record must sign the title certificate. ((In addition;)) The director of licensing shall have the power to adopt such rules ((and regulations)) as ((he deems)) necessary to implement the provisions of this chapter ((46.12 RCW as they relate)) relating to mobile homes.

**\*Sec. 5. Section 1, chapter 215, Laws of 1982 and RCW 46.12.370 are each amended to read as follows:**

***In addition to any other authority which it may have, the department of licensing may furnish lists of registered and legal owners of motor vehicles only for the purposes specified in this section to:***



*(1) The manufacturers of motor vehicles, or their authorized agents, to be used to enable those manufacturers to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto, respecting safety-related defects in motor vehicles;*

*(2) Any governmental agency of the United States or Canada, or political subdivisions thereof, to be used by it or by its authorized commercial agents or contractors only in connection with the enforcement of motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency. Only such parts of the list as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor; ((or))*

*(3) Any business regularly making loans to other persons to finance the purchase of motor vehicles, to be used to assist the person requesting the list to determine ownership of specific vehicles for the purpose of determining whether or not to provide such financing; or*

*(4) Business enterprises for commercial purposes at such cost and for such purposes as the department deems appropriate.*

*In the event a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in subsections (1), (2) ((and)), (3), and (4) of this section, the manufacturer, governmental agency, financial institution, business enterprise, or their authorized agents or contractors responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing.*

\*Sec. 5 was vetoed, see message at end of chapter.

Sec. 6. Section 18, chapter 121, Laws of 1965 ex. sess. as amended by section 13, chapter 170, Laws of 1969 ex. sess. and RCW 46.20.205 are each amended to read as follows:

Whenever any person after applying for or receiving a driver's license ((shall)) or identicard moves from the address named in ((such)) the application or in the license or identicard issued to him or her or when the name of a licensee or holder of an identicard is changed by marriage or otherwise ((such)), the person shall within ten days thereafter notify the department in writing on a form provided by the department of his or her old and new addresses or of such former and new names and of the number of any license then held by him or her. The written notification is the exclusive means by which the address of record maintained by the department concerning the licensee or identicard holder may be changed. Any notice regarding the cancellation, suspension, revocation, probation, or nonrenewal of the driver's license, driving privilege, or identicard mailed to the address of record of the licensee or identicard holder is effective notwithstanding the licensee's or identicard holder's failure to receive the notice.

Sec. 7. Section 46.20.300, chapter 12, Laws of 1961 as last amended by section 150, chapter 158, Laws of 1979 and RCW 46.20.300 are each amended to read as follows:

The director of licensing (~~(may)~~) shall suspend, revoke, or cancel the vehicle driver's license of any resident of this state upon receiving notice of the conviction of such person in another state of an offense therein which, if committed in this state, would be ground for the suspension or revocation of the vehicle driver's license. The director may further, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, forward a certified copy of such record to the motor vehicle administrator in the state of which the person so convicted is a resident; such record to consist of a copy of the judgment and sentence in the case.

Sec. 8. Section 1, chapter 22, Laws of 1987 and RCW 46.20.308 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcoholic content of his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. However, in those instances where: (a) The person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample; or (b) as a result of a traffic accident the person is being treated for a medical condition in a hospital, clinic, doctor's office, or other similar facility in which a breath testing instrument is not present, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(4). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that (a) his or her privilege to drive will be revoked or denied if he or she refuses to submit to the test, and (b) that his or her refusal to take the test may be used in a criminal trial.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident

in which another person has been injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the accident, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) The department of licensing, upon the receipt of a sworn report of the law enforcement officer that ~~((he))~~ the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor and that the person had refused to submit to the test or tests upon the request of the law enforcement officer after being informed that refusal would result in the revocation of ~~((his))~~ the person's privilege to drive, shall revoke ~~((his))~~ the person's license or permit to drive or any nonresident operating privilege.

(7) Upon revoking the license or permit to drive or the nonresident operating privilege of any person, the department shall immediately notify the person involved in writing by personal service or by certified mail of its decision and the grounds therefor, and of ~~((his))~~ the person's right to a hearing, specifying the steps he or she must take to obtain a hearing. Within ~~((ten))~~ fifteen days after ~~((receiving such))~~ the notice has been given, the person may, in writing, request a formal hearing. Upon receipt of such request, the department shall afford the person an opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the scope of such hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor, whether the person was placed under arrest, and whether ~~((he))~~ the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of ~~((his))~~ the person's privilege to drive. The department shall order that the revocation either be rescinded or sustained. Any decision by the department revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as

provided in this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during pendency of the hearing and appeal.

(8) If the revocation is sustained after such a hearing, the person whose license, privilege, or permit is revoked has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the manner provided in RCW 46.20.334.

(9) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

Sec. 9. Section 3, chapter 77, Laws of 1982 as last amended by section 9, chapter 1, Laws of 1985 ex. sess. and RCW 46.20.510 are each amended to read as follows:

(1) There shall be three categories for the special motorcycle endorsement of a driver's license. Category one shall be for motorcycles or motor-driven cycles having an engine displacement of one hundred fifty cubic centimeters or less. Category two shall be for motorcycles having an engine displacement of five hundred cubic centimeters or less. Category three shall include categories one and two, and shall be for motorcycles having an engine displacement of five hundred one cubic centimeters or more.

(2) ~~((A motorcycle endorsement issued prior to June 10, 1982, is deemed to be for category three. Thereafter, a person first seeking a motorcycle endorsement or a person seeking an endorsement to operate a motorcycle with an engine displacement of a higher category than the one covered by his or her existing endorsement, shall obtain an endorsement for the appropriate category pursuant to RCW 46.20.505 through 46.20.515.~~

~~(3))~~ The department may issue a motorcyclist's instruction permit to an individual who wishes to learn to ride a motorcycle or obtain an endorsement of a larger endorsement category for a period not to exceed ninety days. This motorcyclist's instruction permit may be renewed for an additional ninety days. The director shall collect a two dollar and fifty cent fee for the motorcyclist's instruction permit or renewal, and the fee shall be deposited in the motorcycle safety education account of the highway safety fund. This permit and a valid driver's license with current endorsement, if any, shall be carried when operating a motorcycle. An individual with a motorcyclist's instruction permit may not carry passengers, may not operate a motorcycle during the hours of darkness or on a fully-controlled, limited-access facility, and shall be under the direct visual supervision of a person with a motorcycle endorsement of the appropriate category and at least five years' riding experience.

Sec. 10. Section 5, chapter 62, Laws of 1979 and RCW 46.65.065 are each amended to read as follows:

(1) Whenever a person's driving record, as maintained by the department, brings him or her within the definition of an habitual traffic offender, as defined in RCW 46.65.020, the department shall forthwith notify ~~((such))~~ the person of the revocation in writing by certified mail at his or her address of record as maintained by the department. If ~~((such))~~ the person is a nonresident of this state, notice shall be sent to ~~((such))~~ the person's last known address. Notices of revocation shall inform the recipient thereof of his or her right to a formal hearing and specify the steps which must be taken in order to obtain a hearing. ~~((The person upon receiving such))~~ Within fifteen days after the notice has been given, the person may, in writing ~~((and within ten days therefrom)),~~ request a formal hearing~~((: PROVIDED, That)).~~ If such a request is not made within the prescribed time the right to a hearing ~~((shall be deemed to have been))~~ is waived~~((: PROVIDED FURTHER, That)).~~ A request for a hearing ~~((shall))~~ stays the effectiveness of the revocation.

(2) Upon receipt of a request for a hearing, the department shall schedule a hearing in the county in which the person making the request resides, and if ~~((such))~~ the person is a nonresident of this state, the hearing shall be held in Thurston county. The department shall give at least ten days notice of the hearing to ~~((such))~~ the person.

(3) The scope of the hearings provided by this section ~~((shall be))~~ is limited to the issues of whether the certified transcripts or abstracts of the convictions, as maintained by the department, show that the requisite number of violations have been accumulated within the prescribed period of time as set forth in RCW 46.65.020 ~~((as now or hereafter amended))~~ and~~((:))~~ whether the terms and conditions for granting stays, as provided in RCW 46.65.060 ~~((as now or hereafter amended))~~, have been met.

(4) Upon receipt of the hearing officer's decision, an aggrieved party ~~((shall have the right to))~~ may appeal to the superior court of the county ~~((wherein))~~ in which he or she resides, or, in the case of a nonresident of this state, in the superior court of Thurston county, for review of the revocation. Notice of appeal must be filed within thirty days after receipt of the hearing officer's decision or the right to appeal ~~((shall be deemed to have been))~~ is waived. Review by the court shall be de novo and without a jury.

(5) The filing of a notice of appeal ~~((shall))~~ does not stay the effective date of the revocation.

Sec. 11. Section 3, chapter 11, Laws of 1979 as last amended by section 1, chapter 287, Laws of 1988 and RCW 46.70.011 are each amended to read as follows:

As used in this chapter:

(1) "Vehicle" means and includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is

or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under Title 46 RCW, Motor Vehicles.

(3) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (4) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in new or used motor vehicles, irrespective of whether the motor vehicles are owned by that person. Vehicle dealers shall be classified as follows:

(a) A "motor vehicle dealer" is a vehicle dealer that deals in new or used motor vehicles, or both;

(b) A "mobile home and travel trailer dealer" is a vehicle dealer that deals in mobile homes, park trailers, or travel trailers, or ((both)) more than one type of these vehicles;

(c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals in motorcycles or vehicles other than motor vehicles or mobile homes and travel trailers or any combination of such vehicles.

(4) The term "vehicle dealer" does not include, nor do the licensing requirements of RCW 46.70.021 apply to, the following persons, firms, associations, or corporations:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under a judgment or order of, any court; or

(b) Public officers while performing their official duties; or

(c) Employees of vehicle dealers who are engaged in the specific performance of their duties as such employees; or

(d) Any person engaged in an isolated sale of a vehicle in which he is the registered or legal owner, or both, thereof; or

(e) Any person, firm, association, corporation, or trust, engaged in the selling of equipment other than vehicles, subject to registration, used for agricultural or industrial purposes; or

(f) A real estate broker licensed under chapter 18.85 RCW, or his authorized representative, who, on behalf of the legal or registered owner of a used mobile home negotiates the purchase, sale, or exchange of the used mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the used mobile home is located and the real estate broker is not acting as an agent, subagent, or representative of a vehicle dealer licensed under this chapter; or

(g) Owners who are also operators of the special highway construction equipment or of the highway construction equipment for which a vehicle license and display vehicle license number plate is required as defined in RCW 46.16.010; or

(h) Any bank, trust company, savings bank, mutual savings bank, savings and loan association, credit union, and any parent, subsidiary, or affiliate thereof, authorized to do business in this state under state or federal law with respect to the sale or other disposition of a motor vehicle owned and used in their business; or with respect to the acquisition and sale or other disposition of a motor vehicle in which the entity has acquired an interest as a lessor, lessee, or secured party.

(5) "Vehicle salesperson" means any person who for any form of compensation sells, auctions, leases with an option to purchase, or offers to sell or to so lease vehicles on behalf of a vehicle dealer.

(6) "Department" means the department of licensing, which shall administer and enforce the provisions of this chapter.

(7) "Director" means the director of licensing.

(8) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles in whole or in part and further includes the terms:

(a) "Distributor," which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new and unused vehicle to vehicle dealers or who maintains factory representatives.

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and further includes any sales promotion organization, whether a person, firm, or corporation, which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative," which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of their vehicles or for supervising or contracting with their dealers or prospective dealers.

(9) "Established place of business" means a location meeting the requirements of RCW 46.70.023(1) at which a vehicle dealer conducts business in this state.

(10) "Principal place of business" means that dealer firm's business location in the state, which place the dealer designates as their principal place of business.

(11) "Subagency" means any place of business of a vehicle dealer within the state, which place is physically and geographically separated

from the principal place of business of the firm or any place of business of a vehicle dealer within the state, at which place the firm does business using a name other than the principal name of the firm, or both.

(12) "Temporary subagency" means a location other than the principal place of business or subagency within the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, ~~((auctions;))~~ shopping center promotions, tent sales, exhibitions, or similar merchandising ventures. No more than six temporary subagency licenses may be issued to a licensee in any twelve-month period.

(13) "Wholesale vehicle dealer" means a vehicle dealer who ~~((sells to Washington dealers))~~ buys and sells other than at retail.

(14) "Retail vehicle dealer" means a vehicle dealer who ~~((sells vehicles to the public))~~ may buy and sell at both wholesale and retail.

(15) "Listing dealer" means a used mobile home dealer who makes contracts with sellers who will compensate the dealer for obtaining a willing purchaser for the seller's mobile home.

Sec. 12. Section 5, chapter 241, Laws of 1986 and RCW 46.70.027 are each amended to read as follows:

A vehicle dealer is accountable for the dealer's employees, sales personnel, and managerial personnel while in the performance of their official duties. Any violations of this chapter or applicable provisions of chapter 46.12 or 46.16 RCW committed by any of these employees subjects the dealer to license penalties prescribed under RCW 46.70.101. A retail purchaser, consignor who is not a motor vehicle dealer, or a motor vehicle dealer who has purchased from a wholesale dealer, who has suffered a loss or damage by reason of ~~((a breach of warranty or by))~~ any act by a dealer, salesperson, managerial person, or other employee of a dealership, that constitutes a violation of this chapter or applicable provisions of chapter 46.12 or 46.16 RCW may institute an action for recovery against the dealer and the surety bond as set forth in RCW 46.70.070. However, under this section, motor vehicle dealers who have purchased from wholesale dealers may only institute actions against wholesale dealers and their surety bonds.

NEW SECTION. Sec. 13. A new section is added to chapter 46.70 RCW to read as follows:

Dealers who transact dealer business by consignment shall obtain a consignment contract for sale and shall comply with applicable provisions of chapter 46.70 RCW. The dealer shall place all funds received from the sale of the consigned vehicle in a trust account until the sale is completed, except that the dealer shall pay any outstanding liens against the vehicle from these funds. Where title has been delivered to the purchaser, the dealer shall pay the amount due a consignor within ten days after the sale.



**\*NEW SECTION. Sec. 14.** *A new section is added to chapter 46.70 RCW to read as follows:*

*(1) In addition to other powers granted, the director or the director's designee may enforce RCW 46.70.021 through the issuance of criminal citations. The sole duty of law enforcement agencies under this section is to make arrests. All enforcement actions under this section shall be prosecuted by the county prosecutor in the county in which the violation occurred.*

*(2) Any liability or claim that arises from the exercise or alleged exercise of authority under subsection (1) of this section rests with the department unless the director or the director's designee acts under the direction and control of another agency or unless the liability is otherwise assumed under a written agreement between the department of licensing and another agency.*

*\*Sec. 14 was vetoed, see message at end of chapter.*

Sec. 15. Section 46.70.070, chapter 12, Laws of 1961 as last amended by section 11, chapter 241, Laws of 1986 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 the department a surety bond in the amount of:

(a) Fifteen thousand dollars for motor vehicle dealers;

(b) Thirty thousand dollars for mobile home, park trailer, and travel trailer dealers: PROVIDED, That if such dealer does not deal in mobile homes or park trailers such bond shall be 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(;

~~(d) Wholesale dealers shall not be required to file a surety bond with the department)).~~

Any retail purchaser, consignee who is not a motor vehicle dealer, or a motor vehicle dealer who has purchased from a wholesale dealer, who ((shall have)) has 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. However, under this section, motor vehicle dealers who have purchased from wholesale dealers may only institute actions against wholesale dealers and their surety bonds. 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.

(3) Vehicle dealers shall maintain a bond for each business location in this state and bond coverage for all temporary subagencies.

Sec. 16. Section 11, chapter 74, Laws of 1967 ex. sess. as last amended by section 13, chapter 241, Laws of 1986 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 or vehicle manufacturer 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 the director 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 required in this chapter;

(v) Refuses to allow representatives or agents of the department to inspect during normal business hours all books, records, and files maintained within this state;

(vi) 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;

(vii) Is insolvent, either in the sense that their liabilities exceed their assets, or in the sense that they cannot meet their obligations as they mature;

(viii) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;

(ix) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183; .

(x) Knowingly, or with reason to know, allows a salesperson employed by the dealer, or acting as their agent, to commit any of the prohibited practices set forth in subsection (1)(a) of this section and RCW 46.70.180.

(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 or her possession any vehicle which he or she knows or has reason to know has been stolen or appropriated without the consent of the owner;

(v) Has willfully 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 or manufacturer license plates;

(vii) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(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;

(ix) Has aided or assisted an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, allowing use of facilities, dealer license number, or by any other means; ((or))

(x) Converts or appropriates, whether temporarily or permanently, property or funds belonging to a customer, dealer, or manufacturer, without the consent of the owner of the property or funds; or

(xi) Has sold any vehicle with knowledge that it has "REBUILT" on the title or has been declared totaled out by an insurance carrier and then rebuilt without clearly disclosing that fact in writing.

(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 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, 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 or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature;

(m) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183.

Sec. 17. Section 46.80.110, chapter 12, Laws of 1961 as last amended by section 9, chapter 253, Laws of 1977 ex. sess. and RCW 46.80.110 are each amended to read as follows:

The director or a designee may, pursuant to the provisions of chapter ~~((34.04))~~ 34.05 RCW, by order deny, suspend, or revoke the license of any motor vehicle wrecker, or assess a civil fine of up to five hundred dollars for each violation, if ~~((he))~~ the director finds that the applicant or licensee has:

(1) Acquired a vehicle or major component part other than by first obtaining title or other documentation as provided by this chapter;

(2) Willfully misrepresented the physical condition of any motor or integral part of a motor vehicle;

(3) Sold, had in his possession, or disposed of a motor vehicle or trailer or any part thereof when he knows that such vehicle or part has been stolen, or appropriated without the consent of the owner;

(4) Sold, bought, received, concealed, had in his possession, or disposed of a motor vehicle or trailer or part thereof having a missing, defaced, altered, or covered manufacturer's identification number, unless approved by a law enforcement officer;

(5) Committed forgery or misstated a material fact on any title, registration, or other document covering a vehicle that has been reassembled from parts obtained from the disassembling of other vehicles;

(6) Committed any dishonest act or omission which the director has reason to believe has caused loss or serious inconvenience as a result of a sale of a motor vehicle, trailer, or part thereof;

(7) Failed to comply with any of the provisions of this chapter ~~((as now or hereafter amended;))~~ or with any of the rules ~~((and regulations))~~ adopted ~~((thereunder))~~ under it, or with any of the provisions of Title 46 RCW relating to registration and certificates of title of vehicles;

(8) Procured a license fraudulently or dishonestly or that such license was erroneously issued;

(9) Been convicted of a crime that directly relates to the business of a vehicle wrecker and the time elapsed since conviction is less than ten years, or suffered any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purposes of this section, conviction means in addition to a final conviction in either a federal,

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.

Sec. 18. Section 5, chapter 51, Laws of 1979 ex. sess. as amended by section 2, chapter 80, Laws of 1986 and RCW 46.82.320 are each amended to read as follows:

(1) No person, including the owner, operator, partner, officer, or stockholder of a driver training school shall give instruction in the operation of an automobile for a fee without a license issued by the director for that purpose. An application for an instructor's license shall be filed with the director, containing such information as prescribed by the director, accompanied by an application fee of twenty-five dollars which shall in no event be refunded. If the application is approved by the director and the applicant satisfactorily meets the examination requirements as prescribed in RCW 46.82.330, the applicant shall be granted a license valid for a period of one year from the date of issuance. An instructor shall take a requalification examination every five years.

(2) The annual fee for renewal of an instructor's license shall be five dollars. The director shall issue a license certificate to each licensee which shall be conspicuously displayed in the place of business of the employing driver training school. Unless revoked, canceled, or denied by the director, the license shall remain the property of the licensee in the event of termination of employment or employment by another driver training school. If a renewal application has not been received by the director within sixty days from the date a notice of license expiration was mailed to the licensee, the license will be voided requiring a new application as provided for in this chapter, including examination and payment of all fees.

(3) Persons who qualify under the rules jointly adopted by the superintendent of public instruction and the director of licensing to teach only the laboratory phase, shall be subject to a ten dollar examination fee.

(4) Each licensee shall be provided with a wallet-size identification card by the director at the time the license is issued which shall be carried on the instructor's person at all times while engaged in instructing.

(5) The person to whom an instructor's license has been issued shall notify the director in writing within thirty days of any change of employment or termination of employment, providing the name and address of the new driver training school by whom the instructor will be employed.

Sec. 19. Section 9, chapter 51, Laws of 1979 ex. sess. and RCW 46.82.360 are each amended to read as follows:

The license of any driver training school or instructor may be suspended, revoked, denied, or refused renewal for failure to comply with the business practices specified in this section.

(1) No place of business shall be established nor any business of a driver training school conducted or solicited within one thousand feet of an office or building owned or leased by the department of licensing in which examinations for drivers' licenses are conducted. The distance of one thousand feet shall be measured along the public streets by the nearest route from the place of business to such building.

(2) Any (~~(motor vehicle)~~) automobile used by a driver training school or an instructor for instruction purposes must be equipped with:

(a) Dual controls for foot brake and clutch, or foot brake only in a vehicle equipped with an automatic transmission;

(b) An instructor's rear view mirror; and

(c) A sign displayed on the back (~~(and/or)~~) or top, or both, of the vehicle not less than twenty inches in horizontal width or less than ten inches in vertical height and having the words "student driver" or "instruction car(<sup>(s)</sup>)", or both, in legible, printed, English letters at least two and one-half inches in height near the top and the name of the school in similarly legible letters not less than one inch in height placed somewhere below the aforementioned words, and the street number and name and the telephone number in similarly legible letters at least one inch in height placed next below the name of the school. The lettering and background colors shall be of contrasting shades so as to be clearly readable at one hundred feet in clear daylight. The sign shall be displayed at all times when instruction is being given.

(3) Instruction may not be given by an instructor to a student in an automobile unless the student possesses a current and valid instruction permit issued pursuant to RCW 46.20.055 or a current and valid driver's license.

(4) No driver training school or instructor shall advertise or otherwise indicate that the issuance of a driver's license is guaranteed or assured as a result of the course of instruction offered.

(5) No driver training school or instructor shall utilize any types of advertising without using the full, legal name of the school and identifying itself as a driver training school. Items and services advertised must be available in a manner as might be expected by the average person reading the advertisement.

(6) A driver training school shall have an established place of business owned, rented, or leased by the school and regularly occupied and used exclusively for the business of giving driver instruction. The established place of business of a driver training school that applies for an initial license after the effective date of this act, shall be located in a district that is zoned for business or commercial purposes. The established place of business, branch office, or classroom or advertised address of any such driver training school shall not consist of or include a house trailer, residence, tent, temporary stand, temporary address, bus, telephone answering service if such service is

the sole means of contacting the driver training school, a room or rooms in a hotel or rooming house or apartment house, or premises occupied by a single or multiple-unit dwelling house. To classify as a branch office or classroom the facility must be within a thirty-five mile radius of the established place of business. Nothing in this subsection may be construed as limiting the authority of local governments to grant conditional use permits or variances from zoning ordinances.

(7) No driver training school or instructor shall conduct any type of instruction or training on a course used by the department of licensing for testing applicants for a Washington driver's license.

(8) Each driver training school shall maintain records on all of its students, including the student's name and address, the starting and ending dates of instruction, the student's instruction permit or driver's license number, the type of training given, and the total number of hours of instruction. Records of past students shall be maintained for five years following the completion of the instruction.

(9) Each driver training school shall, at its established place of business, display, in a place where it can be seen by all clients, a copy of the required minimum curriculum compiled by the driver advisory committee. Copies of the required minimum curriculum are to be provided to driver training schools and instructors by the director.

(10) Driver training schools and instructors shall submit to periodic inspections of their business practices, facilities, records, and insurance by authorized representatives of the director of the department of licensing.

Sec. 20. Section 82.50.010, chapter 15, Laws of 1961 as last amended by section 11, chapter 107, Laws of 1979 and RCW 82.50.010 are each amended to read as follows:

(1) "Mobile home" means a ((structure, transportable in one or more sections, which is thirty-two body feet or more in length and is eight body feet or more in width, and which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein, except as hereinafter specifically excluded, and excluding modular homes as defined below)) mobile home as defined by RCW 46.04.302.

(2) "Park trailer" means a park trailer as defined by section 2 of this act.

(3) "Travel trailer" means ((all trailers of the type designed to be used upon the public streets and highways which are capable of being used as facilities for human habitation and which are less than thirty-two body feet in length and eight body feet or less in width, except as may be hereinafter specifically excluded)) a travel trailer as defined by section 3 of this act.

(4) "Modular home" means ((any factory-built housing designed primarily for residential occupancy by human beings which does not contain a



~~permanent frame and must be mounted on a permanent foundation)) a modular home as defined by RCW 46.04.303.~~

~~(5) "Camper" means a ((structure designed to be mounted upon a motor vehicle which provides facilities for human habitation or for temporary outdoor or recreational lodging and which is five feet or more in overall length and five feet or more in height from its floor to its ceiling when fully extended, but shall not include motor homes as defined in this section)) camper as defined by RCW 46.04.085.~~

~~(6) "Motor home(s)" means a motor ((vehicles originally designed; reconstructed, or permanently altered to provide facilities for human habitation)) home as defined by RCW 46.04.305.~~

~~(7) "Director" means the director of licensing of the state.~~

***\*NEW SECTION. Sec. 21. A study committee is established to develop recommendations regarding a system of driver's license issuance that provides increased security against fraud. The study is to include but not be limited to procedures, potential use of new technologies, equipment, and security provisions. If the committee finds that increased costs must be incurred, then a funding proposal should also be developed.***

***The committee shall consist of:***

***(1) Two members from organizations representing business interests in the state and one member representing financial institutions, all to be appointed by the chair of the legislative transportation committee;***

***(2) The chief of the Washington state patrol or a designee;***

***(3) The chair of the liquor control board or a designee;***

***(4) The director of the department of licensing, or a designee, and one additional employee of the department appointed by the director;***

***(5) Two members of the Washington house of representatives, one from each political party, appointed by the speaker of the house of representatives; and***

***(6) Two members of the Washington state senate, one from each political party, appointed by the president of the senate.***

***The committee shall report its findings and recommendations to the house of representatives and senate transportation committees by December 1, 1989. Current departmental policy against issuing driver's licenses over the counter to individuals without adequate photographic identification shall remain in effect, and no contracts on driver's licensing systems may be awarded by the department of licensing until the committee recommendations are reviewed by the legislative transportation committee.***

***\*Sec. 21 was vetoed, see message at end of chapter.***

Sec. 22. Section 46.12.020, chapter 12, Laws of 1961 as last amended by section 1, chapter 244, Laws of 1987 and by section 9, chapter 388, Laws of 1987 and RCW 46.12.020 are each reenacted and amended to read as follows:

~~((+))~~ No vehicle license number plates or certificate of license registration, whether original issues or duplicates, may be issued or furnished by the department unless the applicant, at the same time, makes satisfactory application for a certificate of ownership or presents satisfactory evidence that such a certificate of ownership covering the vehicle has been previously issued.

~~((2))~~ Except as otherwise provided in this section, no vehicle license number plates or certificate of license registration, whether original issues or duplicates, and no renewed vehicle license may be issued by the department unless the applicant possesses a valid driver's license. In the case of joint application by more than one person, each applicant shall possess a valid driver's license:

~~(3)~~ Subsection (2) of this section applies only to applicants who are individual persons and does not apply to corporations, other businesses, or vehicles proportionally registered under chapter 46.87 RCW:

~~(4)~~ Subsection (2) of this section does not apply to any applicant with respect to whom the department determines that:

~~(a)~~ The applicant's driver's license is not currently suspended or revoked and the applicant is not in suspended or revoked status;

~~(b)~~ The applicant has not been convicted of a violation of RCW 46.20.021, 46.20.342, 46.20.420, or 46.65.090; and

~~(c)~~ Circumstances not related to any violation of Title 46 RCW account for the applicant's current lack of a driver's license and the applicant's need to register a vehicle. The applicant shall by affidavit indicate:

~~(i)~~ The reason for the applicant's lack of a driver's license;

~~(ii)~~ The need the applicant has for registering a vehicle; and

~~(iii)~~ That the applicant will not knowingly permit a person without a driver's license to drive any vehicle registered in the applicant's name:

~~(5)~~ A knowingly made material misstatement on an affidavit under subsection (4)(c) of this section is a misdemeanor:

~~(6)~~ No denial under this section of issuance or of renewal of plates or certificates affects the right of any person to maintain, transfer, or acquire title in any vehicle. Unless the parties to the contract agree otherwise, no such denial affects the rights or obligations of any party to a contract for the purchase, or for the financing of the purchase, of a motor vehicle:))

NEW SECTION. Sec. 23. Section 22 of this act shall take effect January 1, 1990.

Passed the Senate April 20, 1989.

Passed the House April 20, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to sections 5, 14 and 21, Substitute Senate Bill No. 5443 entitled:

"AN ACT Relating to programs administered by the department of licensing."

This bill makes various policy changes in vehicle and driver laws. Section 5 grants the Department of Licensing the authority to furnish lists of registered and legal owners of motor vehicles to "business enterprises for commercial purposes...". Under the general policy set forth in the Public Disclosure Act, Initiative Measure No. 276, codified in RCW 42.17.260 (5), in order to protect the public's right to privacy and freedom from commercial intrusion, lists should not be provided for commercial purposes. This change in policy is not appropriate.

Section 14 grants the Director of the Department of Licensing, or the director's designee, the authority to issue criminal citations solely related to RCW 46.70.021 which requires dealers or manufacturers of vehicles to be licensed. Such specialized authority is inappropriate and unnecessary since criminal charges can be brought currently by taking the factual circumstances to a prosecutor. If the Legislature believes the grant of criminal citation authority is good policy for the Department of Licensing, it should consider a broad grant of authority for all its regulatory functions where criminal misdemeanor charges can be filed.

Section 21 establishes a study committee to develop recommendations regarding a system of driver's license issuance that provides increased security against fraud. It is not appropriate to delegate control over an executive department's contract decisions to a committee of the Legislature contingent on the committee's review of a study. I will direct the listed executive departments to cooperate in any legislative review of this issue.

With the exception of sections 5, 14, and 21, Substitute Senate Bill No. 5443 is approved."

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## CHAPTER 338

[Substitute House Bill No. 1074]

### MAMMOGRAMS—COVERAGE BY HEALTH INSURANCE PLANS

AN ACT Relating to mammograms; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; and adding a new section to chapter 41.05 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 48.20 RCW to read as follows:

Each disability insurance policy issued or renewed after January 1, 1990, that provides coverage for hospital or medical expenses shall provide coverage for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the board of nursing pursuant to chapter 18.88 RCW or physician's assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits such as deductible or co-payment provisions. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement

policies or supplemental contracts covering a specified disease or other limited benefits.

**NEW SECTION.** Sec. 2. A new section is added to chapter 48.21 RCW to read as follows:

Each group disability insurance policy issued or renewed after January 1, 1990, that provides coverage for hospital or medical expenses shall provide coverage for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the board of nursing pursuant to chapter 18.88 RCW or physician's assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits such as deductible or co-payment provisions. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

**NEW SECTION.** Sec. 3. A new section is added to chapter 48.44 RCW to read as follows:

Each health care service contract issued or renewed after January 1, 1990, that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the board of nursing pursuant to chapter 18.88 RCW or physician's assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard contract provisions applicable to other benefits such as deductible or copayment provisions. This section does not limit the authority of a contractor to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

**NEW SECTION.** Sec. 4. A new section is added to chapter 48.46 RCW to read as follows:

Each health maintenance agreement issued or renewed after January 1, 1990, that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the board of nursing pursuant to chapter 18.88 RCW or physician's assistant pursuant to chapter 18.71A RCW.

All services must be provided by the health maintenance organization or rendered upon referral by the health maintenance organization. This section shall not be construed to prevent the application of standard agreement provisions applicable to other benefits such as deductible or copayment provisions. This section does not limit the authority of a health maintenance organization to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

**NEW SECTION.** Sec. 5. A new section is added to chapter 41.05 RCW to read as follows:

Each health plan offered to public employees and their covered dependents under this chapter that is not subject to the provisions of Title 48 RCW and is established or renewed after January 1, 1990, and that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the board of nursing pursuant to chapter 18.88 RCW or physician's assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard health plan provisions applicable to other benefits such as deductible or copayment provisions. This section does not limit the authority of the state health care authority to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

Passed the House April 15, 1989.

Passed the Senate April 6, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 339

[House Bill No. 2016]

### GENDER EQUITY IN ATHLETICS

AN ACT Relating to gender equity in athletics; and creating a new section.

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

**NEW SECTION.** Sec. 1. The higher education coordinating board and the office of the superintendent of public instruction shall jointly sponsor a gender equity in athletics conference for coaches, administrators, teachers, sports information personnel, persons involved in community

sports programs, others involved in interscholastic and intercollegiate athletic programs, and the media. The conference shall be held during the 1990 calendar year. The purposes of the conference include, but are not limited to:

- (1) Identifying barriers to achieving equitable participation and scholarship opportunities for female athletes;
- (2) Identifying measures, such as tuition waivers, to achieve equal opportunities for male and female athletes in intercollegiate and interscholastic athletic programs;
- (3) Helping women take leadership roles in athletic programs;
- (4) Encouraging the media to report and publicize girls' and womens' sports programs;
- (5) Providing an opportunity for coaches and other professionals to receive needed certification;
- (6) Identifying measures to encourage women to become coaches and administrators of sports programs; and
- (7) Improving communication and cooperation among athletic personnel from higher education, the common schools, and community sports programs.

Passed the House March 14, 1989.

Passed the Senate April 23, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

## CHAPTER 340

[Substitute House Bill No. 2020]

### GENDER EQUITY—INTERCOLLEGIATE ATHLETICS—TUITION AND FEE WAIVERS

AN ACT Relating to tuition and fees waivers and other activities for achieving gender equity; amending RCW 28B.15.740; adding new sections to chapter 28B.15 RCW; creating a new section; and providing an expiration date.

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

**NEW SECTION.** Sec. 1. The legislature finds that the ratio of women to men in intercollegiate athletics in Washington's higher education system is inequitable. It is the intent of the legislature, through additional tuition and fee waivers, to achieve gender equity in intercollegiate athletics.

Sec. 2. Section 1, chapter 262, Laws of 1979 ex. sess. as last amended by section 3, chapter 232, Laws of 1986 and RCW 28B.15.740 are each amended to read as follows:

(1) The boards of trustees or regents of each of the state's regional universities, The Evergreen State College, or state universities, and the various community colleges, consistent with regulations and procedures established by the state board for community college education, may waive, in

whole or in part, tuition and services and activities fees subject to the limitations set forth in subsections (2) and (3).

(2) Except as provided in subsection (3) of this section, the total dollar amount of tuition and fee waivers awarded by any state university, regional university, or state college, shall not exceed four percent, and for the community colleges considered as a whole, such amount shall not exceed three percent of an amount determined by estimating the total collections from tuition and services and activities fees had no such waivers been made and deducting the portion of that total amount which is attributable to the difference between resident and nonresident fees: PROVIDED, That at least three-fourths of the dollars waived shall be for needy students who are eligible for resident tuition and fee rates pursuant to RCW 28B.15.012 through 28B.15.015: PROVIDED FURTHER, That the remainder of the dollars waived, not to exceed one-fourth of the total, may be applied to other students at the discretion of the board of trustees or regents, except on the basis of participation in intercollegiate athletic programs: PROVIDED FURTHER, That the waivers for undergraduate and graduate students of foreign nations under RCW 28B.15.556 are not subject to the limitation under this section.

(3) In addition to the tuition and fee waivers provided in subsection (2) of this section and subject to the provisions of sections 3 and 4 of this act, a total dollar amount of tuition and fee waivers awarded by any state university, regional university, or state college, not to exceed one percent, as calculated in subsection (2) of this section, may be used for the purpose of achieving or maintaining gender equity in intercollegiate athletic programs. At any institution that has an underrepresented gender class in intercollegiate athletics, any such waivers shall be awarded:

(a) First, to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; and

(b) Second, (i) to nonmembers of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for members of the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; or (ii) to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers do not result in any saved or displaced money that can be used for athletic programs for members of the underrepresented gender class.

NEW SECTION. Sec. 3. Institutions of higher education shall strive to accomplish the following goals:

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

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

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

NEW SECTION. Sec. 4. (1) An institution of higher education shall not grant any waivers for the purpose of achieving gender equity until the 1991-92 academic year, and may grant waivers for the purpose of achieving gender equity in intercollegiate athletic programs as authorized in section 2 of this act, for the 1991-92 academic year only if the institution's governing board has adopted a plan for complying with the provisions of section 3 of this act and submitted the plan to the higher education coordinating board.

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

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

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

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

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



(d) Measures to achieve institutional compliance with the provisions of section 3 of this act.

**NEW SECTION.** Sec. 5. (1) The higher education coordinating board shall report biennially, beginning December 1992, to the governor and the house of representatives and senate committees on higher education, on institutional efforts to comply with the requirements of sections 2 through 4 of this act. Each report shall include recommendations on measures to assist institutions with compliance. The first report shall also include a recommendation on whether to grant this waiver authority to community college governing boards.

(2) Before the board makes its report in December 1994, the board shall assess the extent of institutional compliance with the requirements of sections 2 through 4 of this act. The 1994 report shall include a recommendation on whether to continue this waiver authority.

**NEW SECTION.** Sec. 6. (1) As used in and for the limited purposes of sections 1 and 3 through 5 of this act and RCW 28B.15.740, "underrepresented gender class" means female students or male students, where the ratio of participation of female or male students, respectively, in intercollegiate athletics is less than approximately the ratio of female to male students or male to female students, respectively, enrolled as undergraduates at an institution.

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

**NEW SECTION.** Sec. 7. Nothing in this act shall be construed to excuse any institution from any more stringent requirement to achieve gender equity imposed by law, nor to permit any institution to decrease participation of any underrepresented gender class.

**NEW SECTION.** Sec. 8. Sections 1 and 3 through 6 of this act are each added to chapter 28B.15 RCW.

**NEW SECTION.** Sec. 9. This act shall expire on June 30, 1997.

Passed the House April 22, 1989.

Passed the Senate April 21, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

## CHAPTER 341

[Substitute House Bill No. 1430]

## GENDER EQUALITY IN HIGHER EDUCATION

AN ACT Relating to gender equality in higher education; and adding a new chapter to Title 28B RCW.

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

**NEW SECTION.** Sec. 1. Article XXXI, section 1, Amendment 61 of the Washington state Constitution requires equal treatment of all citizens, regardless of gender. Recognizing the benefit to our state and nation of equal educational opportunities for all students, discrimination on the basis of gender against any student in the institutions of higher education of Washington state is prohibited.

**NEW SECTION.** Sec. 2. For purposes of this chapter, "institutions of higher education" or "institutions" include the state universities, regional universities, The Evergreen State College, and the community colleges.

**NEW SECTION.** Sec. 3. In consultation with institutions of higher education, the higher education coordinating board shall develop rules and guidelines to eliminate possible gender discrimination to students, including sexual harassment, at institutions of higher education as defined in RCW 28B.10.016. The rules and guidelines shall include but not be limited to access to academic programs, student employment, counseling and guidance services, financial aid, recreational activities including club sports, and intercollegiate athletics.

(1) With respect to higher education student employment, all institutions shall be required to:

(a) Make no differentiation in pay scales on the basis of gender;

(b) Assign duties without regard to gender except where there is a bona fide occupational qualification as approved by the Washington human rights commission;

(c) Provide the same opportunities for advancement to males and females; and

(d) Make no difference in the conditions of employment on the basis of gender in areas including, but not limited to, hiring practices, leaves of absence, and hours of employment.

(2) With respect to admission standards, admissions to academic programs shall be made without regard to gender.

(3) Counseling and guidance services for students shall be made available to all students without regard to gender. All academic and counseling personnel shall be required to stress access to all career and vocational opportunities to students without regard to gender.

(4) All academic programs shall be available to students without regard to gender.

(5) With respect to recreational activities, recreational activities shall be offered to meet the interests of students. Institutions which provide the following shall do so with no disparities based on gender: Equipment and supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for recreational purposes shall provide comparable facilities for both males and females.

(6) With respect to financial aid, financial aid shall be equitably awarded by type of aid, with no disparities based on gender.

(7) With respect to intercollegiate athletics, institutions that provide the following shall do so with no disparities based on gender:

(a) Benefits and services including, but not limited to, equipment and supplies; medical services; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; scholarships and other forms of financial aid; conditioning programs; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for athletic purposes shall provide comparable facilities for both males and females.

(b) Opportunities to participate in intercollegiate athletics. Institutions shall provide equitable opportunities to male and female students.

(c) Male and female coaches and administrators. Institutions shall attempt to provide some coaches and administrators of each gender to act as role models for male and female athletes.

(8) Each institution shall develop and distribute policies and procedures for handling complaints of sexual harassment.

**NEW SECTION.** Sec. 4. The executive director of the higher education coordinating board, in consultation with the council of presidents and the state board for community college education, shall monitor the compliance by institutions of higher education with this chapter.

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

(2) By September 30, 1990, each institution shall complete a self-study on its compliance with the requirements listed in section 3 of this act.

(3) By November 30, 1990, each institution shall submit to the board for approval a plan to comply with the requirements of section 3 of this act. The plan shall contain measures to ensure institutional compliance with the

provisions of this chapter by September 30, 1994. If participation in activities, such as intercollegiate athletics and matriculation in academic programs is not proportionate to the percentages of male and female enrollment, the plan should outline efforts to identify barriers to equal participation and to encourage gender equity in all aspects of college and university life.

(4) The board shall report biennially, beginning December 31, 1990, to the governor and the higher education committees of the house of representatives and the senate on institutional efforts to comply with this chapter. The report shall include recommendations on measures to assist institutions with compliance.

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

**NEW SECTION.** Sec. 5. A violation of this chapter shall constitute an unfair practice under chapter 49.60 RCW, the law against discrimination. All rights and remedies under chapter 49.60 RCW, including the right to file a complaint with the human rights commission and to bring a civil action, shall apply.

**NEW SECTION.** Sec. 6. This chapter shall supplement, and shall not supersede, existing law and procedures relating to unlawful discrimination based on gender.

**NEW SECTION.** Sec. 7. Institutions of higher education shall distribute copies of the provisions of this chapter to all students.

**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. Sections 1 through 8 of this act shall constitute a new chapter in Title 28B RCW.

Passed the House March 14, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 342

[Substitute House Bill No. 2041]

### LANDLORD AND TENANT—RIGHTS AND REMEDIES

AN ACT Relating to changes in landlord-tenant law; amending RCW 59.12.120, 59.18-.040, 59.18.070, 59.18.100, 59.18.140, 59.18.150, 59.18.230, 59.18.280, 59.18.310, 59.18.390, and 59.18.415; reenacting and amending RCW 36.18.020; adding new sections to chapter 59-.18 RCW; and providing an effective date.

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

Sec. 1. Section 3, chapter 56, Laws of 1987, section 201, chapter 202, Laws of 1987 and section 3, chapter 382, Laws of 1987 and RCW 36.18-.020 are each reenacted and amended to read as follows:

Clerks of superior courts shall collect the following fees for their official services:

(1) The party filing the first or initial paper in any civil action, including an action for restitution, or change of name, shall pay, at the time said paper is filed, a fee of seventy-eight dollars except in proceedings filed under RCW 26.50.030 or 49.60.227 where the petitioner shall pay a filing fee of twenty dollars, or an unlawful detainer action under chapter 59.18 or 59.20 RCW where the plaintiff shall pay a filing fee of thirty dollars. If the defendant serves or files an answer to an unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the plaintiff shall pay, prior to proceeding with the unlawful detainer action, an additional forty-eight dollars which shall be considered part of the filing fee. The thirty dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(2) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when said paper is filed, a fee of seventy-eight dollars.

(3) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a district court in the county of issuance, shall pay at the time of filing, a fee of fifteen dollars.

(4) For the filing of a tax warrant by the department of revenue of the state of Washington, a fee of five dollars shall be paid.

(5) For the filing of a petition for modification of a decree of dissolution, a fee of twenty dollars shall be paid.

(6) The party filing a demand for jury of six in a civil action, shall pay, at the time of filing, a fee of twenty-five dollars; if the demand is for a jury of twelve the fee shall be fifty dollars. If, after the party files a demand for a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(7) For filing any paper, not related to or a part of any proceeding, civil or criminal, or any probate matter, required or permitted to be filed in the clerk's office for which no other charge is provided by law, or for filing a petition, written agreement, or memorandum as provided in RCW 11.96-.170, the clerk shall collect two dollars.

(8) For preparing, transcribing or certifying any instrument on file or of record in the clerk's office, with or without seal, for the first page or portion thereof, a fee of two dollars, and for each additional page or portion thereof, a fee of one dollar. For authenticating or exemplifying any instrument, a fee of one dollar for each additional seal affixed.

(9) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

(10) For each garnishee defendant named in an affidavit for garnishment and for each writ of attachment, a fee of five dollars shall be charged.

(11) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

(12) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of seventy-eight dollars: PROVIDED, HOWEVER, A fee of two dollars shall be charged for filing a will only, when no probate of the will is contemplated. Except as provided for in subsection ~~((+2){+3})~~ (13) of this section a fee of two dollars shall be charged for filing a petition, written agreement, or memorandum as provided in RCW 11.96.170.

(13) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96.170, there shall be paid a fee of seventy-eight dollars.

(14) For the issuance of each certificate of qualification and each certified copy of letters of administration, letters testamentary or letters of guardianship there shall be a fee of two dollars.

(15) For the preparation of a passport application there shall be a fee of four dollars.

(16) For searching records for which a written report is issued there shall be a fee of eight dollars per hour.

(17) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmation of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of seventy dollars.

(18) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(19) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

Sec. 2. Section 13, chapter 96, Laws of 1891 and RCW 59.12.120 are each amended to read as follows:

If ~~((at the time))~~ on the date appointed in the summons the defendant ~~((do))~~ does not appear ~~((and defend))~~ or answer, the court ~~((must))~~ shall render judgment in favor of the plaintiff as prayed for in the complaint.

Sec. 3. Section 4, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.040 are each amended to read as follows:

The following living arrangements are not intended to be governed by the provisions of this chapter, unless established primarily to avoid its application, in which event the provisions of this chapter shall control:

(1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, religious, educational, recreational, or similar services, including but not limited to correctional facilities, licensed nursing homes, monasteries and convents, and hospitals;

(2) Occupancy under a bona fide earnest money agreement to purchase~~((, bona fide option to purchase;))~~ or contract of sale of the dwelling unit or the property of which it is a part, where the tenant is, or stands in the place of, the purchaser;

(3) Residence in a hotel, motel, or other transient lodging whose operation is defined in RCW 19.48.010;

(4) Rental agreements entered into pursuant to the provisions of chapter 47.12 RCW where occupancy is by an owner-condemnee and where such agreement does not violate the public policy of this state of ensuring decent, safe, and sanitary housing and is so certified by the consumer protection division of the attorney general's office;

(5) Rental agreements for the use of any single family residence which are incidental to leases or rentals entered into in connection with a lease of land to be used primarily for agricultural purposes;

(6) Rental agreements providing housing for seasonal agricultural employees while provided in conjunction with such employment;

(7) Rental agreements with the state of Washington, department of natural resources, on public lands governed by Title 79 RCW;

(8) Occupancy by an employee of a landlord whose right to occupy is conditioned upon employment in or about the premises.

Sec. 4. Section 7, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.070 are each amended to read as follows:

If at any time during the tenancy the landlord fails to carry out the duties required by RCW 59.18.060 or by the rental agreement, the tenant may, in addition to pursuit of remedies otherwise provided him by law, deliver written notice to the person designated in ~~((subsection (11) of))~~ RCW 59.18.060(11), or to the person who collects the rent, which notice shall

specify the premises involved, the name of the owner, if known, and the nature of the defective condition. ~~((For the purposes of this chapter, a reasonable time for))~~ The landlord ((to)) shall commence remedial action after receipt of such notice by the tenant ((shall be)) as soon as possible but not later than the following time periods, except where circumstances are beyond the landlord's control((:));

(1) Not more than twenty-four hours, where the defective condition deprives the tenant of hot or cold water ((or)), heat, or electricity, or is imminently hazardous to life;

(2) Not more than ~~((forty-eight))~~ seventy-two hours, where the ~~((landlord fails to provide hot water or electricity;))~~ defective condition deprives the tenant of the use of a refrigerator, range and oven, or a major plumbing fixture supplied by the landlord; and

(3) ~~((Subject to the provisions of subsections (1) and (2) of this section, not more than seven days in the case of a repair under RCW 59.18.100(3);~~

~~(4))~~ Not more than ~~((thirty))~~ ten days in all other cases.

In each instance the burden shall be on the landlord to see that remedial work under this section is completed ~~((with reasonable promptness:~~

~~Where circumstances beyond the landlord's control, including the availability of financing, prevent him from complying with the time limitations set forth in this section, he shall endeavor to remedy the defective condition with all reasonable speed))~~ promptly. If completion is delayed due to circumstances beyond the landlord's control, including the unavailability of financing, the landlord shall remedy the defective condition as soon as possible.

Sec. 5. Section 10, chapter 207, Laws of 1973 1st ex. sess. as amended by section 35, chapter 185, Laws of 1987 and RCW 59.18.100 are each amended to read as follows:

(1) If at any time during the tenancy, the landlord fails to carry out any of the duties imposed by RCW 59.18.060, and notice of the defect is given to the landlord pursuant to RCW 59.18.070, the tenant may submit to the landlord or his designated agent by certified mail or in person ~~((at least two bids))~~ a good faith estimate by the tenant of the cost to perform the repairs necessary to correct the defective condition ((from)) if the repair is to be done by licensed or registered persons, or if no licensing or registration requirement applies to the type of work to be performed, ((from)) the cost if the repair is to be done by responsible persons capable of performing such repairs. Such ((bids)) estimate may be submitted to the landlord at the same time as notice is given pursuant to RCW 59.18.070: PROVIDED, That the remedy provided in this section shall not be available for a landlord's failure to carry out the duties in ((subsections (6), (9), and (11) of) RCW 59.18.060(9), and (11): PROVIDED FURTHER, That if the tenant utilizes this section for repairs pursuant to RCW 59.18.060(6), the tenant



shall promptly provide the landlord with a key to any new or replaced locks. The amount the tenant may deduct from the rent may vary from the estimate, but cannot exceed the one-month limit as described in subsection (2) of this section.

(2) If the landlord fails to commence ~~((repair))~~ remedial action of the defective condition within ~~((a reasonable time))~~ the applicable time period after receipt of notice and the estimate from the tenant, the tenant may contract with ~~((the))~~ a licensed or registered person ~~((submitting the lowest bid)),~~ or with a responsible person capable of performing the repair if no license or registration is required, to make the repair, and upon the completion of the repair and an opportunity for inspection by the landlord or his designated agent, the tenant may deduct the cost of repair from the rent in an amount not to exceed the sum expressed in dollars representing one month's rental of the tenant's unit ~~((in any twelve-month period))~~ per repair: PROVIDED, That when the landlord must commence to remedy the defective condition within ((thirty)) ten days as provided in ((subsection (4) of)) RCW 59.18.070(3), the tenant cannot contract for repairs for ((at least fifteen days following receipt of said bids by)) ten days after notice or five days after the landlord receives the estimate, whichever is later: PROVIDE FURTHER, That the total costs of repairs deducted in any twelve-month period under this subsection shall not exceed the sum expressed in dollars representing ~~((one))~~ two month's rental of the tenant's unit.

(3) If the landlord fails to carry out the duties imposed by RCW 59.18.060 within ~~((a reasonable time))~~ the applicable time period, and if the cost of repair does not exceed one-half month's rent, including the cost of materials and labor, which shall be computed at the prevailing rate in the community for the performance of such work, and if repair of the condition need not by law be performed only by licensed or registered persons, and if the tenant has given notice under RCW 59.18.070, although no estimate shall be necessary under this subsection, the tenant may repair the defective condition in a workmanlike manner and upon completion of the repair and an opportunity for inspection, the tenant may deduct the cost of repair from the rent: PROVIDED, That repairs under this subsection are limited to defects within the leased premises: PROVIDED FURTHER, That the cost per repair shall not exceed one-half month's rent of the unit and that the total costs of repairs deducted in any twelve-month period under this subsection shall not exceed ((one-half)) one month's rent of the unit ((or seventy-five dollars in any twelve-month period, whichever is the lesser)).

(4) The provisions of this section shall not:

- (a) Create a relationship of employer and employee between landlord and tenant; or
- (b) Create liability under the workers' compensation act; or
- (c) Constitute the tenant as an agent of the landlord for the purposes of RCW 60.04.010 and 60.04.040.

(5) Any repair work performed under the provisions of this section shall comply with the requirements imposed by any applicable code, statute, ordinance, or regulation. A landlord whose property is damaged because of repairs performed in a negligent manner may recover the actual damages in an action against the tenant.

(6) Nothing in this section shall prevent the tenant from agreeing with the landlord to undertake the repairs himself in return for cash payment or a reasonable reduction in rent, the agreement thereof to be agreed upon between the parties, and such agreement does not alter the landlord's obligations under this chapter.

Sec. 6. Section 14, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.140 are each amended to read as follows:

The tenant shall conform to all reasonable obligations or restrictions, whether denominated by the landlord as rules, rental agreement, rent, or otherwise, concerning the use, occupation, and maintenance of his dwelling unit, appurtenances thereto, and the property of which the dwelling unit is a part if such obligations and restrictions are not in violation of any of the terms of this chapter and are not otherwise contrary to law, and if such obligations and restrictions are brought to the attention of the tenant at the time of his initial occupancy of the dwelling unit and thus become part of the rental agreement. Except for termination of tenancy, after thirty days written notice to each affected tenant, a new rule of tenancy including a change in the amount of rent may become effective upon completion of the term of the rental agreement or sooner upon mutual consent.

Sec. 7. Section 15, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.150 are each amended to read as follows:

(1) The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(2) The landlord may enter the dwelling unit without consent of the tenant in case of emergency or abandonment.

(3) The landlord shall not abuse the right of access or use it to harass the tenant. Except in the case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least two days' notice of his intent to enter and shall enter only at reasonable times. The tenant shall not unreasonably withhold consent to the landlord to enter the dwelling unit at a specified time where the landlord has given at least one day's notice of intent to enter to exhibit the dwelling unit to prospective or actual purchasers or tenants. A landlord shall not unreasonably interfere with a tenant's enjoyment of the rented dwelling unit by excessively exhibiting the dwelling unit.

(4) The landlord has no other right of access except by court order, arbitrator or by consent of the tenant.

(5) A landlord or tenant who continues to violate this section after being served with one written notification alleging in good faith violations of this section listing the date and time of the violation shall be liable for up to one hundred dollars for each violation after receipt of the notice. The prevailing party may recover costs of the suit or arbitration under this section, and may also recover reasonable attorneys' fees.

Sec. 8. Section 23, chapter 207, Laws of 1973 1st ex. sess. as amended by section 4, chapter 264, Laws of 1983 and RCW 59.18.230 are each amended to read as follows:

(1) Any provision of a lease or other agreement, whether oral or written, whereby any section or subsection of this chapter is waived except as provided in RCW 59.18.360 and shall be deemed against public policy and shall be unenforceable. Such unenforceability shall not affect other provisions of the agreement which can be given effect without them.

(2) No rental agreement may provide that the tenant:

(a) Agrees to waive or to forego rights or remedies under this chapter; or

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement; or

(c) Agrees to pay the landlord's attorney's fees, except as authorized in this chapter; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith; or

(e) And landlord have agreed to a particular arbitrator at the time the rental agreement is entered into.

(3) A provision prohibited by subsection (2) of this section included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known by him to be prohibited, the tenant may recover actual damages sustained by him and reasonable attorney's fees.

(4) The common law right of the landlord of distress for rent is hereby abolished for property covered by this chapter. Any provision in a rental agreement creating a lien upon the personal property of the tenant or authorizing a distress for rent is null and void and of no force and effect. Any landlord who takes or detains the personal property of a tenant without the specific written consent of the tenant to such incident of taking or detention, ~~((unless the property has been abandoned as described in RCW 59.18.310;))~~ and who, after written demand by the tenant for the return of his personal property, refuses to return the same promptly shall be liable to the tenant for the value of the property retained, actual damages, and if the refusal is intentional, may also be liable for damages of up to ~~((fifty))~~ one

hundred dollars per day but not to exceed one thousand dollars, for each day or part of a day that the tenant is deprived of his property. The prevailing party may recover his costs of suit and a reasonable attorney's fee.

In any action, including actions pursuant to chapters 7.64 or 12.28 RCW, brought by a tenant or other person to recover possession of his personal property taken or detained by a landlord in violation of this section, the court, upon motion and after notice to the opposing parties, may waive or reduce any bond requirements where it appears to be to the satisfaction of the court that the moving party is proceeding in good faith and has, prima facie, a meritorious claim for immediate delivery or redelivery of said property.

Sec. 9. Section 28, chapter 207, Laws of 1973 1st ex. sess. as amended by section 7, chapter 264, Laws of 1983 and RCW 59.18.280 are each amended to read as follows:

Within fourteen days after the termination of the rental agreement and vacation of the premises or, if the tenant abandons the premises as defined in RCW 59.18.310, within fourteen days after the landlord learns of the abandonment, the landlord shall give a full and specific statement of the basis for retaining any of the deposit together with the payment of any refund due the tenant under the terms and conditions of the rental agreement. No portion of any deposit shall be withheld on account of wear resulting from ordinary use of the premises. The landlord complies with this section if the required statement or payment, or both, are deposited in the United States mail properly addressed with first class postage prepaid within the fourteen days.

The notice shall be delivered to the tenant personally or by mail to his last known address. If the landlord fails to give such statement together with any refund due the tenant within the time limits specified above he shall be liable to the tenant for the full amount of the deposit. The landlord is also barred in any action brought by the tenant to recover the deposit from asserting any claim or raising any defense for retaining any of the deposit unless the landlord shows that circumstances beyond the landlord's control prevented the landlord from providing the statement within the fourteen days or that the tenant abandoned the premises as defined in RCW 59.18.310. The court may in its discretion award up to two times the amount of the deposit for the intentional refusal of the landlord to give the statement or refund due. In any action brought by the tenant to recover the deposit, the prevailing party shall additionally be entitled to the cost of suit or arbitration including a reasonable attorney's fee.

Nothing in this chapter shall preclude the landlord from proceeding against, and the landlord shall have the right to proceed against a tenant to recover sums exceeding the amount of the tenant's damage or security deposit for damage to the property for which the tenant is responsible together with reasonable attorney's fees.

Sec. 10. Section 31, chapter 207, Laws of 1973 1st ex. sess. as amended by section 8, chapter 264, Laws of 1983 and RCW 59.18.310 are each amended to read as follows:

If the tenant defaults in the payment of rent and reasonably indicates by words or actions (~~(his)~~) the intention not to resume tenancy, (~~(he)~~) the tenant shall be liable for the following for such abandonment: PROVIDED, That upon learning of such abandonment of the premises the landlord shall make a reasonable effort to mitigate the damages resulting from such abandonment:

(1) When the tenancy is month-to-month, the tenant shall be liable for the rent for the thirty days following either the date the landlord learns of the abandonment, or the date the next regular rental payment would have become due, whichever first occurs.

(2) When the tenancy is for a term greater than month-to-month, the tenant shall be liable for the lesser of the following:

(a) The entire rent due for the remainder of the term; or

(b) All rent accrued during the period reasonably necessary to rerent the premises at a fair rental, plus the difference between such fair rental and the rent agreed to in the prior agreement, plus actual costs incurred by the landlord in rerenting the premises together with statutory court costs and reasonable attorney's fees.

In the event of such abandonment of tenancy and an accompanying default in the payment of rent by the tenant, the landlord may immediately enter and take possession of any property of the tenant found on the premises and may store the same in any reasonably secure place. A landlord shall make reasonable efforts to provide the tenant with a notice containing the name and address of the landlord and the place where the property is stored (~~((shall be mailed promptly by the landlord to the last known address of the tenant))~~) and informing the tenant that a sale or disposition of the property shall take place pursuant to this section, and the date of the sale or disposal, and further informing the tenant of the right under RCW 59.18.230 to have the property returned prior to its sale or disposal. The landlord's efforts at notice under this subsection shall be satisfied by the mailing by first class mail, postage prepaid, of such notice to the tenant's last known address and to any other address provided in writing by the tenant or actually known to the landlord where the tenant might receive the notice. After (~~((sixty))~~) forty-five days from the date (~~((of default in rent, and after prior))~~) the notice of such sale or disposal is (~~((mailed to the last known address of))~~) mailed or personally delivered to the tenant, the landlord may sell such property, including personal papers, family pictures, and keepsakes (~~((, and))~~). The landlord may apply any income derived therefrom against moneys due the landlord, including actual reasonable costs of drayage and storage of the property. If the property has a cumulative value of fifty dollars or less, the landlord may sell (~~((the property))~~) or dispose of the property in the manner

provided in this section, except for personal papers, family pictures, and keepsakes, after seven days from the date the notice of sale or disposal is ((mailed)) mailed or personally delivered to the tenant ((at the tenant's last known address)); PROVIDED, That the landlord shall make reasonable efforts, as defined in this section, to notify the tenant. Any excess income derived from the sale of such property under this section shall be held by the landlord for the benefit of the tenant for a period of one year from the date of sale, and if no claim is made or action commenced by the tenant for the recovery thereof prior to the expiration of that period of time, the balance shall be the property of the landlord, including any interest paid on the income.

Sec. 11. Section 40, chapter 207, Laws of 1973 1st ex. sess. as amended by section 3, chapter 150, Laws of 1988 and RCW 59.18.390 are each amended to read as follows:

The sheriff shall, upon receiving the writ of restitution, forthwith serve a copy thereof upon the defendant, his agent, or attorney, or a person in possession of the premises, and shall not execute the same for three days thereafter, and the defendant, or person in possession of the premises within three days after the service of the writ of restitution may execute to the plaintiff a bond to be filed with and approved by the clerk of the court in such sum as may be fixed by the judge, with sufficient surety to be approved by the clerk of said court, conditioned that they will pay to the plaintiff such sum as the plaintiff may recover for the use and occupation of the said premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of said premises, together with all damages which the court theretofore has awarded to the plaintiff as provided in this chapter, and also all the costs of the action. The plaintiff, his agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualification and sufficiency of the sureties upon said bond before said bond shall be approved by the clerk. If the writ of restitution has been based upon a finding by the court that the tenant, subtenant, sublessee, or a person residing at the rental premises has engaged in drug-related activity or has allowed any other person to engage in drug-related activity at those premises with his or her knowledge or approval, neither the tenant, the defendant, nor a person in possession of the premises shall be entitled to post a bond in order to retain possession of the premises. The writ may be served by the sheriff, in the event he shall be unable to find the defendant, an agent or attorney, or a person in possession of the premises, by affixing a copy of said writ in a conspicuous place upon the premises: PROVIDED, That the sheriff shall not require any bond for the service or execution of the writ. The sheriff shall be immune from all civil liability for serving and

enforcing writs of restitution unless the sheriff is grossly negligent in carrying out his or her duty.

Sec. 12. Section 43, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.415 are each amended to read as follows:

The provisions of this chapter shall not apply to any lease of a single family dwelling for a period of a year or more or to any lease of a single family dwelling containing a bona fide option to purchase by the tenant: PROVIDED, That an attorney for the tenant must approve on the face of the agreement any lease exempted from the provisions of this chapter as provided for in this section.

NEW SECTION. Sec. 13. (1) If a governmental agency responsible for the enforcement of a building, housing, or other appropriate code has notified the landlord that a dwelling is condemned or unlawful to occupy due to the existence of conditions that violate applicable codes, statutes, ordinances, or regulations, a landlord shall not enter into a rental agreement for the dwelling unit until the conditions are corrected.

(2) If a landlord knowingly violates subsection (1) of this section, the tenant shall recover either three months' periodic rent or up to treble the actual damages sustained as a result of the violation, whichever is greater, costs of suit, or arbitration and reasonable attorneys' fees. If the tenant elects to terminate the tenancy as a result of the conditions leading to the posting, or if the appropriate governmental agency requires that the tenant vacate the premises, the tenant also shall recover:

- (a) The entire amount of any deposit prepaid by the tenant; and
- (b) All prepaid rent.

NEW SECTION. Sec. 14. When the plaintiff, after the exercise of due diligence, is unable to personally serve the summons on the defendant, the court may authorize the alternative means of service described herein. Upon filing of an affidavit from the person or persons attempting service describing those attempts, and the filing of an affidavit from the plaintiff, plaintiff's agent, or plaintiff's attorney stating the belief that the defendant cannot be found, the court may enter an order authorizing service of the summons as follows:

(1) The summons and complaint shall be posted in a conspicuous place on the premises unlawfully held, not less than nine days from the return date stated in the summons; and

(2) Copies of the summons and complaint shall be deposited in the mail, postage prepaid, by both regular mail and certified mail directed to the defendant's or defendants' last known address not less than nine days from the return date stated in the summons.

When service on the defendant or defendants is accomplished by this alternative procedure, the court's jurisdiction is limited to restoring possession of the premises to the plaintiff and no money judgment may be entered

against the defendant or defendants until such time as jurisdiction over the defendant or defendants is obtained.

**NEW SECTION.** Sec. 15. The summons for unlawful detainer actions for tenancies covered by this chapter shall be substantially in the following form. In unlawful detainer actions based on nonpayment of rent, the summons may contain the provisions authorized by RCW 59.18.375.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR ..... COUNTY

Plaintiff,	}	NO.
vs.		EVICITION SUMMONS
Defendant.		(Residential)

**THIS IS NOTICE OF A LAWSUIT TO EVICT YOU.  
PLEASE READ IT CAREFULLY.**

**THE DEADLINE FOR YOUR WRITTEN RESPONSE IS:**

5:00 p.m., on .....

TO: ..... (Name)  
..... (Address)

This is notice of a lawsuit to evict you from the property which you are renting. Your landlord is asking the court to terminate your tenancy, direct the sheriff to remove you and your belongings from the property, enter a money judgment against you for unpaid rent and/or damages for your use of the property, and for court costs and attorneys' fees.

If you want to defend yourself in this lawsuit, you must respond to the eviction complaint in writing on or before the deadline stated above. You must respond in writing even if no case number has been assigned by the court yet.

You can respond to the complaint in writing by delivering a copy of a notice of appearance or answer to your landlord's attorney (or your landlord if there is no attorney) to be received no later than the deadline stated above.

The notice of appearance or answer must include the name of this case (plaintiff(s) and defendant(s)), your name, the street address where further legal papers may be sent, your telephone number (if any), and your signature.

If there is a number on the upper right side of the eviction summons and complaint, you must also file your original notice of appearance or answer with the court clerk by the deadline for your written response.

You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the



person signing the summons. Within fourteen days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

You may also be instructed in a separate order to appear for a court hearing on your eviction. If you receive an order to show cause you must personally appear at the hearing on the date indicated in the order to show cause in addition to delivering and filing your notice of appearance or answer by the deadline stated above.

**IF YOU DO NOT RESPOND TO THE COMPLAINT IN WRITING BY THE DEADLINE STATED ABOVE YOU WILL LOSE BY DEFAULT. YOUR LANDLORD MAY PROCEED WITH THE LAWSUIT, EVEN IF YOU HAVE MOVED OUT OF THE PROPERTY.**

The notice of appearance or answer must be delivered to:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

**NEW SECTION.** Sec. 16. (1) The legislature finds that some tenants live in residences that are substandard and dangerous to their health and safety and that the repair and deduct remedies of RCW 59.18.100 may not be adequate to remedy substandard and dangerous conditions. Therefore, an extraordinary remedy is necessary if the conditions substantially endanger or impair the health and safety of the tenant.

(2)(a) If a landlord fails to fulfill any substantial obligation imposed by RCW 59.18.060 that substantially endangers or impairs the health or safety of a tenant, including (i) structural members that are of insufficient size or strength to carry imposed loads with safety, (ii) exposure of the occupants to the weather, (iii) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (iv) lack of water, including hot water, (v) heating or ventilation systems that are not functional or are hazardous, (vi) defective, hazardous, or missing electrical wiring or electrical service, (vii) defective or inadequate exits that increase the risk of injury to occupants, and (viii) conditions that increase the risk of fire, the tenant shall give notice in writing to the landlord, specifying the conditions, acts, omissions, or violations. Such notice shall be sent to the landlord or to the person or place where rent is normally paid.

(b) If after receipt of the notice described in (a) of this subsection the landlord fails to remedy the condition or conditions within a reasonable

amount of time under RCW 59.18.070, the tenant may request that the local government provide for an inspection of the premises with regard to the specific condition or conditions that exist as provided in (a) of this subsection. The local government shall have the appropriate government official, or may designate a public or disinterested private person or company capable of conducting the inspection and making the certification, conduct an inspection of the specific condition or conditions listed by the tenant, and shall not inspect nor be liable for any other condition or conditions of the premises. The purpose of this inspection is to verify, to the best of the inspector's ability, whether the tenant's listed condition or conditions exist and substantially endanger the tenant's health or safety under (a) of this subsection; the inspection is for the purposes of this private civil remedy, and therefore shall not be related to any other governmental function such as enforcement of any code, ordinance, or state law.

(c) The local government or its designee, after receiving the request from the tenant to conduct an inspection under this section, shall conduct the inspection and make any certification within a reasonable amount of time not more than five days from the date of receipt of the request. The local government or its designee may enter the premises at any reasonable time to do the inspection, provided that he or she first shall display proper credentials and request entry. The local government or its designee shall whenever practicable, taking into consideration the imminence of any threat to the tenant's health or safety, give the landlord at least twenty-four hours notice of the date and time of inspection and provide the landlord with an opportunity to be present at the time of the inspection. The landlord shall have no power or authority to prohibit entry for the inspection.

(d) The local government or its designee shall certify whether the condition or the conditions specified by the tenant do exist and do make the premises substantially unfit for human habitation or can be a substantial risk to the health and safety of the tenant as described in (a) of this subsection. The certification shall be provided to the tenant, and a copy shall be included by the tenant with the notice sent to the landlord under subsection (3) of this section. The certification may be appealed to the local board of appeals, but the appeal shall not delay or preclude the tenant from proceeding with the escrow under this section.

(e) The tenant shall not be entitled to deposit rent in escrow pursuant to this section unless the tenant first makes a good faith determination that he or she is unable to repair the conditions described in the certification issued pursuant to subsection (2)(d) of this section through use of the repair remedies authorized by RCW 59.18.100

(f) If the local government or its designee certifies that the condition or conditions specified by the tenant exist, the tenant shall then either pay the periodic rent due to the landlord or deposit all periodic rent then called for in the rental agreement and all rent thereafter called for in the rental

agreement into an escrow account maintained by a person authorized by law to set up and maintain escrow accounts, including escrow companies under chapter 18.44 RCW, financial institutions, or attorneys, or with the clerk of the court of the district or superior court where the property is located. These depositories are hereinafter referred to as "escrow." The tenant shall notify the landlord in writing of the deposit by mailing the notice postage prepaid by first class mail or by delivering the notice to the landlord promptly but not more than twenty-four hours after the deposit.

(g) This section, when elected as a remedy by the tenant by sending the notice under subsection (3) of this section, shall be the exclusive remedy available to the tenant regarding defects described in the certification under subsection (2)(d) of this section: PROVIDED, That the tenant may simultaneously commence or pursue an action in an appropriate court, or at arbitration if so agreed, to determine past, present, or future diminution in rental value of the premises due to any defective conditions.

(3) The notice to the landlord of the rent escrow under this section shall be a sworn statement by the tenant in substantially the following form:

NOTICE TO LANDLORD OF RENT ESCROW

Name of tenant:

Name of landlord:

Name and address of escrow:

Date of deposit of rent into escrow:

Amount of rent deposited into escrow:

The following condition has been certified by a local building official to substantially endanger, impair, or affect the health or safety of a tenant:

That written notice of the conditions needing repair was provided to the landlord on . . . , and . . . days have elapsed and the repairs have not been made.

.....

(Sworn Signature)

(4) The escrow shall place all rent deposited in a separate rent escrow account in the name of the escrow in a bank or savings and loan association domiciled in this state. The escrow shall keep in a separate docket an account of each deposit, with the name and address of the tenant, and the name and address of the landlord and of the agent, if any.

(5)(a) A landlord who receives notice that the rent due has been deposited with an escrow pursuant to subsection (2) of this section may:

(i) Apply to the escrow for release of the funds after the local government certifies that the repairs to the conditions listed in the notice under subsection (3) of this section have been properly repaired. The escrow shall release the funds to the landlord less any escrow costs for which the tenant is entitled to reimbursement pursuant to this section, immediately upon

written receipt of the local government certification that the repairs to the conditions listed in the notice under subsection (3) of this section have been properly completed.

(ii) File an action with the court and apply to the court for release of the rent on the grounds that the tenant did not comply with the notice requirement of subsection (2) or (3) of this section. Proceedings under this subsection shall be governed by the time, service, and filing requirements of RCW 59.18.370 regarding show cause hearings.

(iii) File an action with the court and apply to the court for release of the rent on the grounds that there was no violation of any obligation imposed upon the landlord or that the condition has been remedied.

(iv) This action may be filed in any court having jurisdiction, including small claims court. If the tenant has vacated the premises or if the landlord has failed to commence an action with the court for release of the funds within sixty days after rent is deposited in escrow, the tenant may file an action to determine how and when any rent deposited in escrow shall be released or disbursed. The landlord shall not commence an unlawful detainer action for nonpayment of rent by serving or filing a summons and complaint if the tenant initially pays the rent called for in the rental agreement that is due into escrow as provided for under this section on or before the date rent is due or on or before the expiration of a three-day notice to pay rent or vacate and continues to pay the rent into escrow as the rent becomes due or prior to the expiration of a three-day notice to pay rent or vacate; provided that the landlord shall not be barred from commencing an unlawful detainer action for nonpayment of rent if the amount of rent that is paid into escrow is less than the amount of rent agreed upon in the rental agreement between the parties.

(b) The tenant shall be named as a party to any action filed by the landlord under this section, and shall have the right to file an answer and counterclaim, although any counterclaim shall be dismissed without prejudice if the court or arbitrator determines that the tenant failed to follow the notice requirements contained in this section. Any counterclaim can only claim diminished rental value related to conditions specified by the tenant in the notice required under subsection (3) of this section. This limitation on the tenant's right to counterclaim shall not affect the tenant's right to bring his or her own separate action. A trial shall be held within sixty days of the date of filing of the landlord's or tenant's complaint.

(c) The tenant shall be entitled to reimbursement for any escrow costs or fees incurred for setting up or maintaining an escrow account pursuant to this section, unless the tenant did not comply with the notice requirements of subsection (2) or (3) of this section. Any escrow fees that are incurred for which the tenant is entitled to reimbursement shall be deducted from the rent deposited in escrow and remitted to the tenant at such time as any rent

is released to the landlord. The prevailing party in any court action or arbitration brought under this section may also be awarded its costs and reasonable attorneys' fees.

(d) If a court determines a diminished rental value of the premises, the tenant may pay the rent due based on the diminished value of the premises into escrow until the landlord makes the necessary repairs.

(6)(a) If a landlord brings an action for the release of rent deposited, the court may, upon application of the landlord, release part of the rent on deposit for payment of the debt service on the premises, the insurance premiums for the premises, utility services, and repairs to the rental unit.

(b) In determining whether to release rent for the payments described in (a) of this subsection, the court shall consider the amount of rent the landlord receives from other rental units in the buildings of which the residential premises are a part, the cost of operating those units, and the costs which may be required to remedy the condition contained in the notice. The court shall also consider whether the expenses are due or have already been paid, whether the landlord has other financial resources, or whether the landlord or tenant will suffer irreparable damage. The court may request the landlord to provide additional security, such as a bond, prior to authorizing release of any of the funds in escrow.

**NEW SECTION.** Sec. 17. Sections 13 through 16 of this act are each added to chapter 59.18 RCW.

**NEW SECTION.** Sec. 18. 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. 19. This act shall take effect on August 1, 1989, and shall apply to landlord-tenant relationships existing on or entered into after the effective date of this act.

Passed the House April 20, 1989.

Passed the Senate April 19, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 343

[Substitute House Bill No. 1630]

### MANUFACTURED HOMES—CLASSIFICATION AS REAL OR PERSONAL PROPERTY

AN ACT Relating to clarifying the property classification of manufactured homes; amending RCW 46.12.290, 61.12.030, 46.70.135, 33.24.007, 46.04.302, and 82.50.010; adding a new chapter to Title 65 RCW; adding a new section to chapter 46.12 RCW; prescribing penalties; and providing an effective date.

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

**NEW SECTION.** Sec. 1. **PURPOSE.** The legislature recognizes that confusion exists regarding the classification of manufactured homes as personal or real property. This confusion is increased because manufactured homes are treated as vehicles in some parts of state statutes, however these homes are often used as residences to house persons residing in the state of Washington. This results in a variety of problems including: (1) Creating confusion as to the creation, perfection, and priority of security interests in manufactured homes; (2) making it more difficult and expensive to obtain financing and title insurance; (3) making it more difficult to utilize manufactured homes as an affordable housing option; and (4) increasing the risk of problems for and losses to the consumer. Therefore the purpose of this chapter is to clarify the type of property manufactured homes are, particularly relating to security interests, and to provide a statutory process to make the manufactured home real property by eliminating the title to a manufactured home when the home is affixed to land owned by the homeowner.

**NEW SECTION.** Sec. 2. **DEFINITIONS.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affixed" means that the manufactured home is installed in accordance with the installation standards in state law.

(2) "Department" means the department of licensing.

(3) "Eliminating the title" means to cancel an existing title issued by this state or a foreign jurisdiction or to waive the certificate of ownership required by chapter 46.12 RCW and recording the appropriate documents in the county real property records pursuant to this chapter.

(4) "Homeowner" means the owner of a manufactured home.

(5) "Land" means real property excluding the manufactured home.

(6) "Manufactured home" or "mobile home" means a structure, designed and constructed to be transportable in one or more sections and is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating, and electrical systems contained therein. The structure must comply with the national mobile home construction and safety standards act of 1974 as adopted by chapter 43.22 RCW if applicable. "Manufactured home" does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.

(7) "Owner" means, when referring to a manufactured home that is titled, the person who is the registered owner. When referring to a mobile home that is untitled pursuant to this chapter, the owner is the person who owns the land. When referring to land, the person may have fee simple title, have a leasehold estate of thirty-five years or more, or be purchasing the

property on a real estate contract. Owners include joint tenants, tenants in common, holders of legal life estates, and holders of remainder interests.

(8) "Person" means any individual, trustee, partnership, corporation, or other legal entity. "Person" may refer to more than one individual or entity.

(9) "Secured party" means the legal owner when referring to a titled mobile home, or the lender securing a loan through a mortgage, deed of trust, or real estate contract when referring to land or land containing an untitled manufactured home pursuant to this chapter.

(10) "Security interest" means an interest in property to secure payment of a loan made by a secured party to a borrower.

(11) "Title" or "titled" means a certificate of ownership issued pursuant to chapter 46.12 RCW.

**NEW SECTION. Sec. 3. CLARIFICATION OF TYPE OF PROPERTY AND PERFECTION OF SECURITY INTERESTS.** When a manufactured home is sold or transferred on or after the effective date of this act and when all ownership in the manufactured home is transferred through the sale or other transfer of the manufactured home to new owners, the manufactured home shall be real property when the new owners eliminate the title pursuant to this chapter. The manufactured home shall not be real property in any form, including fixture law, unless the title is eliminated under this chapter. Where any person who owned a used manufactured home on the effective date of this act continues to own the manufactured home on or after the effective date of this act, the interests and rights of owners, secured parties, lienholders, and others in the manufactured home shall be based on the law prior to the effective date of this act, except where the owner voluntarily eliminates the title to the manufactured home by complying with this chapter. If the title to the manufactured home is eliminated under this chapter, the manufactured home shall be treated the same as a site-built structure and ownership shall be based on ownership of the real property through real property law. If the title to the manufactured home has not been eliminated under this chapter, ownership shall be based on chapter 46.12 RCW.

For purposes of perfecting and realizing upon security interests, manufactured homes shall always be treated as follows: (1) If the title has not been eliminated under this chapter, security interests in the manufactured home shall be perfected only under chapter 46.12 RCW and the lien shall be treated as securing personal property for purposes of realizing upon the security interest. If the manufactured home is attached to land owned by the homeowner and the secured party seeks to remove the home pursuant to a contract, the secured party is liable for damage to the land to the extent the secured party would be liable if the manufactured home was a fixture under chapter 62A.9 RCW; or (2) if the title has been eliminated under this chapter, a separate security interest in the manufactured home shall not

exist, and the manufactured home shall only be secured as part of the real property through a mortgage, deed of trust, or real estate contract.

**NEW SECTION.** Sec. 4. ELIMINATION OF THE TITLE—APPLICATION. If a manufactured home is affixed to land that is owned by the homeowner, the homeowner may apply to the department to have the title to the manufactured home eliminated. The application package shall consist of the following:

(1) An affidavit, in the form prescribed by the department, signed by all the owners of the manufactured home and containing:

(a) The date;

(b) The names of all of the owners of record of the manufactured home;

(c) The legal description of the real property;

(d) A description of the manufactured home including model year, make, width, length, and vehicle identification number;

(e) The names of all secured parties in the manufactured home; and

(f) A statement that the owner of the manufactured home owns the real property to which it is affixed;

(2) Certificate of ownership for the manufactured home, or the manufacturer's statement of origin in the case of a new manufactured home. Where title is held by the secured party as legal owner, the consent of the secured party must be indicated by the legal owner releasing his or her security interest;

(3) A certification by the local government indicating that the manufactured home is affixed to the land;

(4) Payment of all licensing fees, excise tax, use tax, real estate tax, recording fees, and proof of payment of all property taxes then due; and

(5) Any other information the department may require.

**NEW SECTION.** Sec. 5. ELIMINATION OF THE TITLE—APPROVAL. The department shall approve the application for elimination of the title when all requirements listed in section 4 of this act have been satisfied and the registered and legal owners of the manufactured home have consented to the elimination of the title. After approval, the department shall have the approved application recorded in the county or counties in which the land is located and on which the manufactured home is affixed.

The county auditor shall record the approved application, and any other form prescribed by the department, in the county real property records. The manufactured home shall then be treated as real property as if it were a site-built structure. Removal of the manufactured home from the land is prohibited unless the procedures set forth in section 7 of this act are complied with.

The department shall cancel the title after verification that the county auditor has recorded the appropriate documents, and the department shall maintain a record of each manufactured home title eliminated under this



chapter by vehicle identification number. The title is deemed eliminated on the date the appropriate documents are recorded by the county auditor.

**NEW SECTION. Sec. 6. ELIMINATING THE TITLE—LENDERS AND CONVEYANCES.** It is the responsibility of the owner, secured parties, and others to take action as necessary to protect their respective interests in conjunction with the elimination of the title or reissuance of a previously eliminated title.

A manufactured home whose title has been eliminated shall be conveyed by deed or real estate contract and shall only be transferred together with the property to which it is affixed, unless procedures described in section 7 of this act are completed.

Nothing in this chapter shall be construed to require a lender to consent to the elimination of the title of a manufactured home, or to retitling a manufactured home under section 7 of this act. The obligation of the lender to consent is governed solely by the agreement between the lender and the owner of the manufactured home. Absent any express written contractual obligation, a lender may withhold consent in the lender's sole discretion. In addition, the homeowner shall comply with all reasonable requirements imposed by a lender for obtaining consent, and a lender may charge a reasonable fee for processing a request for consent.

**NEW SECTION. Sec. 7. ELIMINATING THE TITLE—REMOVING A MANUFACTURED HOME WHEN THE TITLE HAS BEEN ELIMINATED.** Before physical removal of an untitled manufactured home from the land the home is affixed to, the owner shall follow one of these two procedures:

(1) Where a title is to be issued or the home has been destroyed:

(a) The owner shall apply to the department for a title pursuant to chapter 46.12 RCW. In addition the owner shall provide:

(i) An affidavit in the form prescribed by the department, signed by the owners of the land and all secured parties and other lienholders in the land consenting to the removal of the home;

(ii) Payment of recording fees;

(iii) A certification from a title insurance company listing the owners and lienholders in the land and dated within ten days of the date of application for a new title under this subsection; and

(iv) Any other information the department may require;

(b) The owner shall apply for and obtain permits necessary to move a manufactured home including but not limited to the permit required by RCW 46.44.170, and comply with other regulations regarding moving a manufactured home; and

(c) The department shall approve the application for title when the requirements of chapter 46.12 RCW and this subsection have been satisfied. Upon approval the department shall have the approved application and the affidavit recorded in the county or counties in which the land from which

the home is being removed is located and the department shall issue a title. The title is deemed effective on the date the appropriate documents are recorded with the county auditor.

(2) Where the manufactured home is to be moved to a new location but again will be affixed to land owned by the homeowner a new title need not be issued, but the following procedures must be complied with:

(a) The owner shall apply to the department for a transfer in location of the manufactured home and if a new owner, a transfer in ownership by filing an application pursuant to section 4 of this act. In addition the owner shall include:

(i) An affidavit in the form prescribed by the department signed by all of the owners of the real property from which the manufactured home is being moved indicating their consent. The affidavit shall include the consent of all secured parties and other lienholders in the land from which the manufactured home is being moved;

(ii) A legal description and property tax parcel number of the real property from which the home is being removed and a legal description and property tax parcel number of the land on which the home is being moved to; and

(iii) A certification from a title insurance company listing the owners and lienholders in the land and dated within ten days of the application for transfer in location under this subsection;

(b) The owner shall apply for and obtain permits necessary to move a manufactured home including but not limited to RCW 46.44.170, and comply with other regulations regarding moving a manufactured home; and

(c) After approval, including verification that the owners, secured parties, and other lienholders have consented to the move, the department shall have the approved application recorded in the county or counties in which the land from which the home is being removed and the land to which the home is being moved is located.

**NEW SECTION. Sec. 8. ELIMINATING THE TITLE—UNIFORM FORMS.** The department may prepare standard affidavits, lienholder's consents, and other forms to be used pursuant to this chapter.

**NEW SECTION. Sec. 9. ELIMINATING THE TITLE—FEES.** The director may, in addition to the title fees and other fees and taxes required under chapter 46.12 RCW establish by rule a reasonable fee to cover the cost of processing documents and performing services by the department required under this chapter.

Fees collected by the department for services provided by the department under this chapter shall be forwarded to the state treasurer. The state treasurer shall credit such moneys to the motor vehicle fund and all department expenses incurred in carrying out the provisions of this chapter shall be paid from such fund as authorized by legislative appropriation.

NEW SECTION. Sec. 10. GENERAL PENALTIES. Every person who falsifies or intentionally omits material information required in an affidavit, or otherwise intentionally violates a material provision of this chapter, is guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021.

NEW SECTION. Sec. 11. ELIMINATING THE TITLE. The department shall have the general supervision and control of the elimination of titles and shall have full power to do all things necessary and proper to carry out the provisions of this chapter. The director shall have the power to appoint the county auditors as the agents of the department.

NEW SECTION. Sec. 12. ELIMINATING THE TITLE—RULES. The department may make any reasonable rules relating to the enforcement and proper operation of this chapter.

NEW SECTION. Sec. 13. ELIMINATING THE TITLE—NOTIFYING. County auditors shall notify county assessors regarding elimination of titles to manufactured homes, the retitling of manufactured homes, and the movement of manufactured homes under section 7 of this act.

NEW SECTION. Sec. 14. PROSPECTIVE EFFECT. This chapter applies prospectively only. Section 3 of this act applies to all security interests perfected on or after the effective date of this act. This chapter applies to the sale or transfer of manufactured homes on or after the effective date of this act where all of the existing ownership rights and interests in the manufactured home are terminated in favor of new and different owners, or where persons who own a manufactured home on or after the effective date of this act voluntarily elect to eliminate the title to the manufactured home under this chapter.

NEW SECTION. Sec. 15. NO EFFECT ON TAXATION. Nothing in this chapter shall be construed to affect the taxation of manufactured homes.

NEW SECTION. Sec. 16. CAPTIONS NOT LAW. Section headings as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 17. SHORT TITLE. This chapter may be known and cited as the manufactured home real property act.

NEW SECTION. Sec. 18. Sections 1 through 17 of this act shall constitute a new chapter in Title 65 RCW.

NEW SECTION. Sec. 19. A new section is added to chapter 46.12 RCW to read as follows:

The certificate of ownership for a manufactured home may be eliminated or not issued when the manufactured home is registered pursuant to sections 1 through 17 of this act. When the certificate of ownership is eliminated or not issued the application for license shall be recorded in the county property records of the county where the real property to which the

home is affixed is located. All license fees and taxes applicable to mobile homes under this chapter are due and shall be collected prior to recording the ownership with the county auditor.

Sec. 20. Section 14, chapter 231, Laws of 1971 ex. sess. as last amended by section 2, chapter 304, Laws of 1981 and RCW 46.12.290 are each amended to read as follows:

The provisions of chapter 46.12 RCW insofar as they are not inconsistent with the provisions of this 1971 amendatory act or chapter 65.— RCW (sections 1 through 17 of this act) shall apply to mobile or manufactured homes (~~regulated by this 1971 amendatory act~~): PROVIDED, That RCW 46.12.080 and 46.12.250 through 46.12.270 shall not apply to mobile homes: PROVIDED FURTHER, That in order to lawfully transfer ownership of a community mobile home, both spouses must sign the title certificate. In addition, the director of licensing shall have the power to adopt such rules and regulations as he deems necessary to implement the provisions of chapter 46.12 RCW as they relate to mobile homes.

Sec. 21. Section 1, chapter 75, Laws of 1899 and RCW 61.12.030 are each amended to read as follows:

When any real estate in this state is subject to, or is security for, any mortgage, mortgages, lien or liens, other than general liens arising under personal judgments, it shall be unlawful for any person who is the owner, mortgagor, lessee, or occupant of such real estate to destroy or remove or to cause to be destroyed or removed from said real estate any fixtures, buildings, or permanent improvements including a manufactured home whose title has been eliminated under chapter 65.— RCW (sections 1 through 17 of this act), not including crops growing thereon, without having first obtained from the owners or holders of each and all of such mortgages or other liens his or their written consent for such removal or destruction.

Sec. 22. Section 36, chapter 304, Laws of 1981 and RCW 46.70.135 are each amended to read as follows:

Mobile home manufacturers and mobile home dealers who sell mobile homes to be assembled on site and used as residences in this state shall conform to the following requirements:

(1) No new manufactured home may be sold unless the purchaser is provided with a manufacturer's written warranty for construction of the home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183; 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

(2) No new manufactured home may be sold unless the purchaser is provided with a dealer's written warranty for all installation services performed by the dealer.

(3) The warranties required by subsections (1) and (2) of this section shall be valid for a minimum of one year from the date of sale and shall not be invalidated by resale by the original purchaser to a subsequent purchaser

or by the certificate of ownership being eliminated or not issued as described in chapter 65.— RCW (sections 1 through 17 of this act). Copies of the warranties shall be given to the purchaser upon signing a purchase agreement and shall include an explanation of remedies available to the purchaser under state and federal law for breach of warranty, the name and address of the federal department of housing and urban development and the state departments of licensing and labor and industries, and a brief description of the duties of these agencies concerning mobile homes.

(4) Warranty service shall be completed within forty-five days after the owner gives written notice of the defect unless there is a bona fide dispute between the parties. Warranty service for a defect affecting health or safety shall be completed within seventy-two hours of receipt of written notice. Warranty service shall be performed on site and a written work order describing labor performed and parts used shall be completed and signed by the service agent and the owner. If the owner's signature cannot be obtained, the reasons shall be described on the work order. Work orders shall be retained by the dealer or manufacturer for a period of three years.

(5) Before delivery of possession of the home to the purchaser, an inspection shall be performed by the dealer or his agent and by the purchaser or his agent which shall include a test of all systems of the home to insure proper operation. At the time of the inspection, the purchaser shall be given copies of all documents required by state or federal agencies to be supplied by the manufacturer with the home which have not previously been provided as required under subsection (3) of this section, and the dealer shall complete any required purchaser information card and forward the card to the manufacturer.

(6) Manufacturer and dealer advertising which states the dimensions of a home shall not include the length of the draw bar assembly in a listed dimension, and shall state the square footage of the actual floor area.

Sec. 23. Section 49, chapter 3, Laws of 1982 and RCW 33.24.007 are each amended to read as follows:

Unless the context clearly requires otherwise, "real property" means improved or unimproved real estate and includes leasehold interests in improved or unimproved real estate and includes ~~((mobile homes and))~~ manufactured housing whether temporarily, semipermanently, or permanently attached to land and mobile homes and manufactured homes whose title has been eliminated under chapter 65.— RCW (sections 1 through 17 of this act).

Sec. 24. Section 4, chapter 231, Laws of 1971 ex. sess. as amended by section 1, chapter 22, Laws of 1977 ex. sess. and RCW 46.04.302 are each amended to read as follows:

"Mobile home" or "manufactured home" means a structure, designed and constructed to be transportable in one or more sections, ~~((which is thirty-two body feet or more in length and is eight body feet or more in width,~~

~~and which)) and~~ is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities(~~(, and includes the)~~) that include plumbing, heating, (~~(air-conditioning,)~~) and electrical systems contained therein(~~(, except as hereinafter specifically excluded, and excluding modular homes)~~). The structure must comply with the national mobile home construction and safety standards act of 1974 as adopted by chapter 43.22 RCW if applicable. Manufactured home does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.

*\*Sec. 25. Section 82.50.010, chapter 15, Laws of 1961 as last amended by section 11, chapter 107, Laws of 1979 and RCW 82.50.010 are each amended to read as follows:*

*"Mobile home" or "manufactured home" means a structure, designed and constructed to be transportable in one or more sections, (~~(which is thirty-two body feet or more in length and is eight body feet or more in width, and which)~~) and is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities(~~(, and includes the)~~) that include plumbing, heating, (~~(air-conditioning,)~~) and electrical systems contained therein(~~(, except as hereinafter specifically excluded, and excluding modular homes as defined below)~~). The structure must comply with the national mobile home construction and safety standards act of 1974 as adopted by chapter 43.22 RCW if applicable. Manufactured home does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.*

*"Travel trailer" means all trailers of the type designed to be used upon the public streets and highways which are capable of being used as facilities for human habitation and which are less than thirty-two body feet in length and eight body feet or less in width, except as may be hereinafter specifically excluded.*

*"Modular home" means any factory-built housing designed primarily for residential occupancy by human beings which does not contain a permanent frame and must be mounted on a permanent foundation.*

*"Camper" means a structure designed to be mounted upon a motor vehicle which provides facilities for human habitation or for temporary outdoor or recreational lodging and which is five feet or more in overall length and five feet or more in height from its floor to its ceiling when fully extended, but shall not include motor homes as defined in this section.*

*"Motor homes" means motor vehicles originally designed, reconstructed, or permanently altered to provide facilities for human habitation.*

**"Director"** means the director of licensing of the state.

\*Sec. 25 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 26. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 27. EFFECTIVE DATE. This act shall take effect on March 1, 1990.

Passed the House March 6, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to section 25, Substitute House Bill No. 1630, entitled:

"AN ACT Relating to clarifying the property classification of manufactured homes."

Section 25 of Substitute House Bill No. 1630 amends the definition of "mobile home" contained in RCW 82.50.010. Section 20 of Substitute Senate Bill No. 5443 amends the same statute. The definition contained in section 20 of Substitute Senate Bill No. 5443 is more comprehensive than that contained in section 25 of Substitute House Bill No. 1630. To avoid confusion, I have vetoed section 25 of this bill.

With the exception of section 25, Substitute House Bill No. 1630 is approved."

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## CHAPTER 344

[House Bill No. 2131]

### MOBILE HOME ELECTRICAL INSPECTIONS—PREREQUISITES

AN ACT Relating to mobile home electrical inspections; and amending RCW 19.28.210.

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

Sec. 1. Section 8, chapter 169, Laws of 1935 as last amended by section 7, chapter 81, Laws of 1988 and RCW 19.28.210 are each amended to read as follows:

(1) The director shall cause an inspector to inspect all wiring, appliances, devices, and equipment to which this chapter applies. Nothing contained in this chapter may be construed as providing any authority for any subdivision of government to adopt by ordinance any provisions contained or provided for in this chapter except those pertaining to cities and towns pursuant to RCW 19.28.010(2).

(2) Upon request, electrical inspections will be made by the department within forty-eight hours, excluding holidays, Saturdays, and Sundays. If, upon written request, the electrical inspector fails to make an electrical inspection within twenty-four hours, the serving utility may immediately

connect electrical power to the installation if the necessary electrical work permit is displayed: PROVIDED, That if the request is for an electrical inspection that relates to a mobile home installation, the applicant shall provide proof of a current building permit issued by the local government agency authorized to issue such permits as a prerequisite for inspection approval or connection of electrical power to the mobile home.

(3) Whenever the installation of any wiring, device, appliance, or equipment is not in accordance with this chapter, or is in such a condition as to be dangerous to life or property, the person, firm, partnership, corporation, or other entity owning, using, or operating it shall be notified by the department and shall within fifteen days, or such further reasonable time as may upon request be granted, make such repairs and changes as are required to remove the danger to life or property and to make it conform to this chapter. The director, through the inspector, is hereby empowered to disconnect or order the discontinuance of electrical service to conductors or equipment that are found to be in a dangerous or unsafe condition and not in accordance with this chapter. Upon making a disconnection the inspector shall attach a notice stating that the conductors have been found dangerous to life or property and are not in accordance with this chapter. It is unlawful for any person to reconnect such defective conductors or equipment without the approval of the department, and until the conductors and equipment have been placed in a safe and secure condition, and in a condition that complies with this chapter.

(4) The director, through the electrical inspector, has the right during reasonable hours to enter into and upon any building or premises in the discharge of his or her official duties for the purpose of making any inspection or test of the installation of new construction or altered electrical wiring, electrical devices, equipment, or material contained in or on the buildings or premises. No electrical wiring or equipment subject to this chapter may be concealed until it has been approved by the inspector making the inspection.

(5) Persons, firms, partnerships, corporations, or other entities making electrical installations shall obtain inspection and approval from an authorized representative of the department as required by this chapter before requesting the electric utility to connect to the installations. Electric utilities may connect to the installations if approval is clearly indicated by certification of the electrical work permit required to be affixed to each installation or by equivalent means, except that increased or relocated services may be reconnected immediately at the discretion of the utility before approval if an electrical work permit is displayed. The permits shall be furnished upon payment of the fee to the department.

(6) The director, subject to the recommendations and approval of the board, shall set by rule a schedule of license and electrical work permit fees that will cover the costs of administration and enforcement of this chapter.



The rules shall be adopted in accordance with the administrative procedure act, chapter ((34.04)) 34.05 RCW. No fee may be charged for plug-in mobile homes, recreational vehicles, or portable appliances.

Passed the House April 21, 1989.

Passed the Senate April 21, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 345

[House Bill No. 1085]

### NEURODEVELOPMENTAL THERAPIES—COVERAGE IN EMPLOYER- SPONSORED GROUP HEALTH INSURANCE PLANS

AN ACT Relating to coverage of health benefits for neurodevelopmental therapies in employer-sponsored group contracts; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.46 RCW; and adding a new section to chapter 41.05 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 48.44 RCW to read as follows:

(1) Each employer-sponsored group contract for comprehensive health care service which is entered into, or renewed, on or after twelve months after the effective date of this act shall include coverage for neurodevelopmental therapies for covered individuals age six and under.

(2) Benefits provided under this section shall cover the services of those authorized to deliver occupational therapy, speech therapy, and physical therapy. Benefits shall be payable only where the services have been delivered pursuant to the referral and periodic review of a holder of a license issued pursuant to chapter 18.71 or 18.57 RCW or where covered services have been rendered by such licensee. Nothing in this section shall prohibit a health care service contractor from requiring that covered services be delivered by a provider who participates by contract with the health care service contractor unless no participating provider is available to deliver covered services. Nothing in this section shall prohibit a health care service contractor from negotiating rates with qualified providers.

(3) Benefits provided under this section shall be for medically necessary services as determined by the health care service contractor. Benefits shall be payable for services for the maintenance of a covered individual in cases where significant deterioration in the patient's condition would result without the service. Benefits shall be payable to restore and improve function.

(4) It is the intent of this section that employers purchasing comprehensive group coverage including the benefits required by this section, together with the health care service contractor, retain authority to design and

employ utilization and cost controls. Therefore, benefits delivered under this section may be subject to contractual provisions regarding deductible amounts and/or copayments established by the employer purchasing coverage and the health care service contractor. Benefits provided under this section may be subject to standard waiting periods for preexisting conditions, and may be subject to the submission of written treatment plans.

(5) In recognition of the intent expressed in subsection (4) of this section, benefits provided under this section may be subject to contractual provisions establishing annual and/or lifetime benefit limits. Such limits may define the total dollar benefits available or may limit the number of services delivered as agreed by the employer purchasing coverage and the health care service contractor.

**NEW SECTION.** Sec. 2. A new section is added to chapter 48.21 RCW to read as follows:

(1) Each employer-sponsored group policy for comprehensive health insurance which is entered into, or renewed, on or after twelve months after the effective date of this act shall include coverage for neurodevelopmental therapies for covered individuals age six and under.

(2) Benefits provided under this section shall cover the services of those authorized to deliver occupational therapy, speech therapy, and physical therapy. Benefits shall be payable only where the services have been delivered pursuant to the referral and periodic review of a holder of a license issued pursuant to chapter 18.71 or 18.57 RCW or where covered services have been rendered by such licensee. Nothing in this section shall prohibit an insurer from negotiating rates with qualified providers.

(3) Benefits provided under this section shall be for medically necessary services as determined by the insurer. Benefits shall be payable for services for the maintenance of an insured in cases where significant deterioration in the patient's condition would result without the service. Benefits shall be payable to restore and improve function.

(4) It is the intent of this section that employers purchasing comprehensive health insurance, including the benefits required by this section, together with the insurer, retain authority to design and employ utilization and cost controls. Therefore, benefits delivered under this section may be subject to contractual provisions regarding deductible amounts and/or copayments established by the employer purchasing insurance and the insurer. Benefits provided under this section may be subject to standard waiting periods for preexisting conditions, and may be subject to the submission of written treatment plans.

(5) In recognition of the intent expressed in subsection (4) of this section, benefits provided under this section may be subject to contractual provisions establishing annual and/or lifetime benefit limits. Such limits may define the total dollar benefits available or may limit the number of services delivered as agreed by the employer purchasing insurance and the insurer.

**NEW SECTION.** Sec. 3. A new section is added to chapter 48.46 RCW to read as follows:

(1) Each employer-sponsored group contract for comprehensive health care service which is entered into, or renewed, on or after twelve months after the effective date of this act shall include coverage for neurodevelopmental therapies for covered individuals age six and under.

(2) Benefits provided under this section shall cover the services of those authorized to deliver occupational therapy, speech therapy, and physical therapy. Covered benefits and treatment must be rendered or referred by the health maintenance organization, and delivered pursuant to the referral and periodic review of a holder of a license issued pursuant to chapter 18.71 or 18.57 RCW or where treatment is rendered by such licensee. Nothing in this section shall prohibit a health maintenance organization from negotiating rates with qualified providers.

(3) Benefits provided under this section shall be for medically necessary services as determined by the health maintenance organization. Benefits shall be provided for the maintenance of a covered enrollee in cases where significant deterioration in the patient's condition would result without the service. Benefits shall be provided to restore and improve function.

(4) It is the intent of this section that employers purchasing comprehensive group coverage including the benefits required by this section, together with the health maintenance organization, retain authority to design and employ utilization and cost controls. Therefore, benefits provided under this section may be subject to contractual provisions regarding deductible amounts and/or copayments established by the employer purchasing coverage and the health maintenance organization. Benefits provided under this section may be subject to standard waiting periods for preexisting conditions, and may be subject to the submission of written treatment plans.

(5) In recognition of the intent expressed in subsection (4) of this section, benefits provided under this section may be subject to contractual provisions establishing annual and/or lifetime benefit limits. Such limits may define the total dollar benefits available, or may limit the number of services delivered as agreed by the employer purchasing coverage and the health maintenance organization.

**NEW SECTION.** Sec. 4. A new section is added to chapter 41.05 RCW to read as follows:

(1) Each health plan offered to public employees and their covered dependents under this chapter which is not subject to the provisions of Title 48 RCW and is established or renewed on or after twelve months after the effective date of this act shall include coverage for neurodevelopmental therapies for covered individuals age six and under.

(2) Benefits provided under this section shall cover the services of those authorized to deliver occupational therapy, speech therapy, and physical

therapy. Benefits shall be payable only where the services have been delivered pursuant to the referral and periodic review of a holder of a license issued pursuant to chapter 18.71 or 18.57 RCW or where covered services have been rendered by such licensee. Nothing in this section shall preclude a self-funded plan authorized under this chapter from negotiating rates with qualified providers.

(3) Benefits provided under this section shall be for medically necessary services as determined by the self-funded plan authorized under this chapter. Benefits shall be payable for services for the maintenance of a covered individual in cases where significant deterioration in the patient's condition would result without the service. Benefits shall be payable to restore and improve function.

(4) It is the intent of this section that the state, as an employer providing comprehensive health coverage including the benefits required by this section, retains the authority to design and employ utilization and cost controls. Therefore, benefits delivered under this section may be subject to contractual provisions regarding deductible amounts and/or copayments established by the self-funded plan authorized under this chapter. Benefits provided under this section may be subject to standard waiting periods for preexisting conditions, and may be subject to the submission of written treatment plans.

(5) In recognition of the intent expressed in subsection (4) of this section, benefits provided under this section may be subject to contractual provisions establishing annual and/or lifetime benefit limits. Such limits may define the total dollar benefits available, or may limit the number of services delivered as established by the self-funded plan authorized under this chapter.

Passed the House April 17, 1989.

Passed the Senate April 10, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 346

[Substitute House Bill No. 1086]

### UNDERGROUND STORAGE TANKS—DEPARTMENT OF ECOLOGY POWERS AND DUTIES

AN ACT Relating to underground storage tanks; amending RCW 19.27.080; adding a new section to chapter 43.131 RCW; adding a new chapter to Title 90 RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. LEGISLATIVE FINDING AND INTENT. The legislature finds that leaking underground storage tanks containing petroleum and other regulated substances pose a serious threat to

human health and the environment. To address this threat, the legislature intends for the department of ecology to establish an underground storage tank program designed, operated, and enforced in a manner that, at a minimum, meets the requirements for delegation of the federal underground storage tank program of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901, et seq.). The legislature intends that state-wide requirements for underground storage tanks adopted by the department be consistent with and no less stringent than the objectives outlined in the federal regulations.

The legislature further finds that certain areas of the state possess physical characteristics that make them especially vulnerable to threats from leaking underground storage tanks and that in these environmentally sensitive areas, local requirements more stringent than the state-wide requirements may apply.

**NEW SECTION.** Sec. 2. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department.

(3) "Federal act" means the federal Resource Conservation and Recovery Act, as amended (42 U.S.C. Sec. 6901, et seq.).

(4) "Federal regulations" means the underground storage tanks regulations (40 C.F.R. Secs. 280 and 281) adopted by the United States environmental protection agency under the federal act.

Except as provided in this section and any rules adopted by the department under this chapter, the definitions contained in the federal regulations apply to the terms in this chapter.

**NEW SECTION.** Sec. 3. DEPARTMENT'S POWERS AND DUTIES. (1) By July 1, 1990, the department shall adopt rules establishing requirements for all underground storage tanks that are regulated under the federal act, taking into account the various classes or categories of tanks to be regulated. The rules must be consistent with and no less stringent than the federal regulations and consist of requirements for the following:

(a) New underground storage tank system design, construction, installation, and notification;

(b) Upgrading existing underground storage tank systems;

(c) General operating requirements;

(d) Release detection;

(e) Release reporting;

(f) Out-of-service underground storage tank systems and closure; and

(g) Financial responsibility for underground storage tanks containing regulated substances.

(2) By July 1, 1990, the department shall adopt rules:

(a) Establishing physical site criteria to be used in designating local environmentally sensitive areas;

(b) Establishing procedures for local government application for this designation; and

(c) Establishing procedures for local government adoption and department approval of rules more stringent than the state-wide standards in these designated areas.

(3) By July 1, 1990, the department shall establish by rule an administrative and enforcement program that is consistent with and no less stringent than the program required under the federal regulations in the areas of:

(a) Compliance monitoring, including procedures for recordkeeping and a program for systematic inspections;

(b) Enforcement;

(c) Public participation; and

(d) Information sharing.

(4) By July 1, 1990, the department shall establish a program that provides for the tagging of underground storage tanks. Tanks are not eligible for tagging unless the owner or operator is in compliance with the requirements of this chapter and annual state and local tank fees have been remitted. The tank tagging program shall be designed to ensure that tags will be clearly identifiable to persons delivering regulated substances to underground storage tanks.

(5) The department may establish programs to certify persons who conduct inspections, testing, closure, cathodic protection, interior tank lining, corrective action, or other activities required under this chapter. Certification programs shall be designed to ensure that each certification will be effective in all jurisdictions of the state.

(6) When adopting rules under this chapter, the department shall consult with the state building code council to ensure coordination with the building and fire codes adopted under chapter 19.27 RCW.

**NEW SECTION.** Sec. 4. ADMINISTRATION AND ENFORCEMENT PROGRAM. (1) The department shall establish a state-wide underground storage tank administration and enforcement program that encourages the delegation of program responsibilities to a qualified city, town, or county. The department shall adopt rules establishing requirements for the delegation of program elements. The department shall provide for an appropriate distribution of resources collected under section 10 of this act between the department and the city, town, or county to cover the cost of delegated responsibilities and shall ensure that these moneys be distributed to the city, town, or county upon delegation of program responsibilities.

(2) A city, town, or county may apply to the department for delegation of program responsibilities of part or all of the underground storage tank program within its jurisdictional boundaries. A fire protection district or

political subdivision may enter into an agreement under chapter 39.34 RCW with a city, town, or county to assume all or a portion of delegated program responsibilities.

(3) In jurisdictions where partial delegation of program responsibilities occurs, the department shall administer and enforce those program elements not delegated. The department shall administer and enforce the entire underground storage tank program in jurisdictions where no delegation of program responsibilities has occurred.

**NEW SECTION.** Sec. 5. ENVIRONMENTALLY SENSITIVE AREAS. (1) A city, town, or county may apply to the department to have an area within its jurisdictional boundaries designated an environmentally sensitive area. A city, town, or county may submit a joint application with any other city, town, or county for joint administration under chapter 39.34 RCW of a single environmentally sensitive area located in both jurisdictions.

(2) A city, town, or county may adopt proposed ordinances or resolutions establishing requirements for underground storage tanks located within an environmentally sensitive area that are more stringent than the statewide standards established under section 3 of this act. If application for the designation of an environmentally sensitive area is made later than five years after the date of final adoption of the rules required under this chapter, proposed local ordinances and resolutions shall only apply to new underground storage tank installations. The local government adopting the ordinances and resolutions shall submit them to the department for approval. Disapproved ordinances and resolutions may be modified and resubmitted to the department for approval. Proposed local ordinances and resolutions become effective when approved by the department.

(3) The department shall approve or disapprove each proposed local ordinance or resolution based on the following criteria:

(a) The area to be regulated is found to be an environmentally sensitive area based on rules adopted by the department; and

(b) The proposed local regulations are reasonably consistent with previously approved local regulations for similar environmentally sensitive areas.

(4) A city, town, or county for which a proposed local ordinance or resolution establishing more stringent requirements is approved by the department may establish local tank fees that meet the requirements of section 10 of this act, if such fees are necessary for enhanced program administration or enforcement.

**NEW SECTION.** Sec. 6. DELIVERY OF REGULATED SUBSTANCES. Regulated substances shall not be delivered to any underground storage tank in the state required to be tagged under section 3 of this act unless proof of valid tagging is displayed on such tank itself or the dispensing or measuring device connected thereto or, where appropriate, in

the office or kiosk of the facility where the tank is located. A supplier shall not refuse to deliver regulated substances to an underground storage tank regulated under this chapter on the basis of its potential to leak contents where the tank is either tagged as required in section 3 of this act or is in compliance with federal underground storage tank regulations and any state or local regulations then in effect. This section does not apply to a supplier who does not directly transfer a regulated substance into an underground storage tank.

**NEW SECTION. Sec. 7. INVESTIGATION AND ACCESS.** (1) If necessary to determine compliance with the requirements of this chapter, an authorized representative of the state engaged in compliance inspections, monitoring, and testing may, by request, require an owner or operator to submit relevant information or documents. The department may subpoena witnesses, documents, and other relevant information that the department deems necessary. In the case of any refusal to obey the subpoena, the superior court for any county in which the person is found, resides, or transacts business has jurisdiction to issue an order requiring the person to appear before the department and give testimony or produce documents. Any failure to obey the order of the court may be punished by the court as contempt.

(2) Any authorized representative of the state may require an owner or operator to conduct monitoring or testing.

(3) Upon reasonable notice, an authorized representative of the state may enter a premises or site subject to regulation under this chapter or in which records relevant to the operation of an underground storage tank system are kept. In the event of an emergency or in circumstances where notice would undermine the effectiveness of an inspection, notice is not required. The authorized representative may copy these records, obtain samples of regulated substances, and inspect or conduct monitoring or testing of an underground storage tank system.

(4) For purposes of this section, the term "authorized representative" or "authorized representative of the state" means an enforcement officer, employee, or representative of the department or a local government unit that has obtained enforcement authority under section 4 of this act.

**NEW SECTION. Sec. 8. ENFORCEMENT.** The director may seek appropriate injunctive or other judicial relief by filing an action in Thurston county superior court or issue such order as the director deems appropriate to:

- (1) Enjoin any threatened or continuing violation of this chapter;
- (2) Restrain immediately and effectively a person from engaging in unauthorized activity that results in a violation of any requirement of this chapter and is endangering or causing damage to public health or the environment;



(3) Require compliance with requests for information, access, testing, or monitoring under section 7 of this act; or

(4) Assess and recover civil penalties authorized under section 9 of this act.

**NEW SECTION. Sec. 9. PENALTIES.** (1) A person who fails to notify the department pursuant to tank notification requirements or who submits false information is subject to a civil penalty not to exceed five thousand dollars per violation.

(2) A person who violates this chapter is subject to a civil penalty not to exceed five thousand dollars for each tank per day of violation.

**NEW SECTION. Sec. 10. ANNUAL TANK FEE.** (1) An annual state tank fee of sixty dollars per tank for fiscal years ending June 30, 1990, and June 30, 1991, and seventy-five dollars per tank each fiscal year thereafter, shall be paid no later than the December 31st of each fiscal year by every person who:

(a) Owns an underground storage tank located in this state; and

(b) Was required to provide notification to the department under the federal act.

This fee is not required of persons who have (i) permanently closed their tanks, and (ii) if required, have completed corrective action in accordance with the rules adopted under this chapter.

(2) The department may authorize the imposition of additional annual local tank fees in environmentally sensitive areas designated under section 5 of this act. Annual local tank fees may not exceed fifty percent of the annual state tank fee.

(3) State and local tank fees collected under this section shall be deposited in the account established under section 11 of this act.

(4) Other than the annual local tank fee authorized for environmentally sensitive areas, no local government may levy an annual tank fee on the ownership or operation of an underground storage tank.

**NEW SECTION. Sec. 11. UNDERGROUND STORAGE TANK ACCOUNT.** The underground storage tank account is created in the state treasury. Money in the account may only be spent, subject to legislative appropriation, for the administration and enforcement of the underground storage tank program established under this chapter. The account shall contain:

(1) All fees collected under section 10 of this act;

(2) All fines or penalties collected under section 9 of this act; and

(3) Any interest earned on the account, subject to RCW 43.84.090.

**NEW SECTION. Sec. 12. PREEMPTION.** (1) Except as provided in section 5 of this act and subsections (2), (3), and (4) of this section, the rules adopted under this chapter supersede and preempt any state or local

underground storage tank law, ordinance, or resolution governing any aspect of regulation covered by the rules adopted under this chapter.

(2) Local laws, ordinances, and resolutions pertaining to local authority to take immediate action in response to a release of a regulated substance are not superseded or preempted.

(3) City, town, or county underground storage tank ordinances that are more stringent than the federal regulations and the uniform codes adopted under chapter 19.27 RCW and that are in effect on November 1, 1988, are not superseded or preempted. A city, town, or county with an ordinance that meets these criteria shall notify the department of the existence of that ordinance by July 1, 1989.

(4) Local laws, ordinances, and resolutions pertaining to permits and fees for the use of underground storage tanks in street right of ways that were in existence prior to the effective date of this section are not superseded or preempted.

NEW SECTION. Sec. 13. The department shall submit an annual report to the appropriate standing committees of the legislature for five years beginning January 1, 1990, on the implementation of the underground storage tank regulatory program, including a report on state and local tank fees. This report shall detail the number of corrective actions taken with regard to leaking underground storage tanks and their associated costs, including anticipated future cleanup costs.

NEW SECTION. Sec. 14. SEVERABILITY CLAUSE. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 15. Section headings used in this act do not constitute any part of the law.

NEW SECTION. Sec. 16. Sections 2 through 14 of this act constitute a new chapter in Title 90 RCW.

NEW SECTION. Sec. 17. A new section is added to chapter 43.131 RCW to read as follows:

Sections 2 through 14 of this act shall expire July 1, 1999.

NEW SECTION. Sec. 18. (1) Except as provided in subsection (2) of this section, sections 6, 12, and 19 of this act take effect on July 1, 1990.

(2) This section shall apply only if this act becomes effective as provided under section 20(2) of this act.

Sec. 19. Section 8, chapter 96, Laws of 1974 ex. sess. as amended by section 1, chapter 282, Laws of 1975 1st ex. sess. and RCW 19.27.080 are each amended to read as follows:

Nothing in this (~~1974 act shall~~) chapter affects the provisions of chapters 19.28, 43.22, 70.77, 70.79, 70.87, 48.48, 18.20, 18.46, 18.51, 28A-.02, 28A.04, 70.41, 70.62, 70.75, 70.108, 71.12, 74.15, 70.94, ((or)) 76.04, or 90.— (sections 2 through 14 of this act) RCW or grant rights to duplicate the authorities provided under chapters 70.94 or 76.04 RCW.

**NEW SECTION.** Sec. 20. (1) Except as provided in subsection (2) of this section, sections 1 through 5, 7 through 11, 13, and 14 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.

(2) This act shall take effect only if House Bill 1180 or Senate Bill 5280, as amended or substituted, or any other bill establishing a state reinsurance program for the owners and operators of underground storage tanks, is enacted before July 1, 1989. If the enactment of such reinsurance bill is subsequent to the date of enactment of this act, this act shall take effect on the date of the enactment of the reinsurance bill.

Passed the House April 20, 1989.

Passed the Senate April 19, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

## CHAPTER 347

[House Bill No. 1103]

### MOTOR VEHICLE WARRANTIES—REVISED PROVISIONS

AN ACT Relating to motor vehicle warranties; amending RCW 19.118.021, 19.118.041, 19.118.061, 19.118.080, 19.118.090, 19.118.100, 19.118.110, 19.118.150, and 19.118.160; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 2, chapter 344, Laws of 1987 and RCW 19.118.021 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means new motor vehicle arbitration board.

(2) "Collateral charges" means any (~~sales-related~~) sales or lease related charges including but not limited to sales tax, use tax, arbitration service fees, unused license fees, unused registration fees, unused title fees, finance charges, prepayment penalties, credit disability and credit life insurance costs not otherwise refundable, any other insurance costs prorated for time out of service, transportation charges, dealer preparation charges, or any other charges for service contracts, undercoating, rustproofing, or factory or dealer installed options.

(3) "Condition" means a general problem that results from a defect or malfunction of one or more parts, or their improper installation by the manufacturer, its agents, or the new motor vehicle dealer.

(4) "Consumer" means any person who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle, other than for purposes of resale or sublease, during the duration of the warranty period defined under this section.

(5) "Court" means the superior court in the county where the consumer resides, except if the consumer does not reside in this state, then the superior court in the county where an arbitration hearing or determination was conducted or made pursuant to this chapter.

(6) "Incidental costs" means any reasonable expenses incurred by the consumer in connection with the repair of the new motor vehicle, including any towing charges and the costs of obtaining alternative transportation.

(7) "Manufacturer" means any person engaged in the business of constructing or assembling new motor vehicles or engaged in the business of importing new motor vehicles into the United States for the purpose of selling or distributing new motor vehicles to new motor vehicle dealers.

(8) "New motor vehicle" means any new self-propelled vehicle primarily designed for the transportation of persons or property over the public highways that, after original retail purchase or lease in this state, was ~~((leased or purchased in this state and registered in this state))~~ initially registered in this state or for which a temporary motor vehicle license was issued pursuant to RCW 46.16.460, but does not include vehicles purchased or leased by a business as part of a fleet of ten or more vehicles. If the motor vehicle is a motor home, this chapter shall apply to the self-propelled vehicle and chassis, but does not include those portions of the vehicle designated, used, or maintained primarily as a mobile dwelling, office, or commercial space. The term "new motor vehicle" does not include motorcycles or trucks with nineteen thousand pounds or more gross vehicle weight rating. The term "new motor vehicle" includes a demonstrator or lease-purchase vehicle as long as a manufacturer's warranty was issued as a condition of sale.

(9) "New motor vehicle dealer" means a person who holds a dealer agreement with a manufacturer for the sale of new motor vehicles, who is engaged in the business of purchasing, selling, servicing, exchanging, or dealing in new motor vehicles, and who is licensed as a dealer by the state of Washington.

(10) "Nonconformity" means a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of a new motor vehicle, but does not include a defect or condition that is the result of abuse, neglect, or unauthorized modification or alteration of the new motor vehicle.

(11) "Purchase price" means the cash price of the new motor vehicle appearing in the sales agreement or contract, including any allowance for a

trade-in vehicle; "purchase price" in the instance of a lease means the purchase price or value of the vehicle declared to the department of licensing for purposes of tax collection.

Where the consumer is a second or subsequent purchaser, lessee, or transferee and the consumer selects repurchase of the motor vehicle, "purchase price" means the purchase price of the second or subsequent purchase or lease. Where the consumer is a second or subsequent purchaser, lessee, or transferee and the consumer selects replacement of the motor vehicle, "purchase price" means the original purchase price.

~~(12) "Reasonable offset for use" means ((an amount directly attributable to use by the consumer before repurchase or replacement by the manufacturer. The reasonable offset for use shall be computed by the number of miles that the vehicle traveled before the manufacturer's acceptance of the vehicle upon repurchase or replacement multiplied by the purchase price, and divided by one hundred thousand))~~ the definition provided in RCW 19.118.041(1)(c).

(13) "Reasonable number of attempts" means the definition provided in RCW 19.118.041.

(14) "Replacement motor vehicle" means a new motor vehicle that is identical or reasonably equivalent to the motor vehicle to be replaced, as the motor vehicle to be replaced existed at the time of original purchase or lease, including any service contract, undercoating, rustproofing, and factory or dealer installed options.

(15) "Serious safety defect" means a life-threatening malfunction or nonconformity that impedes the consumer's ability to control or operate the new motor vehicle for ordinary use or reasonable intended purposes or creates a risk of fire or explosion.

(16) "Substantially impair" means to render the new motor vehicle unreliable, or unsafe for ordinary use, or to diminish the resale value of the new motor vehicle below the average resale value for comparable motor vehicles.

(17) "Warranty" means any implied warranty, any written warranty of the manufacturer, or any affirmation of fact or promise made by the manufacturer in connection with the sale of a new motor vehicle that becomes part of the basis of the bargain. The term "warranty" pertains to the obligations of the manufacturer in relation to materials, workmanship, and fitness of a new motor vehicle for ordinary use or reasonably intended purposes throughout the duration of the warranty period as defined under this section.

(18) "Warranty period" means the period ending two years after the date of the original delivery to the consumer of a new motor vehicle, or the first twenty-four thousand miles of operation, whichever occurs first.

Sec. 2. Section 4, chapter 344, Laws of 1987 and RCW 19.118.041 are each amended to read as follows:

(1) If the manufacturer, its agent, or the new motor vehicle dealer is unable to conform the new motor vehicle to the warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer, within forty calendar days of a consumer's written request to the manufacturer's corporate, dispute resolution, zone, or regional office address shall, at the option of the consumer, replace or repurchase the new motor vehicle.

(a) The replacement motor vehicle shall be identical or reasonably equivalent to the motor vehicle to be replaced as the motor vehicle to be replaced existed at the time of original purchase or lease, including any service contract, undercoating, rustproofing, and factory or dealer installed options. Where the manufacturer supplies a replacement motor vehicle, the manufacturer shall be responsible for sales tax, license, and registration fees. Compensation for a reasonable offset for use shall be paid by the consumer to the manufacturer in the event that the consumer accepts a replacement motor vehicle.

(b) When repurchasing the new motor vehicle, the manufacturer shall refund to the consumer the purchase price, all collateral charges, and incidental costs, less a reasonable offset for use. ((Refunds)) When repurchasing the new motor vehicle, in the instance of a lease, the manufacturer shall refund to the consumer all payments made by the consumer under the lease including but not limited to all lease payments, trade-in value or inception payment, security deposit, all collateral charges and incidental costs less a reasonable offset for use. The manufacturer shall ((be made)) make such payment to the ((consumer and)) lessor and/or lienholder of record((, if any, as his or her interests may appear)) as necessary to obtain clear title to the motor vehicle and upon the lessor's and/or lienholder's receipt of that payment and payment by the consumer of any late payment charges, the consumer shall be relieved of any future obligation to the lessor and/or lienholder.

(c) The reasonable offset for use shall be computed by multiplying the number of miles that the vehicle traveled directly attributable to use by the consumer times the purchase price, and dividing the product by one hundred thousand. Where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the consumer selects repurchase of the motor vehicle, "the number of miles that the vehicle traveled" shall be calculated from the date of purchase or lease by the consumer. Where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the consumer selects replacement of the motor vehicle, "the number of miles that the vehicle traveled" shall be calculated from the original purchase, lease, or in-service date.

(2) Reasonable number of attempts shall be deemed to have been undertaken by the manufacturer, its agent, or the new motor vehicle dealer to conform the new motor vehicle to the warranty within the warranty period,

if: (a) The same serious safety defect has been subject to diagnosis or repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the serious safety defect continues to exist; (b) the same nonconformity has been subject to diagnosis or repair four or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (c) the vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(3) No new motor vehicle dealer may be held liable by the manufacturer for any collateral charges, incidental costs, purchase price refunds, or vehicle replacements. Manufacturers shall not have a cause of action against dealers under this chapter (~~(; but may pursue rights and remedies in other proceedings in accordance with the manufacturer-dealer franchise agreement)~~). Consumers shall not have a cause of action against dealers under this chapter, but a violation of any responsibilities imposed upon dealers under this chapter is a per se violation of chapter 19.86 RCW. Consumers may pursue rights and remedies against dealers under any other law, including chapters 46.70 and 46.71 RCW. Manufacturers and consumers may not make dealers parties to arbitration board proceedings under this chapter.

Sec. 3. Section 5, chapter 344, Laws of 1987 and RCW 19.118.061 are each amended to read as follows:

(1) A manufacturer shall be prohibited from reselling any motor vehicle determined or adjudicated as having a serious safety defect unless the serious safety defect has been corrected and the manufacturer warrants upon the resale that the defect has been corrected.

(2) After the replacement or repurchase of a motor vehicle (~~((with a nonconformity uncorrected))~~) determined to have a nonconformity or to have been out of service for thirty or more calendar days pursuant to this chapter, the manufacturer shall notify the attorney general and the department of licensing, by certified mail or by personal service, upon receipt of the ((manufacturer's)) motor vehicle. If ((such)) the nonconformity in the motor vehicle is corrected, the manufacturer shall notify the attorney general and the department of licensing of such correction.

(3) Upon the resale, either at wholesale or retail, or transfer of title of a motor vehicle (~~((with an uncorrected nonconformity))~~) and which was previously returned after a final determination, adjudication, or settlement under this chapter or under a similar statute of any other state, the manufacturer, its agent, or the new motor vehicle dealer shall execute and

deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity in a manner to be specified by the attorney general, and the department of licensing shall place on the certificate of title information indicating the vehicle was returned under this chapter.

(4) Upon receipt of the manufacturer's notification under subsection (2) of this section that the nonconformity has been corrected and upon the manufacturer's request and payment of any fees, the department of licensing shall issue a new title with information indicating the vehicle was returned under this chapter and that the nonconformity has been corrected. Upon the resale, either at wholesale or retail, or transfer of title of a motor vehicle for which a new title has been issued under this subsection, the manufacturer shall warrant upon the resale that the nonconformity has been corrected, and the manufacturer, its agent, or the new motor vehicle dealer shall execute and deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity and indicating that it has been corrected in a manner to be specified by the attorney general.

Sec. 4. Section 6, chapter 344, Laws of 1987 and RCW 19.118.080 are each amended to read as follows:

(1) Except as provided in RCW 19.118.160, the attorney general shall contract with one or more private entities to ~~((establish new motor vehicle arbitration boards))~~ conduct arbitration proceedings in order to settle disputes between consumers and manufacturers as provided in this chapter, and each private entity shall constitute a new motor vehicle arbitration board for purposes of this chapter. The entities shall not be affiliated with any manufacturer or new motor vehicle dealer and shall have available the services of persons with automotive technical expertise to assist in resolving disputes under this chapter. No private entity or its officers or employees conducting board proceedings and no arbitrator presiding at such proceedings shall be directly involved in the manufacture, distribution, sale, or warranty service of any motor vehicle. Payment to the entities for the arbitration services shall be made from the new motor vehicle arbitration account.

(2) The attorney general shall adopt rules for the uniform conduct of the arbitrations by the boards whether conducted by a private entity or by the attorney general pursuant to RCW 19.118.160, which rules shall include but not be limited to the following procedures:

(a) At all arbitration proceedings, the parties are entitled to present oral and written testimony, to present witnesses and evidence relevant to the dispute, to cross-examine witnesses, and to be represented by counsel.

(b) A dealer, ~~((or a))~~ manufacturer, or other ~~((party))~~ persons shall produce records and documents requested by a party which ~~((the board~~



~~finds)) are reasonably related to the dispute. If a dealer, ((or a)) manufacturer, or other ((party)) person refuses to comply with ((the board's determination)) such a request, a party may request the attorney general to issue a subpoena on behalf of the board. ((A party may also request the attorney general to issue a subpoena on behalf of the board for the records and documents of other persons:))~~

The subpoena shall be issued only for the production of records and documents which the board has determined are reasonably related to the dispute, including but not limited to documents described in RCW 19.118-.031 (4) or (5).

If a party fails to comply with the subpoena, the arbitrator may at the outset of the arbitration hearing impose any of the following sanctions: (i) Find that the matters which were the subject of the subpoena, or any other designated facts, shall be taken to be established for purposes of the hearing in accordance with the claim of the party which requested the subpoena; (ii) refuse to allow the disobedient party to support or oppose the designated claims or defenses, or prohibit that party from introducing designated matters into evidence; (iii) strike claims or defenses, or parts thereof; or (iv) render a decision by default against the disobedient party.

If a nonparty fails to comply with a subpoena and upon an arbitrator finding that without such compliance there is insufficient evidence to render a decision in the dispute, the attorney general shall enforce such subpoena in superior court and the arbitrator shall continue the arbitration hearing until such time as the nonparty complies with the subpoena or the subpoena is quashed.

(c) A party may obtain written affidavits from employees and agents of a dealer, a manufacturer or other party, or from other potential witnesses, and may submit such affidavits for consideration by the board.

(d) Records of the board proceedings shall be open to the public. The hearings shall be open to the public to the extent practicable.

(e) Where the board proceedings are conducted by one or more private entities, a single arbitrator may be designated to preside at such proceedings.

(3) A consumer shall exhaust the new motor vehicle arbitration board remedy or informal dispute resolution settlement procedure under RCW 19.118.150 before filing any superior court action.

(4) The attorney general shall maintain records of each dispute submitted to the new motor vehicle arbitration board, including an index of new motor vehicles by year, make, and model.

(5) The attorney general shall compile aggregate annual statistics for all disputes submitted to, and decided by, the new motor vehicle arbitration board, as well as annual statistics for each manufacturer that include, but shall not be limited to, the number and percent of: (a) Replacement motor vehicle requests; (b) purchase price refund requests; (c) replacement motor

vehicles obtained in prehearing settlements; (d) purchase price refunds obtained in prehearing settlements; (e) replacement motor vehicles awarded in arbitration; (f) purchase price refunds awarded in arbitration; (g) board decisions neither complied with during the forty calendar day period nor petitioned for appeal within the thirty calendar day period; (h) board decisions appealed categorized by consumer or manufacturer; (i) the nature of the court decisions and who the prevailing party was; (j) appeals that were held by the court to be brought without good cause; and (k) appeals that were held by the court to be brought solely for the purpose of harassment. The statistical compilations shall be public information.

(6) The attorney general shall submit biennial reports of the information in this section to the senate and house of representatives committees on commerce and labor, with the first report due January 1, 1990.

(7) The attorney general shall adopt rules to implement this chapter. Such rules shall include uniform standards by which the boards shall make determinations under this chapter, including but not limited to rules which provide:

(a) A board shall find that a nonconformity exists if it determines that the consumer's new motor vehicle has a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of the vehicle.

(b) A board shall find that a reasonable number of attempts to repair a nonconformity have been undertaken if: (i) The same serious safety defect has been subject to diagnosis or repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the serious safety defect continues to exist; (ii) the same nonconformity has been subject to diagnosis or repair four or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (iii) the vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(c) A board shall find that a manufacturer has failed to comply with RCW 19.118.041 if it finds that the manufacturer, its agent, or the new motor vehicle dealer has failed to correct a nonconformity after a reasonable number of attempts and the manufacturer has failed, within forty days of the consumer's written request, to repurchase the vehicle or replace the vehicle with a vehicle identical or reasonably equivalent to the vehicle being replaced.

(8) The attorney general shall provide consumers with information regarding the procedures and remedies under this chapter.

Sec. 5. Section 7, chapter 344, Laws of 1987 and RCW 19.118.090 are each amended to read as follows:

(1) A consumer may request arbitration under this chapter by submitting the request to the attorney general. Within ten days after receipt of an arbitration request, the attorney general shall make a reasonable determination of the cause of the request for arbitration and provide necessary information to the consumer regarding the consumer's rights and remedies under this chapter. The attorney general shall assign the dispute to a board, except that if it clearly appears from the materials submitted by the consumer that the dispute is not eligible for arbitration, the attorney general may refuse to assign the dispute and shall explain any required procedures to the consumer.

(2) Manufacturers shall submit to arbitration if such arbitration is requested by the consumer within thirty months from the date of the original delivery of the new motor vehicle to ~~((the))~~ a consumer at retail and if the consumer's dispute is deemed eligible for arbitration by the board.

(3) The new motor vehicle arbitration board may reject for arbitration any dispute that it determines to be frivolous, fraudulent, filed in bad faith, res judicata or beyond its authority. Any dispute deemed by the board to be ineligible for arbitration due to insufficient evidence may be reconsidered by the board upon the submission of other information or documents regarding the dispute that would allegedly qualify for relief under this chapter. Following a second review, the board may reject the dispute for arbitration if evidence is still clearly insufficient to qualify the dispute for relief under this chapter. A rejection by the board is subject to review by the attorney general or may be appealed under RCW 19.118.100.

A decision to reject any dispute for arbitration shall be sent by certified mail to the consumer and the manufacturer, and shall contain a brief explanation as to the reason therefor.

(4) The arbitration board shall award the remedies under RCW 19.118.041 if it finds a nonconformity and that a reasonable number of attempts have been undertaken to correct the nonconformity. The board shall award reasonable costs and attorneys' fees incurred by the consumer in connection with board proceedings where the manufacturer is represented by counsel.

(5) It is an affirmative defense to any claim under this chapter that: (a) The alleged nonconformity does not substantially impair the use, value, or safety of the new motor vehicle; or (b) the alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the new motor vehicle.

(6) The board shall have ~~((thirty))~~ forty-five calendar days from the date the board receives the consumer's request for arbitration to hear the dispute. If the board determines that additional information is necessary, the board may continue the arbitration proceeding on a subsequent date

within ten calendar days of the initial hearing. The board shall decide the dispute within sixty calendar days from the date the board receives the consumer's request for arbitration.

The decision of the board shall be ~~((sent))~~ delivered by certified mail or personal service to the consumer and the manufacturer, and shall contain a written finding of whether the new motor vehicle meets the standards set forth under this chapter.

(7) The consumer may accept the arbitration board decision or appeal to superior court, pursuant to RCW 19.118.100. Upon acceptance by the consumer, the arbitration board decision shall become final. The consumer shall send written notification of acceptance or rejection to the arbitration board ~~((who))~~ within sixty days of receiving the decision and the arbitration board shall immediately ~~((send))~~ deliver a copy of the consumer's acceptance to the manufacturer by certified mail, return receipt requested, or by personal service. Failure of the consumer to respond to the arbitration board within sixty calendar days of receiving the decision shall be considered a rejection of the decision by the consumer. The consumer shall have one hundred twenty calendar days from the date of rejection to file a petition of appeal in superior court. At the time the petition of appeal is filed, the consumer shall deliver, by certified mail or personal service, a conformed copy of such petition to the attorney general.

(8) Upon receipt of the consumer's acceptance, the manufacturer shall have forty calendar days to comply with the arbitration board decision or thirty calendar days to file a petition of appeal in superior court. At the time the petition of appeal is filed, the manufacturer shall ~~((send))~~ deliver, by certified mail or personal service, a conformed copy of such petition to the attorney general. If the attorney general receives no notice of petition of appeal after forty calendar days, the attorney general shall contact the consumer to verify compliance.

(9) If, at the end of the forty calendar day period, neither compliance with, nor a petition to appeal the board's decision has occurred, the attorney general may impose a fine of one thousand dollars per day until compliance occurs or a maximum penalty of one hundred thousand dollars accrues unless the manufacturer can provide clear and convincing evidence that any delay or failure was beyond its control or was acceptable to the consumer as evidenced by a written statement signed by the consumer. If the manufacturer fails to provide such evidence or fails to pay the fine, the attorney general shall initiate proceedings against the manufacturer for failure to pay any fine that accrues until compliance with the board's decision occurs or the maximum penalty of one hundred thousand dollars results. Where the attorney general prevails in an enforcement action regarding any fine imposed under this subsection, the attorney general shall be entitled to reasonable costs and attorneys' fees. Fines and recovered costs and fees shall be returned to the new motor vehicle arbitration account.

Sec. 6. Section 8, chapter 344, Laws of 1987 and RCW 19.118.100 are each amended to read as follows:

(1) The consumer or the manufacturer may request a trial de novo of the arbitration decision, including a rejection, in superior court.

(2) If the manufacturer appeals, the court may require the manufacturer to post security for the consumer's financial loss due to the passage of time for review.

(3) If the consumer prevails, recovery shall include the monetary value of the award, attorneys' fees and costs incurred in the superior court action, and, if the board awarded the consumer replacement or repurchase of the vehicle and the manufacturer did not comply, continuing damages in the amount of twenty-five dollars per day for all days beyond the forty calendar day period following the manufacturer's receipt of the consumer's acceptance of the board's decision in which the manufacturer did not provide the consumer with the free use of a comparable loaner replacement motor vehicle. If it is determined by the court that the ~~((manufacturer))~~ party that appealed acted without good cause in bringing the appeal or brought the appeal solely for the purpose of harassment, the court may triple, but at least shall double, the amount of the total award.

Sec. 7. Section 9, chapter 344, Laws of 1987 and RCW 19.118.110 are each amended to read as follows:

A five-dollar arbitration fee shall be collected by either the new motor vehicle dealer or vehicle lessor from the consumer ~~((at completion of))~~ upon execution of a retail sale or lease agreement. The fee shall be forwarded to the department of licensing at the time of title application for deposit in the new motor vehicle arbitration account hereby created in the state treasury. Moneys in the account shall be used for the purposes of this chapter, subject to appropriation.

At the end of each fiscal year, the attorney general shall prepare a report listing the annual revenue generated and the expenses incurred in implementing and operating the arbitration program under this chapter.

Sec. 8. Section 14, chapter 344, Laws of 1987 and RCW 19.118.150 are each amended to read as follows:

~~((1))~~ If a manufacturer has established an informal dispute resolution settlement procedure which substantially complies with the applicable provision of Title ~~((15))~~ 16, Code of Federal Regulations Part 703, as from time to time amended, a consumer may choose to first submit a dispute under this chapter to the informal dispute resolution settlement procedure.

~~((2) After the new motor vehicle arbitration board has been established and is operational and until December 31, 1988, consumers who have a pending case in the informal dispute resolution settlement procedure in this section may choose to transfer the case to be heard before the new motor vehicle arbitration board:))~~

Sec. 9. Section 15, chapter 344, Laws of 1987 and RCW 19.118.160 are each amended to read as follows:

If the attorney general is unable(~~(, or will be unable,)~~) at any time to contract with private entities to conduct arbitrations under the procedures and standards in this chapter, (~~(by January 1, 1988,)~~) the attorney general shall establish one or more new motor vehicle arbitration boards. Each such board shall consist of three members appointed by the attorney general, only one of whom may be directly involved in the manufacture, distribution, sale, or service of any motor vehicle. Board members shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and shall be compensated pursuant to RCW 43.03.240.

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, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1989.

Passed the House April 23, 1989.  
Passed the Senate April 23, 1989.  
Approved by the Governor May 12, 1989.  
Filed in Office of Secretary of State May 12, 1989.

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CHAPTER 348

[Substitute House Bill No. 1397]

WATER USE EFFICIENCY AND CONSERVATION

AN ACT Relating to water use efficiency and conservation; amending RCW 90.54.020, 90.03.005, 90.54.120, 90.03.360, and 19.27.031; adding new sections to chapter 90.54 RCW; adding a new section to chapter 19.27 RCW; adding a new section to chapter 43.20 RCW; adding a new section to chapter 90.44 RCW; adding a new section to chapter 90.48 RCW; and creating a new section.

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

Sec. 1. Section 2, chapter 225, Laws of 1971 ex. sess. as amended by section 2, chapter 399, Laws of 1987 and RCW 90.54.020 are each amended to read as follows:

Utilization and management of the waters of the state shall be guided by the following general declaration of fundamentals:

- (1) Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power

production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial.

(2) Allocation of waters among potential uses and users shall be based generally on the securing of the maximum net benefits for the people of the state. Maximum net benefits shall constitute total benefits less costs including opportunities lost.

(3) The quality of the natural environment shall be protected and, where possible, enhanced as follows:

(a) Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

(b) Waters of the state shall be of high quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for entry into said waters shall be provided with all known, available, and reasonable methods of treatment prior to entry. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of the public interest will be served. Technology-based effluent limitations or standards for discharges for municipal water treatment plants located on the Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted to reflect credit for substances removed from the plant intake water if:

(i) The municipality demonstrates that the intake water is drawn from the same body of water into which the discharge is made; and

(ii) The municipality demonstrates that no violation of receiving water quality standards or appreciable environmental degradation will result.

(4) Adequate and safe supplies of water shall be preserved and protected in potable condition to satisfy human domestic needs.

(5) Multiple-purpose impoundment structures are to be preferred over single-purpose structures. Due regard shall be given to means and methods for protection of fishery resources in the planning for and construction of water impoundment structures and other artificial obstructions.

(6) Federal, state, and local governments, individuals, corporations, groups and other entities shall be encouraged to carry out practices of conservation as they relate to the use of the waters of the state. In addition to

traditional development approaches, improved water use efficiency and conservation shall be emphasized in the management of the state's water resources and in some cases will be a potential new source of water with which to meet future needs throughout the state.

(7) Development of water supply systems, whether publicly or privately owned, which provide water to the public generally in regional areas within the state shall be encouraged. Development of water supply systems for multiple domestic use which will not serve the public generally shall be discouraged where water supplies are available from water systems serving the public.

(8) Full recognition shall be given in the administration of water allocation and use programs to the natural interrelationships of surface and ground waters.

(9) Expressions of the public interest will be sought at all stages of water planning and allocation discussions.

(10) Water management programs, including but not limited to, water quality, flood control, drainage, erosion control and storm runoff are deemed to be in the public interest.

Sec. 2. Section 8, chapter 216, Laws of 1979 ex. sess. and RCW 90.03.005 are each amended to read as follows:

It is the policy of the state to promote the use of the public waters in a fashion which provides for obtaining maximum net benefits arising from both diversionary uses of the state's public waters and the retention of waters within streams and lakes in sufficient quantity and quality to protect instream and natural values and rights. Consistent with this policy, the state supports economically feasible and environmentally sound development of physical facilities through the concerted efforts of the state with the United States, public corporations, Indian tribes, or other public or private entities. Further, based on the tenet of water law which precludes wasteful practices in the exercise of rights to the use of waters, the department of ecology shall reduce these practices to the maximum extent practicable, taking into account sound principles of water management, the benefits and costs of improved water use efficiency, and the most effective use of public and private funds, and, when appropriate, to work to that end in concert with the agencies of the United States and other public and private entities.

**NEW SECTION.** Sec. 3. (1) Nothing in this act shall affect or operate to impair any existing water rights.

(2) Nothing in this act shall be used to prevent future storage options, recognizing that storage may be necessary as a method of conserving water to meet both instream and out-of-stream needs.

(3) Nothing in this act shall infringe upon the rate-making prerogatives of any public water purveyor.



(4) Nothing in this act shall preclude the joint select committee on water resource policy from reviewing any subject matter contained herein for any future modifications.

**\*Sec. 4. Section 13, chapter 225, Laws of 1971 ex. sess. and RCW 90-.54.120 are each amended to read as follows:**

**For the purposes of this chapter, unless the context is clearly to the contrary, the following definitions shall be used:**

(1) "Department" means department of ecology.

(2) "Utilize" or "utilization" shall not only mean use of water for such long recognized consumptive or nonconsumptive beneficial purposes as domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, thermal power production, mining, recreational, maintenance of wildlife and fishlife purposes, but includes the retention of water in lakes and streams for the protection of environmental, scenic, aesthetic and related purposes, upon which economic values have not been placed historically and are difficult to quantify.

(3) "Water use efficiency" means those measures, projects, practices, or techniques which result in a net water savings that cost less than obtaining an equivalent amount of water from the next least costly source of supply.

(4) "Greywater" means water collected from the shower, bath, kitchen and bathroom sinks, and washing machine.

\*Sec. 4 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 5. A new section is added to chapter 90.54 RCW to read as follows:

Consistent with the fundamentals of water resource policy set forth in this chapter, state and local governments, individuals, corporations, groups and other entities shall be encouraged to carry out water use efficiency and conservation programs and practices consistent with the following:

(1) Water efficiency and conservation programs should utilize an appropriate mix of economic incentives, cost share programs, regulatory programs, and technical and public information efforts. Programs which encourage voluntary participation are preferred.

(2) Increased water use efficiency should receive consideration as a potential source of water in state and local water resource planning processes. In determining the cost-effectiveness of alternative water sources, consideration should be given to the benefits of conservation, waste water recycling, and impoundment of waters.

(3) In determining the cost-effectiveness of alternative water sources, full consideration should be given to the benefits of storage which can reduce the damage to stream banks and property, increase the utilization of land, provide water for municipal, industrial, agricultural, and other beneficial uses, provide for the generation of electric power from renewable resources, and improve stream flow regimes for fishery and other instream uses.

(4) Entities receiving state financial assistance for construction of water source expansion or acquisition of new sources shall develop, and implement if cost-effective, a water use efficiency and conservation element of a water supply plan pursuant to section 12(1) of this act.

(5) State programs to improve water use efficiency should focus on those areas of the state in which water is overappropriated; areas that experience diminished streamflows or aquifer levels; and areas where projected water needs, including those for instream flows, exceed available supplies.

(6) Existing and future generations of citizens of the state of Washington should be made aware of the importance of the state's water resources and the need for wise and efficient use and development of this vital resource. In order to increase this awareness, state agencies should integrate public education on increasing water use efficiency into existing public information efforts. This effort shall be coordinated with other levels of government, including local governments and Indian tribes.

Sec. 6. Section 37, chapter 117, Laws of 1917 as amended by section 92, chapter 109, Laws of 1987 and RCW 90.03.360 are each amended to read as follows:

The owner or owners of any ditch or canal shall maintain, to the satisfaction of the department of ecology, substantial controlling works, and a measuring device at the point where the water is diverted, and these shall be so constructed and maintained as to permit ((of)) accurate measurement and practical regulation of the flow of water diverted into said ditch or canal. Every owner or manager of a reservoir for the storage of water shall construct and maintain, when required by the department, any measuring device necessary to ascertain the natural flow into and out of said reservoir.

Metering of diversions or measurement by other approved methods may be required as a condition for all new water right permits. The department may also require, as a condition for such permits, reports regarding such metered diversions as to the amount of water being diverted. Such reports shall be in a form prescribed by the department.

NEW SECTION. Sec. 7. A new section is added to chapter 90.44 RCW to read as follows:

The department of ecology may require withdrawals of ground water to be metered, or measured by other approved methods, as a condition for a new water right permit. The department may also require, as a condition for such permits, reports regarding such withdrawals as to the amount of water being withdrawn. These reports shall be in a form prescribed by the department.

NEW SECTION. Sec. 8. A new section is added to chapter 19.27 RCW to read as follows:

(1) The state building code council shall adopt rules under chapter 34-.05 RCW that implement and incorporate the water conservation performance standards in subsections (3) and (4) of this section. These standards shall apply to all new construction and all remodeling involving replacement of plumbing fixtures in all residential, hotel, motel, school, industrial, commercial use, or other occupancies determined by the council to use significant quantities of water.

(2) The legislature recognizes that a phasing-in approach to these new standards is appropriate. Therefore, standards in subsection (3) of this section shall take effect on July 1, 1990. The standards in subsection (4) of this section shall take effect July 1, 1993.

(3) Standards for water use efficiency effective July 1, 1990.

(a) Standards for waterclosets. The guideline for maximum water use allowed in gallons per flush (gpf) for any of the following waterclosets is the following:

- Tank-type toilets . . . . . 3.5 gpf.
- Flushometer-valve toilets . . . . . 3.5 gpf.
- Flushometer-tank toilets . . . . . 3.5 gpf.
- Electromechanical hydraulic toilets . . . . . 3.5 gpf.

(b) Standard for urinals. The guideline for maximum water use allowed for any urinal is 3.0 gallons per flush.

(c) Standard for showerheads. The guideline for maximum water use allowed for any showerhead is 3.0 gallons per minute.

(d) Standard for faucets. The guideline for maximum water use allowed in gallons per minute (gpm) for any of the following faucets and replacement aerators is the following:

- Bathroom faucets . . . . . 3.0 gpm.
- Lavatory faucets . . . . . 3.0 gpm.
- Kitchen faucets . . . . . 3.0 gpm.
- Replacement aerators . . . . . 3.0 gpm.

(e) Except where designed and installed for use by the physically handicapped, lavatory faucets located in restrooms intended for use by the general public must be equipped with a metering valve designed to close by spring or water pressure when left unattended (self-closing).

(f) No urinal or water closet that operates on a continuous flow or continuous flush basis shall be permitted.

(4) Standards for water use efficiency effective July 1, 1993.

(a) Standards for waterclosets. The guideline for maximum water use allowed in gallons per flush (gpf) for any of the following waterclosets is the following:

- Tank-type toilets . . . . . 1.6 gpf.
- Flushometer-tank toilets . . . . . 1.6 gpf.
- Electromechanical hydraulic toilets . . . . . 1.6 gpf.

(b) Standards for urinals. The guideline for maximum water use allowed for any urinal is 1.0 gallons per flush.

(c) Standards for showerheads. The guideline for maximum water use allowed for any showerhead is 2.5 gallons per minute.

(d) Standards for faucets. The guideline for maximum water use allowed in gallons per minute for any of the following faucets and replacement aerators is the following:

- Bathroom faucets . . . . . 2.5 gpm.
- Lavatory faucets . . . . . 2.5 gpm.
- Kitchen faucets . . . . . 2.5 gpm.
- Replacement aerators . . . . . 2.5 gpm.

(e) Except where designed and installed for use by the physically handicapped, lavatory faucets located in restrooms intended for use by the general public must be equipped with a metering valve designed to close by water pressure when unattended (self-closing).

(f) No urinal or watercloset that operates on a continuous flow or continuous basis shall be permitted.

(5) The building code council shall make an assessment regarding the low-volume fixtures required under subsection (4) of this section. The assessment shall consider the availability of low-volume fixtures which are technologically feasible, will operate effectively, and are economically justified. The council shall also assess the potential impact on the necessary flow or water required to insure sewerage or septic lines and treatment plants will effectively operate.

The council shall submit a report to the chief clerk of the house of representatives and the secretary of the senate by October 30, 1992, setting forth its conclusions, and any recommendations for legislative action.

(6) The water conservation performance standards shall supersede all local government codes. After July 1, 1990, cities, towns, and counties shall not amend the code revisions and standards established under subsection (3) or (4) of this section.

Sec. 9. Section 5, chapter 360, Laws of 1985 and RCW 19.27.031 are each amended to read as follows:

Except as otherwise provided in this chapter, there shall be in effect in all counties and cities the state building code which shall consist of the following codes which are hereby adopted by reference:

- (1) Uniform Building Code and Uniform Building Code Standards, 1982 edition, published by the International Conference of Building Officials;
- (2) Uniform Mechanical Code, 1982 edition, including Chapter 22, Fuel Gas Piping, Appendix B, published by the International Conference of Building Officials;
- (3) The Uniform Fire Code and Uniform Fire Code Standards, 1982 edition, published by the International Conference of Building Officials and

the Western Fire Chiefs Association: PROVIDED, That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying hand-held candles;

(4) Except as provided in section 8 of this act, the Uniform Plumbing Code and Uniform Plumbing Code Standards, 1982 edition, published by the International Association of Plumbing and Mechanical Officials: PROVIDED, That chapters 11 and 12 of such code are not adopted; and

(5) The rules and regulations adopted by the council establishing standards for making buildings and facilities accessible to and usable by the physically handicapped or elderly persons as provided in RCW 70.92.100 through 70.92.160.

In case of conflict among the codes enumerated in subsections (1), (2), (3), and (4) of this section, the first named code shall govern over those following.

The council may issue opinions relating to the codes at the request of a local building official.

NEW SECTION. Sec. 10. A new section is added to chapter 90.48 RCW to read as follows:

The department of ecology shall require sewer plans to include a discussion of water conservation measures considered or underway and their anticipated impact on public sewer service.

NEW SECTION. Sec. 11. A new section is added to chapter 90.54 RCW to read as follows:

(1) The department of ecology may establish a task force to assist in a state-wide evaluation of irrigated areas, not to exceed six months in duration, to determine the associated impacts of efficiency measures, efficiency opportunities, and local interest. The department and the task force shall establish a list of basin and stream efficiency initiatives and select an irrigation area for a voluntary demonstration project.

(2) Prior to conducting conservation assessments and developing conservation plans, the department of ecology shall secure technical and financial assistance from the bureau of reclamation to reduce the costs to the state to the extent possible.

(3) A "conservation assessment" as described in this section shall be conducted before a demonstration project to increase the efficiency of irrigated agriculture is undertaken for an irrigated area, a basin, subbasin, or stream. The conservation assessment should:

(a) Evaluate existing patterns, including current reuse of return flows, and priorities of water use;

(b) Assess conflicting needs for future water allocations and claims to reserved rights;

(c) Evaluate hydrologic characteristics of surface and ground water including return flow characteristics;

(d) Assess alternative efficiency measures;

(e) Determine the likely net water savings of efficiency improvements including the amount and timing of water that would be saved and potential benefits and impacts to other water uses and resources including effects on artificial recharge of ground water and wetland impacts;

(f) Evaluate the full range of costs and benefits that would accrue from various measures; and

(g) Evaluate the potential for integrating conservation efforts with operation of existing or potential storage facilities.

(4) The conservation assessment shall be used as the basis for development of a demonstration conservation plan to rank conservation elements based on relative costs, benefits, and impacts. It shall also estimate the costs of implementing the plan and propose a specific basis for cost share distributions.

The demonstration conservation plan shall be developed jointly by the department and a conservation plan formulation committee consisting of representatives of a cross-section of affected local water users, members of the public, and tribal governments. Other public agencies with expertise in water resource management may participate as nonvoting committee members. A proposed demonstration conservation plan may be approved by the department and the committee only after public comment has been received.

(5) The department shall reimburse any members of the task force in subsection (2) of this section or of the committee in subsection (4) of this section who are not representing governmental agencies or entities for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**NEW SECTION.** Sec. 12. A new section is added to chapter 43.20 RCW to read as follows:

Consistent with the water resource planning process of the department of ecology, the department of social and health services shall, contingent on the availability of funds:

(1) Develop procedures and guidelines relating to water use efficiency, as defined in section 4(3) of this act, to be included in the development and approval of cost-efficient water system plans required under RCW 43.20.050;

(2) Develop criteria, with input from technical experts, with the objective of encouraging the cost-effective reuse of greywater and other water recycling practices, consistent with protection of public health and water quality; and

(3) Provide advice and technical assistance upon request in the development of water use efficiency plans and model rate-setting formulas.

**NEW SECTION.** Sec. 13. 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 18, 1989.

Passed the Senate April 6, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to section 4, Substitute House Bill No. 1397 entitled:

"AN ACT Relating to water use efficiency and conservation."

The definition of "water use efficiency" contained in section 4 uses the concepts and terminology utilized in the energy conservation arena. I agree that the work done with respect to energy conservation should be the model for use in water conservation. However, the definition contained in this bill does not match the concept utilized by the Northwest Power Planning Council.

The federal legislation which introduced the successful implementation of this concept is the Northwest Power Act. That act makes explicit and repeated provision for consideration of environmental values. For example, the Northwest Power Act provides that costs include "such quantifiable environmental costs and benefits as the Administrator determines.....are directly attributable to such measure or resource." The federal legislation further provides for methods to determine quantifiable environmental costs and benefits.

To assure conformity with existing state laws, such as the State Environmental Policy Act, the Department of Ecology must interpret "water use efficiency" to require explicit consideration of environmental and other public costs of efficiency measures and of alternative sources of water supply.

In the absence of a statutory definition, the Department of Ecology shall interpret the term "water use efficiency" in a manner which is consistent with existing state law and based on the least cost approach used by the Northwest Power Planning Council.

With the exception of section 4, Substitute House Bill No. 1397 is approved."

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## CHAPTER 349

[Substitute House Bill No. 1369]

### WATERFRONT SEWER SYSTEMS—REPAIR—STANDARDS

AN ACT Relating to the repair of waterfront sewer systems; adding new sections to chapter 70.118 RCW; creating a new section; and providing an effective date.

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

**\*NEW SECTION. Sec. 1.** *A new section is added to chapter 70.118 RCW to read as follows:*

*The legislature finds that:*

- (1) *Many saltwater-front lots were developed without adequate means of sewage disposal;*
- (2) *Installation of community sewers is not practical in many of these areas;*

*(3) Many of these homes are being expanded, remodeled, or rebuilt in violation of the building code; and*

*(4) These sewer systems are polluting the waters of the state.*

*The legislature further finds that modern technology has developed effective ways to treat the sewage from these residences in order to protect against significant health hazards and water quality degradation.*

*It is the intent of the legislature to allow the owners of single-family saltwater-front residences to replace inadequate on-site sewage treatment facilities with modern effective systems. It is also the intent of the legislature to provide incentives for these homeowners to upgrade their sewage disposal systems by allowing these homes to be remodeled, rebuilt, or expanded.*

\*Sec. 1 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 2. A new section is added to chapter 70.118 RCW to read as follows:

The owners of single-family residences that were legally occupied prior to June 9, 1988, and that are on property adjacent to marine waters or discharge untreated sewage directly into marine waters, who repair or replace an existing on-site sewage disposal system so that the system achieves a thirty-day average effluent quality of: (1) Less than 10 mg/l BOD5, and (2) less than 10 mg/l total suspended solids, and (3) less than 200 MPN/100 ml fecal coliform bacteria may remodel, expand, or replace the single-family residence. This standard must be met prior to discharge of the effluent below the surface of the ground. Residences expanded under this section shall use low-flow plumbing fixtures. Not later than January 1, 1990, the state board of health shall adopt such minimum nutrient loading standards for systems allowed under this section as the board finds necessary to ensure protection of the public health, attainment of state water quality standards, and the protection of shellfish and other public resources.

If the department of social and health services finds that more restrictive standards are necessary to ensure protection of the public health, attainment of state water quality standards, and the protection of shellfish and other public resources, the department may propose rules for adoption by the state board of health identifying the standards necessary for implementing its finding. The department may also identify the geographic areas where it is necessary to implement the more restrictive standards. In addition, the department may propose standards for the design, construction, maintenance, and monitoring of sewage disposal systems.

NEW SECTION. Sec. 3. A new section is added to chapter 70.118 RCW to read as follows:

If the legislative authority of a county or city finds that more restrictive standards than those contained in section 2 of this act or those adopted by the state board of health for systems allowed under section 2 of this act or limitations on expansion of a residence are necessary to ensure protection of the public health, attainment of state water quality standards, and the



protection of shellfish and other public resources, the legislative authority may adopt ordinances or resolutions setting standards as they may find necessary for implementing their findings. The legislative authority may identify the geographic areas where it is necessary to implement the more restrictive standards. In addition, the legislative authority may adopt standards for the design, construction, maintenance, and monitoring of sewage disposal systems.

**NEW SECTION.** Sec. 4. (1) Except as provided in subsection (2) of this section, this act shall take effect November 1, 1989.

(2) Section 2 of this act shall not take effect if the state board of health adopts standards for the replacement and repair of existing on-site sewage disposal systems located on property adjacent to marine waters by October 31, 1989.

**\*NEW SECTION.** Sec. 5. *The house of representatives committee on environmental affairs and the senate committee on environment and natural resources shall investigate on-site sewage regulation and practices in the state including, but not limited to, ways to ensure long-term maintenance and operation of these systems and report to their respective houses at the 1990 session of the Washington state legislature.*

\*Sec. 5 was vetoed, see message at end of chapter.

Passed the House April 18, 1989.

Passed the Senate April 4, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to sections 1 and 5, Engrossed Substitute House Bill No. 1369 entitled:

"AN ACT Relating to the repair of waterfront sewer systems."

Section 1 states the intent of the Legislature that owners of single-family salt waterfront residences be allowed to expand, remodel, or rebuild their homes by upgrading their sewage disposal systems or replacing them with modern effective systems. Existing on-site systems for homes on salt waterfront properties pose significant water quality problems for both ground water and for Puget Sound. This problem will only become aggravated as more individuals and families seek to expand, repair, or rebuild their homes, thereby placing additional pressures on these inadequate on-site systems. There is clearly a question as to whether modern systems are or can be effective given the sensitive water quality issues at stake. This is a question that needs detailed examination by local county health officials, the Department of Social and Health Services, the Department of Ecology and the State Board of Health.

Section 5 directs the appropriate committees of the House and Senate to investigate on-site systems and to report to their respective houses at the 1991 Legislature. House and Senate committees do not need statutory authority to report to their respective chambers.

Under this bill, the Legislature sets effluent standards to be met by new on-site disposal systems. These standards will take effect November 1, 1989, unless the State Board of Health adopts regulations, which may be more restrictive than stipulated in

the bill, by that date. The bill also provides local government with authority to adopt more restrictive regulations for on-site disposal systems.

With the exception of sections 1 and 5, Engrossed Substitute House Bill No. 1369 is approved."

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## CHAPTER 350

### [Second Substitute Senate Bill No. 5375] DNA IDENTIFICATION PROGRAM

AN ACT Relating to DNA identification; adding new sections to chapter 43.43 RCW; creating a new section; and making an appropriation.

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

**NEW SECTION.** Sec. 1. The legislature finds that recent developments in molecular biology and genetics have important applications for forensic science. It has been scientifically established that there is a unique pattern to the chemical structure of the deoxyribonucleic acid (DNA) contained in each cell of the human body. The process for identifying this pattern is called "DNA identification."

The legislature further finds that the accuracy of identification provided by this method is superior to that of any presently existing technique and recognizes the importance of this scientific breakthrough in providing a reliable and accurate tool for the investigation and prosecution of sex offenses as defined in RCW 9.94A.030(26) and violent offenses as defined in RCW 9.94A.030(29).

**NEW SECTION.** Sec. 2. (1) To support criminal justice services in the local communities throughout this state, the state patrol in consultation with the University of Washington school of medicine shall develop a plan for and establish a DNA identification system. In implementing the plan, the state patrol shall purchase the appropriate equipment and supplies. The state patrol shall procure the most efficient equipment available.

(2) The DNA identification system as established shall be compatible with that utilized by the federal bureau of investigation.

(3) The state patrol and the University of Washington school of medicine shall report on the DNA identification system to the legislature no later than November 1, 1989. The report shall include a time line for implementing each stage, a local agency financial participation analysis, a system analysis, a full cost/purchase analysis, a vendor bid evaluation, and a space location analysis that includes a site determination. The state patrol shall coordinate the preparation of this report with the office of financial management.

**\*NEW SECTION.** Sec. 3. (1) *An oversight committee shall recommend to the legislature by November 1, 1989, specific rules and procedures for the collection, analysis, storage, expungement, and use of DNA identification*

*data. The rules and procedures shall be designed to protect the privacy interests of affected parties. The chief of the Washington state patrol or the chief's designee shall chair the committee which shall consist of forensic evidence, biomedical ethics, and civil liberties experts and eight legislators. The speaker of the house of representatives shall appoint four legislators from the judiciary committee and the president of the senate shall appoint four senators from the law and justice committee. The proposed rules and procedures shall be included in the November 1, 1989, report to the legislature.*

*(2) The Washington state patrol in cooperation with the University of Washington school of medicine shall also develop a program for the proper administration and collection of blood samples. This program shall include requirements that the blood samples be taken under sanitary conditions in a medically approved manner by a physician, registered nurse, or licensed phlebotomist.*

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

NEW SECTION. Sec. 4. After July 1, 1990, every individual convicted in a Washington superior court of a felony defined as a sex offense under RCW 9.94A.030(26)(a) or a violent offense as defined in RCW 9.94A.030(29) shall have a blood sample drawn for purposes of DNA identification analysis before release from or transfer to a state correctional institution or county jail or detention facility. Any blood sample taken pursuant to sections 2 through 6 of this act shall be used solely for the purpose of providing DNA or other blood grouping tests for identification analysis and prosecution of a sex offense or a violent offense.

NEW SECTION. Sec. 5. The state patrol in consultation with the University of Washington school of medicine may:

(1) Provide DNA analysis services to law enforcement agencies throughout the state after July 1, 1990;

(2) Provide assistance to law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court; and

(3) Provide expert testimony in court on DNA evidentiary issues.

NEW SECTION. Sec. 6. (1) Except as provided in subsection (3) of this section, no local law enforcement agency may establish or operate a DNA identification system before July 1, 1990, and unless:

(a) The equipment of the local system is compatible with that of the state system under section 2 of this act;

(b) The local system is equipped to receive and answer inquiries from the Washington state patrol DNA identification system and transmit data to the Washington state patrol DNA identification system; and

(c) The procedure and rules for the collection, analysis, storage, expungement, and use of DNA identification data do not conflict with procedures and rules applicable to the state patrol DNA identification system.

(2) The Washington state patrol shall adopt rules to implement this section.

(3) Nothing in subsections (1) and (2) of this section shall prohibit a local law enforcement agency from performing DNA identification analysis in individual cases to assist law enforcement officials and prosecutors in the preparation and use of DNA evidence for presentation in court.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act are each added to chapter 43.43 RCW.

NEW SECTION. Sec. 8. Any moneys received by the state from the federal bureau of justice assistance shall be used to conserve state funds if not inconsistent with the terms of the grant. To the extent that federal funds are available for the purposes of this act, state funds appropriated in this section shall lapse and revert to the general fund.

NEW SECTION. Sec. 9. The sum of six hundred ten thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the state patrol for the purposes of this act.

Passed the Senate April 22, 1989.

Passed the House April 21, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to section 3, Second Substitute Senate Bill No. 5375 entitled:

"AN ACT Relating to DNA identification."

Subsection 1 of section 3 creates an oversight committee to recommend specific rules and procedures for the collection, analysis, storage, expungement, and use of DNA identification data. The committee of twelve persons would be comprised of the Chief of the Washington State Patrol, three experts (forensic evidence, biomedical ethics, and civil liberties) and eight legislators appointed by the Legislature. I strongly support the purpose of this committee; however, the makeup of the committee is unbalanced.

I will appoint a committee to perform the functions set forth in section 3, including the report to the Legislature due November 1, 1989. Membership of the committee will include a more balanced group, from the fields of forensic evidence, biomedical ethics, civil liberties, medicine, the criminal justice system, and the Legislature.

Subsection 2 of section 3 requires the Washington State Patrol, in cooperation with the University of Washington School of Medicine, to develop a program for the proper administration and collection of blood samples. Although I am forced to veto this entire section, I will ask the Washington State Patrol to include this program within their plan for establishing a DNA identification system, as required by section 2.

I should bring to your attention that with the exception of section 6, the Washington State Patrol does not have specific authority to adopt rules for the DNA Identification System. I suggest the Legislature pass legislation giving the

Washington State Patrol rule-making authority before the bill takes effect on July 1, 1990.

With the exception of section 3, Second Substitute Senate Bill No. 5375 is approved.\*

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## CHAPTER 351

[Substitute House Bill No. 1251]

### ANNEXATIONS FOR MUNICIPAL PURPOSES

AN ACT Relating to annexation for municipal purposes; amending RCW 35.13.020, 35.13.060, 35.13.125, 35A.14.020, 35A.14.050, 35A.14.120, and 35.13.165; adding a new section to chapter 35.13 RCW; adding a new section to chapter 35A.14 RCW; and repealing RCW 35.13.025.

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

**\*Sec. 1. Section 35.13.020, chapter 7, Laws of 1965 as last amended by section 3, chapter 332, Laws of 1981 and RCW 35.13.020 are each amended to read as follows:**

**A petition for an election to vote upon the annexation of a portion of a county or counties to a contiguous city or town signed by qualified voters resident in the area equal in number to twenty percent of the votes cast at the last general state election ((may)) shall be filed ((in the office of the board of county commissioners: PROVIDED, That any such petition shall first be submitted to the prosecuting attorney who shall, within twenty-one days after submission, certify or refuse to certify the petition as set forth in RCW 35.13.025)) with the auditor of the county in which all, or the greatest portion, of the territory is located and a copy shall be filed with the legislative body of the city or town. If the territory is located in more than a single county, the auditor of the county with whom the petition is filed shall act as the lead auditor and transmit a copy of the petition to the auditor of each other county within which a portion of the territory is located. The auditor or auditors shall examine the petition, and the auditor or lead auditor shall certify the sufficiency of the petition to the legislative authority of the city or town.**

**If the ((prosecuting attorney)) auditor or lead auditor certifies the petition((, it shall be filed with the legislative body of the city or town to which the annexation is proposed, and such)) as containing sufficient valid signatures the legislative body shall, by resolution entered within sixty days from the date of presentation, notify the petitioners, either by mail or by publication in the same manner notice of hearing is required by RCW 35.13.040 to be published, of its approval or rejection of the proposed action. The petition may also provide for the simultaneous creation of a community municipal corporation and election of community council members as provided for in RCW 35.14.010 through 35.14.060. In approving the proposed action, the legislative body may require that there also be submitted to the electorate of the territory to be annexed, a proposition that all property within the area to**

*be annexed shall, upon annexation be assessed and taxed at the same rate and on the same basis as the property of such annexing city or town is assessed and taxed to pay for all or any portion of the then outstanding indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation. Only after the legislative body has completed preparation and filing of a comprehensive plan for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, the legislative body in approving the proposed action, may require that the comprehensive plan be simultaneously adopted upon approval of annexation by the electorate of the area to be annexed. The approval of the legislative body shall be a condition precedent to ~~((the filing of such petition with the board of county commissioners as hereinafter provided))~~ further proceedings upon the petition. The costs of conducting such election shall be a charge against the city or town concerned. The proposition or questions provided for in this section may be submitted to the voters either separately or as a single proposition.*

\*Sec. 1 was vetoed, see message at end of chapter.

Sec. 2. Section 35.13.060, chapter 7, Laws of 1965 as amended by section 6, chapter 164, Laws of 1973 1st ex. sess. and RCW 35.13.060 are each amended to read as follows:

Upon granting the petition under the twenty percent annexation petition under the election method, and after the auditor has certified the petition as being sufficient, the ~~((board of county commissioners shall fix a date for the annexation election, which must be not less than thirty nor more than sixty days thereafter))~~ legislative body of the city or town shall indicate to the county auditor its preference for the date of the election on the annexation to be held, which shall be one of the dates for special elections provided under RCW 29.13.020 that is sixty or more days after the date the preference is indicated. The county auditor shall call the special election at the special election date indicated by the city or town.

Sec. 3. Section 35.13.125, chapter 7, Laws of 1965 as amended by section 11, chapter 164, Laws of 1973 1st ex. sess. and RCW 35.13.125 are each amended to read as follows:

Proceedings for the annexation of territory pursuant to RCW 35.13.130, 35.13.140, 35.13.150, 35.13.160 and 35.13.170 shall be commenced as provided in this section. Prior to the circulation of a petition for annexation, the initiating party or parties who, except as provided in RCW 28A.58.044, shall be either not less than ten percent of the residents of the area to be annexed or the owners of not less than ten percent in value, according to the assessed valuation for general taxation of the property for which annexation is petitioned, shall notify the legislative body of the city or town in writing of their intention to commence annexation proceedings. The legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the city or town

will accept, reject, or geographically modify the proposed annexation, whether it shall require the simultaneous adoption of the comprehensive plan if such plan has been prepared and filed for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, and whether it shall require the assumption of all or of any portion of existing city or town indebtedness by the area to be annexed. If the legislative body requires the assumption ~~((of))~~ of all or of any portion of indebtedness and/or the adoption of a comprehensive plan, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate this fact. There shall be no appeal from the decision of the legislative body.

Sec. 4. Section 35A.14.020, chapter 119, Laws of 1967 ex. sess. as last amended by section 6, chapter 332, Laws of 1981 and RCW 35A.14.020 are each amended to read as follows:

When a petition ~~((which))~~ is sufficient under the rules set forth in RCW 35A.01.040 ~~((is filed with the prosecuting attorney))~~, calling for an election to vote upon the annexation of unincorporated territory contiguous to a code city, describing the boundaries of the area proposed to be annexed, stating the number of voters therein as nearly as may be, and signed by qualified electors resident in such territory equal in number to ten percent of the votes cast at the last state general election therein, ~~((the prosecuting attorney shall, within twenty-one days after submission, certify or refuse to certify the petition as set forth in RCW 35.13.025. If the prosecuting attorney certifies the petition;))~~ it shall be ~~((transmitted to))~~ filed with the auditor of the county in which all, or the greatest portion, of the territory is located, and a copy of the petition shall be filed with the legislative body of the code city. If the territory is located in more than a single county, the auditor of the county with whom the petition is filed shall act as the lead auditor and transmit a copy of the petition to the auditor of each other county within which a portion of the territory is located. The auditor or auditors shall examine the petition, and the auditor or lead auditor shall certify the sufficiency of the petition to the legislative authority of the code city.

If the signatures on the petition are ~~((determined by the city clerk to be))~~ certified as containing sufficient valid signatures, the city ~~((clerk shall file with the legislative body thereof a certificate of sufficiency of the petition;))~~ legislative authority shall, by resolution entered within sixty days thereafter, ((the legislative body shall, by resolution;)) notify the petitioners, either by mail or by publication in the same manner notice of hearing is required by RCW 35A.14.040 to be published, of its approval or rejection of the proposed action. In approving the proposed action, the legislative body may require that there also be submitted to the electorate of the territory to be annexed, a proposition that all property within the area to be annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to

pay for all or any portion of the then-outstanding indebtedness of the city to which said area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred prior to, or existing at, the date of annexation. Only after the legislative body has completed preparation and filing of a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the legislative body in approving the proposed action, may require that the proposed zoning regulation be simultaneously adopted upon the approval of annexation by the electorate of the area to be annexed. The approval of the legislative body shall be a condition precedent to further proceedings upon the petition. The costs of conducting the election called for in the petition shall be a charge against the city concerned. The proposition or questions provided for in this section may be submitted to the voter either separately or as a single proposition.

Sec. 5. Section 35A.14.050, chapter 119, Laws of 1967 ex. sess. as last amended by section 30, chapter 234, Laws of 1986 and RCW 35A.14.050 are each amended to read as follows:

After consideration of the proposed annexation as provided in RCW 35A.14.200, the county annexation review board, within thirty days after the final day of hearing, shall take one of the following actions:

- (1) Approval of the proposal as submitted.
- (2) Subject to RCW 35.02.170, modification of the proposal by adjusting boundaries to include or exclude territory; except that any such inclusion of territory shall not increase the total area of territory proposed for annexation by an amount exceeding the original proposal by more than five percent: PROVIDED, That the county annexation review board shall not adjust boundaries to include territory not included in the original proposal without first affording to residents and property owners of the area affected by such adjustment of boundaries an opportunity to be heard as to the proposal.

- (3) Disapproval of the proposal.

The written decision of the county annexation review board shall be filed with the board of county commissioners and with the legislative body of the city concerned. If the annexation proposal is modified by the county annexation review board, such modification shall be fully set forth in the written decision. If the decision of the boundary review board or the county annexation review board is favorable to the annexation proposal, or the proposal as modified by the review board, the ~~((board of county commissioners;))~~ legislative body of the city at its next regular meeting if to be held within thirty days after receipt of the decision of the boundary review board or the county annexation review board, or at a special meeting to be held within that period, shall ~~((set a))~~ indicate to the county auditor its preference for a special election date for submission of such annexation proposal, with any modifications made by the review board, to the voters of the territory proposed to be annexed. ~~((The question shall be submitted at a general~~



~~election if one is to be held within ninety days, or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the decision of the review board with the board of county commissioners:))~~ The special election date that is so indicated shall be one of the dates for special elections provided under RCW 29.13.020 that is sixty or more days after the date the preference is indicated. The county legislative authority shall call the special election at the special election date so indicated by the city. If the boundary review board or the county annexation review board disapproves the annexation proposal, no further action shall be taken thereon, and no proposal for annexation of the same territory, or substantially the same as determined by the board, shall be initiated or considered for twelve months thereafter.

Sec. 6. Section 35A.14.120, chapter 119, Laws of 1967 ex. sess. as amended by section 8, chapter 124, Laws of 1979 ex. sess. and RCW 35A.14.120 are each amended to read as follows:

Proceedings for initiating annexation of unincorporated territory to a charter code city or noncharter code city may be commenced by the filing of a petition of property owners of the territory proposed to be annexed, in the following manner. This method of annexation shall be alternative to other methods provided in this chapter. Prior to the circulation of a petition for annexation, the initiating party or parties, who shall be the owners of not less than ten percent in value, according to the assessed valuation for general taxation of the property for which annexation is sought, shall notify the legislative body of the code city in writing of their intention to commence annexation proceedings. The legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the code city will accept, reject, or geographically modify the proposed annexation, whether it shall require the simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, and whether it shall require the assumption of all or of any portion of existing city indebtedness by the area to be annexed. If the legislative body requires the assumption of all or of any portion of indebtedness and/or the adoption of a proposed zoning regulation, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate these facts. Approval by the legislative body shall be a condition precedent to circulation of the petition. There shall be no appeal from the decision of the legislative body. A petition for annexation of an area contiguous to a code city may be filed with the legislative body of the municipality to which annexation is desired. It must be signed by the owners, as defined by RCW 35A.01.040 (9)(a) through (d), of not less than ~~((seventy-five))~~ sixty percent in value, according to the assessed valuation for general taxation of the property for which annexation is petitioned: PROVIDED, That a petition for annexation of an area having at

least eighty percent of the boundaries of such area contiguous with a portion of the boundaries of the code city, not including that portion of the boundary of the area proposed to be annexed that is coterminous with a portion of the boundary between two counties in this state, need be signed by only the owners of not less than fifty percent in value according to the assessed valuation for general taxation of the property for which the annexation is petitioned. Such petition shall set forth a description of the property according to government legal subdivisions or legal plats and shall be accompanied by a map which outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or any portion of city indebtedness by the area annexed or the adoption of a proposed zoning regulation, these facts, together with a quotation of the minute entry of such requirement, or requirements, shall also be set forth in the petition.

Sec. 7. Section 2, chapter 332, Laws of 1981 and RCW 35.13.165 are each amended to read as follows:

At any time before the date is set for an annexation election under RCW 35.13.060 or 35.13.174, all further proceedings to annex shall be terminated upon the filing of verified declarations of termination signed by:

- (1) Owners of real property consisting of at least ~~((seventy-five))~~ sixty percent of the assessed valuation in the area proposed to be annexed; or
- (2) ~~((Seventy-five))~~ Sixty percent of the owners of real property in the area proposed to be annexed.

As used in this subsection, the term "owner" shall include individuals and corporate owners. In determining who is a real property owner for purposes of this section, all owners of a single parcel shall be considered as one owner. No owner may be entitled to sign more than one declaration of termination.

Following the termination of such proceedings, no other petition for annexation affecting any portion of the same property may be considered by any government body for a period of five years from the date of filing.

The provisions of this section shall apply only to cities with a population greater than four hundred thousand.

NEW SECTION. Sec. 8. A new section is added to chapter 35.13 RCW to read as follows:

A city or town can provide factual public information on the effects of a pending annexation proposed for the city or town.

NEW SECTION. Sec. 9. A new section is added to chapter 35A.14 RCW to read as follows:

A code city can provide factual public information on the effects of pending annexation proposed for the code city.

NEW SECTION. Sec. 10. Section 1, chapter 332, Laws of 1981 and RCW 35.13.025 are each repealed.

Passed the House April 23, 1989.

Passed the Senate April 14, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to section 1, Substitute House Bill No. 1251 entitled:

"AN ACT Relating to annexation for municipal purposes."

Substitute House Bill No. 1251 resulted from recommendations of the Local Governance Study Commission. The Commission found that Washington has comparatively restrictive annexation procedures, and that the problems of providing services to citizens in high-density unincorporated areas result in part from those restrictive procedures. The purpose of Substitute House Bill No. 1251 is to improve municipal annexation procedures and facilitate annexation of urbanized land. That is a laudable goal and one that I fully endorse.

A portion of section 1 of the bill, which resulted from an amendment to the original bill, would have the effect of increasing the number of signatures necessary at certain times to initiate an annexation under the petition/election method for a non-code city or town. That is contrary to the overall purpose of the legislation and the recommendations of the Local Governance Study Commission.

With the exception of section 1, Substitute House Bill No. 1251 is approved."

## CHAPTER 352

[House Bill No. 1478]

### BOARD OF PHARMACY—POWERS AND DUTIES

AN ACT Relating to the board of pharmacy; amending RCW 18.64.044, 18.64.245, 18.64.080, 18.64.165, and 69.41.020; reenacting and amending RCW 42.17.310; and adding new sections to chapter 69.41 RCW.

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

Sec. 1. Section 17, chapter 90, Laws of 1979 as last amended by section 5, chapter 153, Laws of 1984 and RCW 18.64.044 are each amended to read as follows:

(1) A shopkeeper registered ((or exempt from registration)) as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer. ((Shopkeepers with fifteen or fewer drugs shall be exempt from the registration requirements of this section and shall not be required to pay any fees required by this section, but shall be considered shopkeepers for any other purposes under chapter 18.64 RCW.))

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is hereby required to register as a shopkeeper through the master license system, and he or she shall pay the

fee determined by the board for registration, and on a date to be determined by the board thereafter the fee determined by the board for renewal of the registration; and shall at all times keep said registration or the current renewal thereof conspicuously exposed in the shop to which it applies. In event such shopkeeper's registration is not renewed by the master license expiration date, no renewal or new registration shall be issued except upon payment of the registration renewal fee and the master license delinquency fee under chapter 19.02 RCW. This registration fee shall not authorize the sale of legend drugs or controlled substances.

(3) The registration fees determined by the board under subsection (2) of this section shall not exceed the cost of registering the shopkeeper.

(4) Any shopkeeper who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

Sec. 2. Section 1, chapter 28, Laws of 1939 as amended by section 15, chapter 90, Laws of 1979 and RCW 18.64.245 are each amended to read as follows:

Every proprietor or manager of a pharmacy shall keep readily available a suitable record of prescriptions which shall preserve for a period of not less than ~~((five))~~ two years the record of every prescription dispensed at such pharmacy which shall be numbered, dated, and filed, and shall produce the same in court or before any grand jury whenever lawfully required to do so. The record shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy. All record-keeping requirements for controlled substances must be complied with. Such record of prescriptions shall be for confidential use in the pharmacy, only: PROVIDED, That the record of prescriptions shall be open for inspection by the board of pharmacy or any officer of the law, who is authorized to enforce chapter 18.64, 69.41, or 69.50 RCW.

Sec. 3. Section 1, chapter 9, Laws of 1972 ex. sess. as last amended by section 10, chapter 153, Laws of 1984 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 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, provided however, the board may issue an intern certificate to a person to complete an internship to be eligible for initial licensure or for the reinstatement of a previously licensed pharmacist.

(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 currently 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 periodically, and shall prescribe the form of such license and information required to be submitted by all applicants.

Sec. 4. Section 15, chapter 38, Laws of 1963 as amended by section 14, chapter 90, Laws of 1979 and RCW 18.64.165 are each amended to read as follows:

The board shall have the power to refuse, suspend, or revoke the license of any manufacturer, wholesaler, pharmacy, shopkeeper, itinerant vendor, ((or)) peddler, poison distributor, or precursor chemical distributor upon proof that:

(1) The license was procured through fraud, misrepresentation, or deceit;

(2) The licensee has violated or has permitted any employee to violate any of the laws of this state or the United States relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the board of pharmacy or has been convicted of a felony.

NEW SECTION. Sec. 5. A new section is added to chapter 69.41 RCW to read as follows:

A pharmaceutical manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs shall maintain invoices or such other records as are necessary to account for the receipt and disposition of the legend drugs.

The records maintained pursuant to this section shall be available for inspection by the board and its authorized representatives and shall be maintained for two years.

NEW SECTION. Sec. 6. A new section is added to chapter 69.41 RCW to read as follows:

All records, reports, and information obtained by the board or its authorized representatives from or on behalf of a pharmaceutical manufacturer, representative of a manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs under this chapter are confidential and exempt from public inspection and copying under chapter 42.17 RCW. Nothing in this section restricts the investigations or the proceedings of the board so long as the board and its authorized representatives comply with the provisions of chapter 42.17 RCW.

Sec. 7. Section 2, chapter 107, Laws of 1987, section 1, chapter 337, Laws of 1987, section 16, chapter 370, Laws of 1987, section 1, chapter 404, Laws of 1987, and section 10, chapter 411, Laws of 1987 and RCW 42.17.310 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property: PROVIDED, That if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern: PROVIDED, FURTHER, That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the

sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 53.31 RCW.

(p) Financial disclosures filed by private vocational schools under chapter 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses during application for loans or program services provided by chapters 43.31, 43.63A, and 43.168 RCW.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.



(t) ~~((Except as provided under section 2 of this 1987 act [1987 c 404 § 2];))~~ All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(x) Information obtained by the board of pharmacy and its representatives as provided in section 6 of this act.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Sec. 8. Section 2, chapter 186, Laws of 1973 1st ex. sess. and RCW 69.41.020 are each amended to read as follows:

Legend drugs shall not be sold, delivered, dispensed or administered except in accordance with this chapter.

(1) No person shall obtain or attempt to obtain a legend drug, or procure or attempt to procure the administration of a legend drug:

(a) By fraud, deceit, misrepresentation, or subterfuge; or

(b) By the forgery or alteration of a prescription or of any written order; or

(c) By the concealment of a material fact; or

(d) By the use of a false name or the giving of a false address.

(2) Information communicated to a practitioner in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall willfully make a false statement in any prescription, order, report, or record, required by this chapter.

(4) No person shall, for the purpose of obtaining a legend drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, or any practitioner.

(5) No person shall make or utter any false or forged prescription or other written order for legend drugs.

(6) No person shall affix any false or forged label to a package or receptacle containing legend drugs.

(7) No person shall willfully fail to maintain the records required by section 5 of this act.

Passed the House April 22, 1989.

Passed the Senate April 22, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 353

[Substitute Senate Bill No. 5499]

### MOTOR VEHICLE LIABILITY INSURANCE—REQUIRED COVERAGE

AN ACT Relating to uninsured motorists; amending RCW 46.52.030, 46.61.020, and 46.61.021; reenacting and amending RCW 46.63.020; adding a new chapter to Title 46 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. It is a privilege granted by the state to operate a motor vehicle upon the highways of this state. The legislature recognizes the threat that uninsured drivers are to the people of the state. In order to alleviate the threat posed by uninsured drivers it is the intent of the legislature to require that all persons driving vehicles registered in this state satisfy the financial responsibility requirements of this chapter. By enactment of this chapter it is not the intent of the legislature to modify, amend, or invalidate existing insurance contract terms, conditions, limitations, or exclusions or to preclude insurance companies from using similar terms, conditions, limitations, or exclusions in future contracts.

NEW SECTION. Sec. 2. (1) No person may operate a motor vehicle subject to registration under chapter 46.16 RCW in this state unless the person is insured under a motor vehicle liability policy with liability limits

of at least the amounts provided in RCW 46.29.090, is self-insured as provided in RCW 46.29.630, is covered by a certificate of deposit in conformance with RCW 46.29.550, or is covered by a liability bond of at least the amounts provided in RCW 46.29.090.

(2) A violation of this section constitutes a traffic infraction punishable by a fine of two hundred and fifty dollars unless a court determines that in the interest of justice the fine should be reduced. In lieu of the fine, a court may permit the defendant to perform community service designated by the court.

(3) If a person cited for a violation of this section appears in person before the court and provides written evidence that at the time the person was cited, he or she was in compliance with this section, the citation shall be dismissed. In lieu of personal appearance, a person cited for a violation of this section may, before the date scheduled for the person's appearance before the court, submit by mail to the court written evidence that at the time the person was cited, he or she was in compliance with this section, in which case the citation shall be dismissed.

(4) The provisions of this chapter shall not govern:

(a) The operation of a motor vehicle registered under RCW 46.16.310 or 46.16.315, governed by RCW 46.16.020, registered with the Washington utilities and transportation commission as common or contract carriers; or

(b) The operation of a motorcycle as defined in RCW 46.04.330, a motor-driven cycle as defined in RCW 46.04.332, or a moped as defined in RCW 46.04.304.

(5) RCW 46.29.490 shall not be deemed to govern all motor vehicle liability policies required by this chapter but only those certified for the purposes stated in chapter 46.29 RCW.

**NEW SECTION.** Sec. 3. (1) Whenever an insurance company issues or renews a motor vehicle liability insurance policy, the company shall provide the policyholder with an identification card as specified by the department of licensing. At the policyholder's request, the insurer shall provide the policyholder a card for each vehicle covered under the policy.

(2) The department of licensing shall adopt rules specifying the type, style, and content of insurance identification cards to be used for proof of compliance with section 2 of this act, including the method for issuance of such identification cards by persons or organizations providing proof of compliance through self-insurance, certificate of deposit, or bond. In adopting such rules the department shall consider the guidelines for insurance identification cards developed by the insurance industry committee on motor vehicle administration.

**NEW SECTION.** Sec. 4. (1) Whenever a person operates a motor vehicle subject to registration under chapter 46.16 RCW, the person shall have in his or her possession an identification card of the type specified in

section 3 of this act and shall display the card upon demand to a law enforcement officer.

(2) Every person who drives a motor vehicle required to be registered in another state that requires drivers and owners of vehicles in that state to maintain insurance or financial responsibility shall, when requested by a law enforcement officer, provide evidence of financial responsibility or insurance as is required by the laws of the state in which the vehicle is registered.

(3) Any person who knowingly provides false evidence of financial responsibility to a law enforcement officer or to a court, including an expired or canceled insurance policy, bond, or certificate of deposit is guilty of a misdemeanor.

Sec. 5. Section 2, chapter 11, Laws of 1979 as last amended by section 2, chapter 463, Laws of 1987 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 equal to or greater than the minimum amount established by rule adopted by the chief of the Washington state patrol in accordance with subsection (5) of this section, shall, within twenty-four hours after such accident, make a written report of such accident to the chief of police of the city or town if such accident occurred within an incorporated city or town or the county sheriff or state patrol if such accident occurred outside incorporated cities and towns. Nothing in this subsection prohibits accident reports from being filed by drivers where damage to property is less than the minimum amount.

(2) 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) Any law enforcement officer who investigates an accident for which a driver's report is required under subsection (1) of this section shall submit an investigator's report as required by RCW 46.52.070.

(4) The chief of the Washington state patrol may require any driver of any vehicle involved in an accident, of which report must be made as provided in this section, to file supplemental reports whenever the original report in his 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, the insurance information required under section 3 of this act, personal injury or death, if any, the amounts of property damage claimed, the total number of vehicles involved, whether the vehicles were legally parked, legally standing, or moving, and whether such vehicles were occupied at the time of the accident. Every required accident report shall be made on a form prescribed by the chief of the Washington state patrol and each authority charged with the duty of receiving such reports shall provide sufficient report forms in compliance with the form devised. The report forms shall be designated so as to provide that a copy may be retained by the reporting person.

(5) The chief of the Washington state patrol shall adopt rules establishing the accident-reporting threshold for property damage accidents. Beginning October 1, 1987, the accident-reporting threshold for property damage accidents shall be five hundred dollars. The accident-reporting threshold for property damage accidents shall be revised when necessary, but not more frequently than every two years. The revisions shall only be for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the time period since the last revision.

Sec. 6. Section 46.56.190, chapter 12, Laws of 1961 as amended by section 65, chapter 32, Laws of 1967 and RCW 46.61.020 are each amended to read as follows:

It ~~((shall be))~~ is unlawful for any person while operating or in charge of any vehicle to refuse when requested by a police officer to give his name and address and the name and address of the owner of such vehicle, or for such person to give a false name and address, and it ~~((shall))~~ is likewise ~~((be))~~ unlawful for any such person to refuse or neglect to stop when signaled to stop by any police officer or to refuse upon demand of such police officer to produce his certificate of license registration of such vehicle, his insurance identification card, or his vehicle driver's license or to refuse to permit such officer to take any such license, card, or certificate for the purpose of examination thereof or to refuse to permit the examination of any equipment of such vehicle or the weighing of such vehicle or to refuse or neglect to produce the certificate of license registration of such vehicle, insurance card, or his vehicle driver's license when requested by any court. Any police officer shall on request produce evidence of his authorization as such.

Sec. 7. Section 4, chapter 136, Laws of 1979 ex. sess. and RCW 46.61.021 are each amended to read as follows:

(1) Any person requested or signaled to stop by a law enforcement officer for a traffic infraction has a duty to stop.

(2) Whenever any person is stopped for a traffic infraction, the officer may detain that person for a reasonable period of time necessary to identify the person, check the status of the person's license, insurance identification card, and the vehicle's registration, and complete and issue a notice of traffic infraction.

(3) Any person requested to identify himself to a law enforcement officer pursuant to an investigation of a traffic infraction has a duty to identify himself, give his current address, and sign an acknowledgement of receipt of the notice of infraction.

Sec. 8. Section 3, chapter 186, Laws of 1986 as amended by section 2, chapter 181, Laws of 1987, by section 55, chapter 244, Laws of 1987, by section 6, chapter 247, Laws of 1987 and by section 11, chapter 388, Laws of 1987 and RCW 46.63.020 are each reenacted and amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration;

(6) RCW 46.16.010 relating to initial registration of motor vehicles;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

~~((8) RCW 46.16.011 relating to permitting unauthorized persons to drive;))~~

(9) RCW 46.16.381(8) relating to unauthorized acquisition of a special decal, license plate, or card for disabled persons' parking;

(10) RCW 46.20.021 relating to driving without a valid driver's license;

(11) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

(12) RCW 46.20.342 relating to driving with a suspended or revoked license;

(13) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

(14) RCW 46.20.416 relating to driving while in a suspended or revoked status;

(15) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;

(16) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;

(17) Chapter 46.29 RCW relating to financial responsibility;

(18) Section 4 of this act relating to providing false evidence of financial responsibility;

(19) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

~~((19))~~ (20) RCW 46.48.175 relating to the transportation of dangerous articles;

~~((20))~~ (21) RCW 46.52.010 relating to duty on striking an unattended car or other property;

~~((21))~~ (22) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

~~((22))~~ (23) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

~~((23))~~ (24) RCW 46.52.100 relating to driving under the influence of liquor or drugs;

~~((24))~~ (25) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

~~((25))~~ (26) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

~~((26))~~ (27) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;

~~((27))~~ (28) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

~~((28))~~ (29) RCW 46.61.022 relating to failure to stop and give identification to an officer;

~~((29))~~ (30) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

~~((30))~~ (31) RCW 46.61.500 relating to reckless driving;

~~((31))~~ (32) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((32))~~ (33) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

~~((33))~~ (34) RCW 46.61.522 relating to vehicular assault;

- ~~((34))~~ (35) RCW 46.61.525 relating to negligent driving;
- ~~((35))~~ (36) RCW 46.61.530 relating to racing of vehicles on highways;
- ~~((36))~~ (37) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- ~~((37))~~ (38) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- ~~((38))~~ (39) RCW 46.64.020 relating to nonappearance after a written promise;
- ~~((39))~~ (40) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
- ~~((40))~~ (41) Chapter 46.65 RCW relating to habitual traffic offenders;
- ~~((41))~~ (42) 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;
- ~~((42))~~ (43) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;
- ~~((43))~~ (44) Chapter 46.80 RCW relating to motor vehicle wreckers;
- ~~((44))~~ (45) Chapter 46.82 RCW relating to driver's training schools;
- ~~((45))~~ (46) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;
- ~~((46))~~ (47) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

NEW SECTION. Sec. 9. The director of licensing shall compile records on uninsured motorists and file a report with the legislature after accumulating data for twelve months after the effective date of this act.

NEW SECTION. Sec. 10. The department of licensing shall notify the public of the requirements of sections 2 through 4 of this act at the time of new vehicle registration and when the department sends a registration renewal notice.

NEW SECTION. Sec. 11. Sections 1 through 4 of this act shall constitute a new chapter in Title 46 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 shall take effect January 1, 1990. The director of the department of licensing may immediately take such



steps as are necessary to ensure that this act is implemented on its effective date.

Passed the Senate April 17, 1989.

Passed the House April 12, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

## CHAPTER 354

[Substitute Senate Bill No. 5686]

### AGRICULTURE STATUTES—REVISIONS

AN ACT Relating to agriculture; amending RCW 15.32.010, 15.32.051, 15.32.080, 15.32.100, 15.32.140, 15.32.220, 15.32.420, 15.32.500, 15.32.510, 15.32.520, 15.32.530, 15.32.570, 15.36.011, 15.36.020, 15.36.060, 15.36.080, 15.36.110, 15.36.115, 15.36.300, 15.36.425, 15.36.460, 15.36.470, 15.36.520, 15.36.540, 15.36.550, 15.36.580, 15.28.010, 15.28.160, 15.65.510, 15.86.030, 15.86.020, 15.86.070, 16.36.110, 19.94.190, 20.01.010, 20.01.030, 20.01.040, 20.01.330, 20.01.370, 20.01.380, 20.01.460, 22.09.011, 22.09.020, 22.09.290, 22.09.720, 22.09.730, 22.09.740, 22.09.750, 22.09.780, 22.09.830, 15.24.010, 15.24.020, 15.24.030, 15.24.040, and 15.14.010; adding new sections to chapter 15.86 RCW; adding a new section to chapter 15.58 RCW; adding new sections to chapter 1.20 RCW; adding new sections to chapter 15.60 RCW; adding new sections to chapter 15.49 RCW; adding a new section to chapter 15.04 RCW; creating new sections; repealing RCW 15.32.170, 15.32.180, 15.32.190, 15.32.200, 15.32.230, 15.32.240, 15.32.270, 15.32.280, 15.32.300, 15.32.310, 15.32.390, 15.32.400, 15.32.470, 15.32.480, 15.32.690, 15.32.692, 15.32.694, 15.32.698, 15.36.130, 15.36.290, 15.36.310, 15.36.450, 15.36.560, 15.36.570, 15.86.040, 20.01.600, 22.09.700, 15.49.010, 15.49.020, 15.49.030, 15.49.035, 15.49.040, 15.49.050, 15.49.060, 15.49.070, 15.49.080, 15.49.090, 15.49.100, 15.49.110, 15.49.120, 15.49.130, 15.49.140, 15.49.150, 15.49.160, 15.49.170, 15.49.180, 15.49.190, 15.49.200, 15.49.210, 15.49.220, 15.49.230, 15.49.240, 15.49.250, 15.49.260, 15.49.270, 15.49.280, 15.49.290, 15.49.300, 15.49.320, 15.49.340, 15.49.430, 15.49.440, and 15.49.450; making an appropriation; providing effective dates; and prescribing penalties.

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

Sec. 1. Section 15.32.010, chapter 11, Laws of 1961 and RCW 15.32-.010 are each amended to read as follows:

For the purpose of chapter 15.32 RCW:

"Supervisor" means the supervisor of the dairy and ((livestock)) food division;

"Dairy" means a place where milk from one or more cows or goats is produced for sale;

"Creamery" means a structure wherein milk or cream is manufactured into butter for sale;

"Milk plant" means a structure wherein milk is bottled, pasteurized, clarified, or otherwise processed;

"Cheese factory" means a structure where milk is manufactured into cheese;

"Factory of milk products" means a structure, other than a creamery, milk plant, cheese factory, milk condensing plant or ice cream factory, where milk or any of its products is manufactured, changed, or compounded into another article, or where butter is cut or wrapped; except freezing of

ice cream from a mix compounded in a licensed creamery, milk plant, cheese factory, milk condensing plant or ice cream factory;

"Milk condensing plant" means a structure where milk is condensed or evaporated;

"Ice cream factory" means a structure which complies with the sanitary requirements of RCW 15.32.080, where ice cream mix is produced for sale or distribution, and may include freezing such mix into ice cream;

"Counter ice cream freezer" means counter type freezing machines usually operated in retail establishments;

"Sterilized milk" means milk that has been heated under six pounds of steam pressure and maintained thereat for not less than twenty minutes;

"Modified milk" means milk that has been altered in composition to conform to special nutritional requirements;

"Milk product" means an article manufactured or compounded from milk, whether or not the milk conforms to the standards and definitions herein;

"Milk byproduct" means a product of milk derived or made therefrom after the removal of the milk fat or milk solids in the process of making butter or cheese, and includes skimmed milk, buttermilk, whey, casein, and milk powder;

"Butter" means the product made by gathering the fat of pasteurized milk or cream into a mass containing not less than eighty percent of milk fat, and which also contains a small portion of other milk constituents, with or without harmless coloring matter;

"Renovated butter" means butter that has been reduced to a liquid state by melting and drawing off the liquid or butter oil, and has thereafter been churned or manipulated in connection with milk, cream, or other product of milk;

"Reworked butter" means the product obtained by mixing or rechurning butter made on different dates or at different places: PROVIDED, That the mixing of remnants from one day's churning or cutting with butter from the churning of the same creamery on the next day shall not make the product reworked butter;

"Butter substitute" means a compound of vegetable oils with milk fats or milk solids and all compounds of milk fats or milk solids with butter when the compound contains less than eighty percent of milk fat;

"Oleomargarine" means all manufactured substances, extracts, mixtures, or compounds, including mixtures or compounds with butter, known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suinc, and neutral, and includes all lard and tallow extracts and mixtures and compounds of tallow, beef fat, suet, lard, lard oil, intestinal fat and offal fat made in imitation or semblance of butter or calculated or intended to be sold as butter;

"Cheese" means any of the cheeses as described in Title 21 of the code of federal regulations part 133;

"Imitation cheese" means any article, substance, or compound, other than that produced from pure milk or from the cream from pure milk, which is made in the semblance of cheese and designed to be sold or used as a substitute for cheese. The use of salt, lactic acid, or pepsin, and harmless coloring matter in cheese shall not render the true product an imitation. Nothing herein shall prevent the use of pure skimmed milk in the manufacture of cheese;

"Milk vendor" or "milk dealer" means any person who sells, furnishes or delivers milk, skimmed milk, buttermilk, or cream in any manner.

All dairy products mentioned in this chapter mean those fit or used for human consumption.

Sec. 2. Section 2, chapter 58, Laws of 1963 and RCW 15.32.051 are each amended to read as follows:

The director may, by rule, establish and/or amend definitions and standards for dairy products. Such definitions and standards established by the director shall conform, insofar as practicable, with the definitions and standards for dairy products promulgated by the secretary of the United States department of health, education and welfare: PROVIDED, That the director shall at all times provide reasonable standards for ice milk.

The director may adopt any other rules necessary to carry out the purposes of this chapter. The adoption of all rules provided for in this section shall be subject to the provisions of chapter ~~((34.04))~~ 34.05 RCW as enacted or hereafter amended concerning the adoption of rules, except as otherwise provided in this section.

~~((The definitions constituting sections 15.32.020, 15.32.030, 15.32.040 and 15.32.050, chapter 11, Laws of 1961 and RCW 15.32.020, 15.32.030, 15.32.040 and 15.32.050 hereinabove repealed as statutes are hereby constituted and declared to be operative and to remain in force as the rules of the department of agriculture until such time as amended, modified, or revoked by the director of agriculture:))~~

Sec. 3. Section 15.32.080, chapter 11, Laws of 1961 and RCW 15.32.080 are each amended to read as follows:

A structure or place where milk or cream is processed or manufactured into other products, or where handled, stored, or kept for sale shall be deemed insanitary in the following circumstances:

(1) If milk or cream is received or kept which has ~~((reached a stage of putrefactive fermentation))~~ deteriorated in quality;

(2) ~~((If milk or cream is received or kept in containers that have not been sterilized with boiling water or live steam after each delivery;~~

~~(3))~~ If utensils and apparatus that come in contact with milk or its products in the process of manufacture are not thoroughly washed and

~~((sterilized by means of boiling water or live steam))~~ sanitized after each using;

~~((4))~~ (3) If the floor is such as to permit liquids to soak into the floor's interstices ~~((thereof in such manner as to permit fermentation and decay))~~, or such as may not be readily kept free from dirt and filth;

~~((5))~~ (4) If drains are not provided that will convey refuse milk ~~((;))~~ and water ~~((; and sewage))~~ to a point at least fifty yards distant;

~~((6))~~ (5) If a cesspool, privy vault, hog yard, slaughterhouse, hen-house, manure, or decaying vegetable or animal matter that will produce foul odors is permitted to exist within such distance as will permit the odors therefrom to reach such place;

~~((7))~~ (6) If it lacks sufficient light and air to secure good ventilation;

~~((8))~~ (7) If in a building used in connection therewith any insects, vermin, or other species of animal life are permitted;

~~((9))~~ (8) If upon the floor or walls thereof, any milk or its products or any other filth is allowed to accumulate ~~((; ferment, or decay))~~;

~~((10))~~ (9) If the person or clothing of a person coming in contact with milk or milk products therein is unclean;

~~((11))~~ (10) If there is permitted to exist any other cause or thing tending to render the milk or its products produced, kept, handled, or manufactured therein unclean, impure, and unhealthy.

Sec. 4. Section 15.32.100, chapter 11, Laws of 1961 as last amended by section 20, chapter 3, Laws of 1983 and RCW 15.32.100 are each amended to read as follows:

Every person who sells, offers or exposes for sale, barter, or exchanges any milk or milk product as defined by rule under chapter 15.36 RCW must have a milk vendor's license to do so: PROVIDED, That such license shall not include retail stores or restaurants which purchase milk prepackaged or bottled elsewhere for sale at retail or establishments which sell milk only for consumption in such establishment. Such license, issued by the director on application and payment of a fee of ~~((two))~~ ten dollars, shall contain the license number, and name, residence and place of business, if any, of the licensee. It shall be nontransferable, shall expire June 30th subsequent to issue, and may be revoked by the director, upon reasonable notice to the licensee, for any violation of or failure to comply with any provision of this chapter or any rule or regulation, or order of the department, or any officer or inspector thereof.

Sec. 5. Section 15.32.140, chapter 11, Laws of 1961 and RCW 15.32.140 are each amended to read as follows:

Milk or sweet cream which is not free from foreign substances, coloring matter, or preservatives, ~~((pus cells or blood cells, or which contains more than one hundred thousand bacteria or germs of all kinds to the cubic centimeter or))~~ which has been infected by or exposed to any contagious or infectious disease ~~((; or which has not cooled to a temperature of fifty-five~~

~~degrees Fahrenheit within thirty minutes after being drawn or separated, or any pasteurized milk that contains in excess of twenty-five thousand bacteria per cubic centimeter))~~ in the finished product, shall be deemed impure, unwholesome, and adulterated.

Sec. 6. Section 15.32.220, chapter 11, Laws of 1961 and RCW 15.32-.220 are each amended to read as follows:

~~((Any person who sells or offers for sale milk or cream in bottles with caps which fail to have the name of the owner inscribed thereon, or which indicate a quality that cannot be determined by laboratory, chemical or bacteriological examination, or in any other way wrongfully or fraudulently brands the same as to name or otherwise, for the purpose of inducing a sale, shall be guilty of a misdemeanor.))~~ All milk container labeling shall conform with the federal fair packaging and labeling act.

Sec. 7. Section 15.32.420, chapter 11, Laws of 1961 and RCW 15.32-.420 are each amended to read as follows:

No person shall use the word "pasteurized" in connection with the sale, designation, advertising, labeling, or billing of milk, cream, or any milk product unless the same and all milk products used in the manufacture thereof consist exclusively of milk, skimmed milk, or cream that has been pasteurized in its final form.

Sec. 8. Section 15.32.500, chapter 11, Laws of 1961 and RCW 15.32-.500 are each amended to read as follows:

Failure to brand products as required in RCW ~~((15.32.480 and))~~ 15-.32.490, and the offering for sale, selling, or otherwise disposing of such products when unbranded, shall constitute violations of this chapter. Selling such unbranded products constitutes knowledge on the part of the seller that the same is not full cream cheese.

Sec. 9. Section 15.32.510, chapter 11, Laws of 1961 and RCW 15.32-.510 are each amended to read as follows:

The director ~~((or a county or city or town))~~ may appoint one or more inspectors of milk, dairies, and dairy products, who are graduates of a recognized dairy school, or have completed a college course in dairying. In the absence of completion of a dairy course, the director may review a candidate's qualifications and determine eligibility.

The inspectors may enter any place where milk and its products are stored and kept for sale and any conveyance used to transport milk or cream, and take samples for analysis ~~((: PROVIDED, That this shall not apply to samples of milk or cream taken for bacteriological examination))~~.

Sec. 10. Section 15.32.520, chapter 11, Laws of 1961 and RCW 15-.32.520 are each amended to read as follows:

~~((The chemist of any state institution shall correctly analyze samples of milk or cream sent him by a city milk inspector and report to the inspector promptly the result of the analysis, without extra compensation, or charge to the city.))~~

A bacteriologist or chemist employed by a ~~((city))~~ certified laboratory may analyze milk for standard of quality, adulteration, contamination, and unwholesomeness, and his analysis shall have the same effect as one made by a chemist of a state institution.

Sec. 11. Section 15.32.530, chapter 11, Laws of 1961 and RCW 15.32.530 are each amended to read as follows:

An inspector ~~((or any state or city officer))~~ who obtains a sample of milk for analysis, shall within ten days after obtaining the result of the analysis, send the result to the person from whom the sample was taken or to the person responsible for the condition of the milk.

Sec. 12. Section 15.32.570, chapter 11, Laws of 1961 and RCW 15.32.570 are each amended to read as follows:

No person shall remove from a place under quarantine a container which has been or is to be used to contain milk, skimmed milk, buttermilk, cream, ice cream, or ice milk, without permission of the ~~((health officer in charge))~~ director.

Sec. 13. Section 1, chapter 102, Laws of 1969 ex. sess. and RCW 15.36.011 are each amended to read as follows:

The director of agriculture, by rule, may establish and/or amend definitions and standards for milk and milk products. Such definitions and standards established by the director shall conform, insofar as practicable, with the definitions and standards for milk and milk products promulgated by the ~~((secretary of the United States department of health, education and welfare))~~ federal food and drug administration. The director of agriculture, by rule, may likewise establish and/or amend definitions and standards for products whether fluid, powdered or frozen, compounded or manufactured to resemble or in semblance or imitation of genuine dairy products as defined under the provisions of RCW 15.32.120, 15.36.011, 15.36.075, 15.36.540 and 15.36.600 or chapter 15.32 RCW as enacted or hereafter amended. Such products made to resemble or in semblance or imitation of genuine dairy products shall conform with all the provisions of chapter 15.38 RCW and be made wholly of nondairy products.

All such products compounded or manufactured to resemble or in semblance or imitation of a genuine dairy product shall set forth on the container or labels the specific generic name of each ingredient used.

In the event any product compounded or manufactured to resemble or in semblance or imitation of a genuine dairy product contains vegetable fat or oil, the generic name of such fat or oil shall be set forth on the label. If a blend or variety of oils is used, the ingredient statement shall contain the

term "vegetable oil" in the appropriate place in the ingredient statement, with the qualifying phrase following the ingredient statement, such as "vegetable oils are soybean, cottonseed and coconut oils" or "vegetable oil, may be cottonseed, coconut or soybean oil."

The labels or containers of such products compounded or manufactured to resemble or in semblance or imitation of genuine dairy products shall not use dairy terms or words or designs commonly associated with dairying or genuine dairy products, except as to the extent that such words or terms are necessary to meet legal requirements for labeling: PROVIDED, That the term "nondairy" may be used as an informative statement.

The director may adopt any other rules necessary to carry out the purposes of chapters 15.36 and 15.38 RCW: PROVIDED, That these rules shall not restrict the display or promotion of products covered under this section. The adoption of all rules provided for in this section shall be subject to the provisions of chapter ~~((34.04))~~ 34.05 RCW as enacted or hereafter amended concerning the adoption of rules.

Sec. 14. Section 15.36.020, chapter 11, Laws of 1961 and RCW 15.36.020 are each amended to read as follows:

The terms "pasteurization," "pasteurize" and similar terms, ((refer to the process of heating every particle of milk or milk products to at least one hundred forty-three degrees Fahrenheit, and holding at such temperature for at least thirty minutes, or to at least one hundred sixty-one degrees Fahrenheit, and holding at such temperature for at least fifteen seconds in approved and properly operated equipment under the provisions of this chapter: PROVIDED, That nothing contained in this definition shall be construed as disbaring any other process which has been demonstrated to be equally efficient and which is approved by the director)) shall mean the process of heating every particle of milk or milk product in properly designed and operated equipment, to one of the temperatures given in the following table, and held continuously at or above that temperature for at least the corresponding specified time:

<u>Temperature</u>	<u>Time</u>
<u>145°F (63°C)</u>	<u>30 minutes</u>
<u>161°F (72°C)</u>	<u>15 seconds</u>
<u>191°F (89°C)</u>	<u>1.0 second</u>
<u>194°F (90°C)</u>	<u>0.5 second</u>
<u>201°F (94°C)</u>	<u>0.1 second</u>
<u>204°F (96°C)</u>	<u>0.05 second</u>
<u>212°F (100°C)</u>	<u>0.01 second</u>

If the fat content of the milk product is ten percent or more, or if it contains added sweeteners, the specified temperature shall be increased by 5°F (3°C). Eggnog shall be heated to at least the following temperature and time specifications:

<u>Temperature</u>	<u>Time</u>
155°F (69°C)	30 minutes
175°F (80°C)	25 seconds
180°F (83°C)	15 seconds

Nothing in this definition shall be construed as barring any other pasteurization process which has been recognized by the federal food and drug administration to be equally efficient and which is approved by the director.

Sec. 15. Section 15.36.060, chapter 11, Laws of 1961 as amended by section 2, chapter 226, Laws of 1984 and RCW 15.36.060 are each amended to read as follows:

The word "person" means any individual, partnership, firm, corporation, company, trustee, or association.

"Director" means the director of agriculture of the state of Washington or his duly authorized representative.

"Department" means the state department of agriculture.

~~("Health officer" means the county or city health officer as defined in Title 70 RCW, or his authorized representatives.~~

~~Where the term "and/or" is used "and" shall apply where possible; otherwise "or" shall apply.)~~

Sec. 16. Section 15.36.080, chapter 11, Laws of 1961 and RCW 15.36.080 are each amended to read as follows:

It shall be unlawful for any person to transport, or to sell, or offer for sale, or to have in storage where milk or milk products are sold or served, any milk or milk product defined in this chapter, who does not possess an appropriate permit from the director ~~((or an authorized inspection service as defined in this chapter)).~~

Every milk producer, milk distributor, milk hauler, and operator of a milk plant shall secure a permit to conduct such operation as defined in this chapter. Only a person who complies with the requirements of this chapter shall be entitled to receive and retain such a permit. Permits shall not be transferable with respect to persons and/or locations.

Such a permit may be temporarily suspended by the director ~~((or health officer of a milk inspection unit))~~ upon violation by the holder of any of the terms of this chapter, or for interference with the director ~~((or health officer of a milk inspection unit))~~ in the performance of his duties, or revoked after an opportunity for a hearing by the director upon serious or repeated violations.

Sec. 17. Section 15.36.110, chapter 11, Laws of 1961 as amended by section 1, chapter 297, Laws of 1981 and RCW 15.36.110 are each amended to read as follows:

During each six months period at least four samples of milk and cream from each dairy farm and each milk plant shall be taken on separate days and examined by the director: PROVIDED, That in the case of raw milk



for pasteurization the director may accept the results of nonofficial laboratories which have been officially checked periodically and found satisfactory. Samples of other milk products may be taken and examined by the director as often as he deems necessary. Samples of milk and milk products from stores, cafes, soda fountains, restaurants, and other places where milk or milk products are sold shall be examined as often as the director may require. Bacterial plate counts, direct microscopic counts, coliform determinations, phosphatase tests and other laboratory tests shall conform to the procedures in the current edition of "Standard Methods For The Examination Of Dairy Products," recommended by the American public health association. Examinations may include such other chemical and physical determinations as the director may deem necessary for the detection of adulteration. Samples may be taken by the director at any time prior to the final delivery of the milk or milk products. All proprietors of cafes, stores, restaurants, soda fountains, and other similar places shall furnish the director, upon his request, with the name of all distributors from whom their milk and milk products are obtained. Bio-assays of the vitamin D content of vitamin D milk shall be made when required by the director in a laboratory approved by him for such examinations.

If two of the last four consecutive bacterial counts, somatic cell counts, coliform determinations, or cooling temperatures, taken on separate days, exceed the standard for milk or milk products, the director shall send written notice thereof to the person concerned. This notice shall remain in effect so long as two of the last four consecutive samples exceed the limit of the standard. An additional sample shall be taken within twenty-one days of the sending of the notice, but not before the lapse of three days, except sixty days must lapse before an official somatic cell count can be taken. The director shall degrade or suspend the grade A permit whenever the standard is again violated (~~((by more than one of the last four consecutive samples))~~) so that three of the last five consecutive samples exceed the limit of the standard. A grade A permit shall subsequently be reinstated in notice status upon receipt of sample results that are within the standard for which the suspension occurred.

In case of violation of the phosphatase test requirements, the cause of underpasteurization shall be determined and removed before milk or milk products from this plant can again be sold as pasteurized milk or milk products.

Sec. 18. Section 1, chapter 226, Laws of 1984 and RCW 15.36.115 are each amended to read as follows:

(1) If the results of an antibiotic (~~((or))~~), pesticide, or other drug residue test are above the actionable level (~~((as determined by))~~) established in the pasteurized milk ordinance published by the United States public health service and determined using procedures set forth in the current edition of "Standard Methods for the Examination of Dairy Products," a producer

holding a grade A permit is subject to a civil penalty. The penalty shall be in an amount equal to one-half the value of the sum of the volumes of milk equivalent produced under the permit on the day prior to and the day of the adulteration. The value of the milk shall be computed by the weighted average price for the federal market order under which the milk is delivered.

(2) The penalty is imposed by the department giving a written notice which is either personally served upon or transmitted by certified mail, return receipt requested, to the person incurring the penalty. The notice of the civil penalty shall be a final order of the department unless, within fifteen days after the notice is received, the person incurring the penalty appeals the penalty by filing a notice of appeal with the department. If a notice of appeal is filed in a timely manner, a contested case hearing shall be conducted on behalf of the department by the office of administrative hearings in accordance with chapters ~~((34.04))~~ 34.05 and 34.12 RCW and, to the extent they are not inconsistent with this subsection, the provisions of RCW 15.36.580. At the conclusion of the hearing, the department shall determine whether the penalty should be affirmed, ~~((reduced, or not imposed))~~ and, if so, shall issue a final order setting forth the civil penalty assessed, if any. The order may be appealed to superior court in accordance with chapter ~~((34.04))~~ 34.05 RCW. Tests performed for antibiotic ~~((or))~~, pesticide, or other drug residues by a state or certified industry laboratory of a milk sample drawn by a department official or a licensed dairy technician shall be admitted as prima facie evidence of the presence or absence of an antibiotic ~~((or))~~, pesticide, or other drug residue.

(3) Any penalty imposed under this section is due and payable upon the issuance of the final order by the department. The penalty shall be deducted by the violator's marketing organization from the violator's final payment for the month following the issuance of the final order. The department shall promptly notify the violator's marketing organization of any penalties contained in the final order.

(4) All penalties received or recovered from violations of this section shall be remitted monthly by the violator's marketing organization to the Washington state dairy products commission and deposited in a revolving fund to be used solely for the purposes of education and research. No appropriation is required for disbursements from this fund.

(5) In case of a violation of the antibiotic ~~((or))~~, pesticide, or other drug residue test requirements, an investigation shall be made to determine the cause of the residue which shall be corrected. Additional samples shall be taken as soon as possible and tested as soon as feasible for antibiotic ~~((or))~~, pesticide, or other drug residue by the department or a certified laboratory. After the notice has been received by the producer and the results of a test of such an additional sample indicate that residues are above the actionable level or levels referred to in subsection (1) of this section, the

producer's milk may not be sold until a sample is shown to be below the actionable levels established for the residues.

Sec. 19. Section 15.36.300, chapter 11, Laws of 1961 and RCW 15.36.300 are each amended to read as follows:

Grade C raw milk is raw milk ~~((of a producer-distributor which violates any of the requirements for grade B))~~ which violates any of the requirements of grade A raw milk.

Sec. 20. Section 15.36.425, chapter 11, Laws of 1961 as amended by section 22, chapter 141, Laws of 1979 and RCW 15.36.425 are each amended to read as follows:

The health ~~((officer))~~ authority or a physician authorized by him shall examine and take careful morbidity history of every person connected with a pasteurization plant, or about to be employed, whose work brings him in contact with the production, handling, storage, or transportation of milk, milk products, containers, or equipment. If such examination or history suggests that such person may be a carrier of or infected with the organisms of typhoid or paratyphoid fever or any other communicable diseases likely to be transmitted through milk, he shall secure appropriate specimens of body discharges and cause them to be examined in a laboratory approved by him or by the state department of social and health services for such examinations, and if the results justify such persons shall be barred from such employment.

Such persons shall furnish such information, submit to such physical examinations, and submit such laboratory specimens as the health ~~((officer))~~ official may require for the purpose of determining freedom from infection.

Sec. 21. Section 15.36.460, chapter 11, Laws of 1961 and RCW 15.36.460 are each amended to read as follows:

Grade C pasteurized milk is pasteurized milk which violates any of the requirements for grade ~~((B))~~ A pasteurized milk.

Sec. 22. Section 15.36.470, chapter 11, Laws of 1961 and RCW 15.36.470 are each amended to read as follows:

No milk or milk products shall be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments except ~~((certified milk pasteurized, certified raw milk,))~~ grade A milk pasteurized, or grade A milk-raw, and the director may revoke the permit of any milk distributor failing to qualify for one of the above grades, or in lieu thereof may degrade his product and permit its sale during a period not exceeding thirty days or in emergencies during such longer period as he may deem necessary.

Sec. 23. Section 15.36.520, chapter 11, Laws of 1961 and RCW 15.36.520 are each amended to read as follows:

No person who is affected with any disease in a communicable form or is a carrier of such disease shall work at any dairy farm or milk plant in any capacity which brings him in contact with the production, handling, storage, or transportation of milk, milk products, containers, or equipment; and no dairy farm or milk plant shall employ in any such capacity any such person or any person suspected of being affected with any disease in a communicable form or of being a carrier of such disease. Any producer or distributor of milk or milk products upon whose dairy farm or in whose milk plant any communicable disease occurs, or who suspects that any employee has contracted any disease shall notify the health ~~((officer))~~ authority immediately.

Sec. 24. Section 15.36.540, chapter 11, Laws of 1961 as amended by section 6, chapter 102, Laws of 1969 ex. sess. and RCW 15.36.540 are each amended to read as follows:

~~((Save as in this chapter provided))~~ Except as otherwise provided in this chapter, this law shall be enforced by the director in accordance with the interpretation contained in the ~~((1965 edition of the United States public health service))~~ food and drug administration pasteurized milk ((code)) ordinance: PROVIDED, That the director may ((by rule adopt any subsequent amendments to such code as interpretations)) promulgate rules covering any standard set forth in the pasteurized milk ordinance if the rules are consistent with the pasteurized milk ordinance except the standards may be more stringent based upon current industry or public health information for the enforcement of this chapter whenever he determines that any such ((amendments)) rules are necessary to carry out the purposes of RCW 15.32.120, 15.36.011, 15.36.075, 15.36.540 and 15.36.600.

Sec. 25. Section 15.36.550, chapter 11, Laws of 1961 as amended by section 23, chapter 141, Laws of 1979 and RCW 15.36.550 are each amended to read as follows:

The director shall have the power and duty ~~((+))~~ to adopt, issue and promulgate from time to time necessary rules, regulations and orders for the enforcement of this chapter ~~((; (2) with the approval of the secretary of social and health services to adopt standards of requirements necessary for approval of local milk inspection service units hereinafter provided for, the basic standards in this connection being a sufficient force of qualified personnel under the general direction of a health officer, and sufficient laboratory facilities to insure compliance with the provisions of this chapter and the rules and regulations promulgated thereunder, and (3) to cancel, and with the consent of the secretary of social and health services, to approve the issuance of certificates of approval for such local milk inspection service units)).~~

Sec. 26. Section 15.36.580, chapter 11, Laws of 1961 as last amended by section 175, chapter 202, Laws of 1987 and RCW 15.36.580 are each amended to read as follows:

In case of a written protest from any fluid milk producer(;) or 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 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 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 in the manner provided under chapter (~~(34.04)~~) 34.05 RCW.

Sec. 27. Section 15.28.010, chapter 11, Laws of 1961 as last amended by section 1, chapter 11, Laws of 1973 and RCW 15.28.010 are each amended to read as follows:

As used in this chapter:

- (1) "Commission" means the Washington state fruit commission.
- (2) "Shipment" or "shipped" includes loading in a conveyance to be transported to market for resale, and includes delivery to a processor or processing plant, but does not include movement from the orchard where grown to a packing or storage plant within this state for fresh shipment;
- (3) "Handler" means any person who ships or initiates the shipping operation, whether as owner, agent or otherwise;
- (4) "Dealer" means any person who handles, ships, buys, or sells soft tree fruits other than those grown by him, or who acts as sales or purchasing agent, broker, or factor of soft tree fruits;
- (5) "Processor" or "processing plant" includes every person or plant receiving soft tree fruits for the purpose of drying, dehydrating, canning, pressing, powdering, extracting, cooking, quick-freezing, brining, or for use in manufacturing a product;
- (6) "Soft tree fruits" mean Bartlett pears and all varieties of cherries, apricots, prunes, plums, and peaches, which includes all varieties of nectarines. "Bartlett pears" means and includes all standard Bartlett pears and all varieties, strains, subvarieties, and sport varieties of Bartlett pears including Red Bartlett pears, that are harvested and utilized at approximately the same time and approximately in the same manner.
- (7) "Commercial fruit" or "commercial grade" means soft tree fruits meeting the requirements of any established or recognized fresh fruit or processing grade. Fruit bought or sold on orchard run basis and not subject to cull weighback shall be deemed to be "commercial fruit."

(8) "Cull grade" means fruit of lower than commercial grade except when such fruit included with commercial fruit does not exceed the permissible tolerance permitted in a commercial grade;

(9) "Producer" means any person who is a grower of any soft tree fruit;

(10) "District No. 1" or "first district" includes the counties of Chelan, Okanogan, Grant, Douglas, Ferry, Stevens, Pend Oreille, Spokane and Lincoln;

(11) "District No. 2" or "second district" includes the counties of Kittitas, Yakima, and Benton county north of the Yakima river;

(12) "District No. 3" or "third district" comprises all of the state not included in the first and second districts.

Sec. 28. Section 15.28.160, chapter 11, Laws of 1961 as amended by section 3, chapter 51, Laws of 1963 and RCW 15.28.160 are each amended to read as follows:

An annual assessment is hereby levied upon all commercial soft tree fruits grown in ~~((this))~~ the state or packed as Washington soft tree fruit of fifty cents per two thousand pounds (net weight) of said fruits, when shipped fresh or delivered to processors, whether in bulk, loose in containers, or packaged in any style of package, except, that all sales of five hundred pounds or less of such fruits sold by the producer direct to the consumer shall be exempt from said assessments. Sweet cherries which are brined are deemed to be commercial soft tree fruit and therefore assessable hereunder.

Sec. 29. Section 51, chapter 256, Laws of 1961 and RCW 15.65.510 are each amended to read as follows:

All parties to ~~((any))~~ a marketing agreement, all persons subject to a marketing order, and all producers, dealers, and handlers ~~((and other persons subject to any marketing order))~~ of a commodity governed by the provisions of a marketing agreement or order shall severally from time to time, upon the request of the director ~~((or his))~~, the director's designee, or the commodity board established under the marketing agreement or order, furnish ~~((him with))~~ such information ~~((as he))~~ and permit such inspections as the director, the director's designee, or the commodity board finds to be necessary to ~~((enable him to))~~ effectuate the declared policies of this chapter and the purposes of such agreement or order ~~((or))~~. Information and inspections may also be required by the director, the director's designee, or the commodity board to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated such policies and purposes, or to determine whether or not there has been any abuse of the privilege of exemption from laws relating to trusts, monopolies and restraints of trade. Such information shall be furnished in accordance with forms and reports to be prescribed by the director ~~((or his))~~, the director's designee, or the commodity board. ~~((For the purpose of ascertaining the correctness of any report made to the director or his designee pursuant to~~

~~this section or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished;))~~ The director ((or his)), the director's designee, or a designee of the commodity board is hereby authorized to inspect crops and examine such books, papers, records, copies of tax reports, accounts, correspondence, contracts, documents, or memoranda as he or she deems relevant and which are within the control:

(1) Of any such party to such marketing agreement or ~~((any such producer or handler under such marketing order))~~, any person subject to any marketing order from whom such report was requested, or

(2) Of any person having, either directly or indirectly, actual or legal control of or over such party, producer or handler of such records, or

(3) Of any subsidiary of any such party, producer, handler or person.

To carry out the purposes of this section the director or ~~((his))~~ the director's designee upon giving due notice, may hold hearings, take testimony, administer oaths, subpoena witnesses and issue subpoenas for the production of books, records, documents or other writings of any kind. RCW 15.65.080, 15.65.090, 15.65.100 and 15.65.110, together with such other regulations consistent therewith as the director may from time to time prescribe, shall apply with respect to any such hearing. All information furnished to or acquired by the director or ~~((his))~~ the director's designee pursuant to this section shall be kept confidential by all officers and employees of the director ~~((and/or his))~~ or the director's designee and only such information so furnished or acquired as the director deems relevant shall be disclosed by ~~((him))~~ the director or them, and then only in a suit or administrative hearing brought at the direction or upon the request of the director or to which ~~((he or his))~~ the director or the director's designee or any officer of the state of Washington is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired.

Nothing in this section shall prohibit:

(1) The issuance of general statements based upon the reports of a number of persons subject to any marketing agreement or order, which statements do not identify the information furnished by any person~~(:);~~ or

(2) The publication by the director or ~~((his))~~ the director's designee of the name of any person violating any marketing agreement or order, together with a statement of the particular provisions and the manner of the violation of the marketing agreement or order so violated by such person.

Sec. 30. Section 3, chapter 247, Laws of 1985 and RCW 15.86.030 are each amended to read as follows:

A producer or a vendor shall not sell or offer for sale any food product with the representation that the product is an organic food if the producer or vendor knows, or has reason to know, that the food has been grown, raised, or produced with the use of any of the following substances: (1)

Fertilizers but excluding manures and other natural fertilizers; (2) any of the following when manufactured by man: Pesticides, hormones, antibiotics, or growth stimulants but excluding *Bacillus thuringensis* and other natural pesticides; (3) arsenicals; or (4) similar substances listed by the director under RCW 15.86.060. A food product shall be considered as "grown, raised, or produced" with a substance specified in this section or listed by the director under RCW 15.86.060 if the substance is applied at any time before sale to retail purchasers. ~~((Also, crops shall be considered "grown, raised, or produced" with such a substance if, within one year before seed planting or transplanting or, in the case of perennial crops, within one year before the appearance of the flower bud, the substance is applied to the soil or other growing medium:))~~

**NEW SECTION.** Sec. 31. A new section is added to chapter 15.86 RCW to read as follows:

(1) Beginning January 1, 1991, it shall be unlawful to sell or offer for sale as organic food, products that have been grown, raised, or produced if harvest of the food product occurs within two years of the most recent use of any prohibited pesticide, herbicide, or fungicide and two years after the most recent use of a prohibited fertilizer.

(2) Beginning January 1, 1992, it shall be unlawful to sell or offer for sale as organic food, products that have been grown, raised, or produced if harvest of the food product occurs within three years of the most recent use of any prohibited pesticide, herbicide, or fungicide and two years after the most recent use of a prohibited fertilizer.

(3) Beginning January 1, 1990, food products may be sold as "transition to organic food" if they have had no applications of prohibited substances within one year before harvest of the food crop. The products must specify first or second-year transition on their labels.

(4) No out-of-state products shall be labelled or sold as organic without having first received an organic certification in the state of origin meeting all requirements established under this chapter.

Sec. 32. Section 2, chapter 247, Laws of 1985 and RCW 15.86.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Director" means the director of the department of agriculture or the director's designee.

(2) "Organic food" means any food product, including meat, dairy, and beverage, that is marketed using the term organic or any derivative of organic, other than the phrase "transition to organic food," in its labeling or advertising.

(3) "Producer" means any person or organization who or which (a) grows, raises, or produces a food product; and (b) sells the food product as, or offers it for sale as, an organic food.



(4) "Vendor" means anyone who sells organic food to the consumer or another vendor.

(5) "Transition to organic food" means any food product that satisfies all of the requirements of organic food except the time requirements and satisfied all of the requirements of section 31 of this act.

NEW SECTION. Sec. 33. A new section is added to chapter 15.86 RCW to read as follows:

(1) A producer or a vendor shall not sell or offer for sale any food product with the representation that the food product is a transition to organic food if the producer or vendor knows, or has reason to know, that the food product does not satisfy the requirements of RCW 15.86.020(5).

(2) A producer shall not sell to a vendor any food product that the producer represents as a transition to organic food unless, before the sale, the producer provides the vendor with a sworn statement that the producer has grown, raised, or produced the product in conformance with RCW 15.86.020(5) and section 31 of this act.

Sec. 34. Section 12, chapter 393, Laws of 1987 and RCW 15.86.070 are each amended to read as follows:

The director may adopt rules establishing a certification program for producers and processors of organic or transition to organic food. The rules may govern, but are not limited to governing: The number and scheduling of ~~((on=farm))~~ on-site visits, both announced and unannounced, by certification personnel; recordkeeping requirements; and the submission of product samples for chemical analysis. The rules shall include a fee schedule that will provide for the recovery of the full cost of the ~~((certification))~~ inspection program. Fees collected under this section shall be deposited in an account within the agricultural local fund and the revenue from such fees shall be used solely for carrying out the provisions of this section, and no appropriation is required for disbursement from the fund. The director may employ such personnel as are necessary to carry out the provisions of this section.

Sec. 35. Section 5, chapter 22, Laws of 1957 as amended by section 14, chapter 296, Laws of 1981 and RCW 16.36.110 are each amended to read as follows:

A violation of or a failure to comply with any provision of this chapter or the rules adopted under this chapter shall be a ~~((misdemeanor: PROVIDED, That any violation of RCW 16.36.030, 16.36.040, 16.36.050, or that part of RCW 16.36.060 which makes it unlawful for any person to wilfully hinder, obstruct, or resist the director of agriculture or any duly authorized representative, or any peace officer acting under him or them when engaged in the performance of the duties or in the exercise of the powers conferred by this chapter shall be a))~~ gross misdemeanor. Each day upon which a violation occurs shall constitute a separate violation. Any

person violating the provisions of RCW 16.36.005, 16.36.020, 16.36.103, 16.36.105, 16.36.107, 16.36.108 or 16.36.109 may be enjoined from continuing such violation.

Sec. 36. Section 19, chapter 67, Laws of 1969 as amended by section 5, chapter 26, Laws of 1977 ex. sess. and RCW 19.94.190 are each amended to read as follows:

The director shall enforce the provisions of this chapter and shall issue from time to time reasonable rules (~~and regulations~~) for enforcing and carrying out the purposes of this chapter. Such rules (~~and regulations~~) shall have the effect of law and may include (1) standards of net weight, measure, or count, and reasonable standards of fill for any commodity in package form, (2) rules governing the technical and reporting procedures to be followed, and the report and record forms and marks of rejection to be used by the director and city sealers in the discharge of their official duties, (3) rules governing technical test procedures, reporting procedures, record and reporting forms to be used by commercial firms when installing, repairing or testing commercial weights or measures, (4) rules providing that all weights and measures used by commercial firms in repairing or servicing commercial weighing and measuring devices shall be calibrated by the department and be directly traceable to state standards and shall be submitted to the department for calibration and certification as necessary and/or at such reasonable intervals as may be established or required by the director, (5) exemptions from the sealing or marking requirements of RCW 19.94.250 with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question, (6) rules that allow the director to establish fees for weighing, measuring, and providing calibration services performed by the weights and measures laboratory, with all money collected under this subsection paid to the director and deposited in an account within the agricultural local fund to be used for the repair and maintenance of weights and measures devices and other related functions, (7) exemptions from the requirements of RCW 19.94.200 and 19.94.210 for testing, with respect to classes of weights and measures found to be of such character that periodic retesting is unnecessary to continued accuracy. These regulations shall include specifications, tolerances, and regulations for weights and measures of the character of those specified in RCW 19.94.210, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those (a) that are not accurate, (b) that are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly, or (c) that facilitate the perpetration of fraud. The specifications, tolerances, and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the national bureau of

standards Handbook 44, third edition as published at the time of the enactment of this chapter shall be the specifications, tolerances, and regulations for commercial weighing and/or measuring devices of the state. To promote uniformity, any supplements or amendments to Handbook 44 or any similar subsequent publication of the national bureau of standards shall be deemed to have been adopted under this section. The director may, however, within thirty days of the publication or effective date of Handbook 44 or any supplements, amendments, or similar publications give public notice that a hearing will be held to determine if such publications should not be applicable under this section. The hearing shall be conducted under chapter ~~((34.04))~~ 34.05 RCW. For the purpose of this chapter, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section; all other apparatus shall be deemed to be "incorrect".

Sec. 37. Section 1, chapter 139, Laws of 1959 as last amended by section 6, chapter 178, Laws of 1986 and RCW 20.01.010 are each amended to read as follows:

As used in this title the terms defined in this section have the meanings indicated unless the context clearly requires otherwise.

(1) "Director" means the director of agriculture or his duly authorized representative.

(2) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

(3) "Agricultural product" means any unprocessed horticultural, vermicultural and its byproducts, viticultural, berry, poultry, poultry product, grain, bee, or other agricultural products, and includes mint or mint oil processed by or for the producer thereof and hay and straw baled or prepared for market in any manner or form and livestock. When used in RCW 60.13.020, "agricultural product" means horticultural, viticultural, and berry products, hay and straw, and turf and forage seed and applies only when such products are delivered to a processor or conditioner in an unprocessed form.

(4) "Producer" means any person engaged in the business of growing or producing any agricultural product, whether as the owner of the products, or producing the products for others holding the title thereof.

(5) "Consignor" means any producer, person, or his agent who sells, ships, or delivers to any commission merchant, dealer, cash buyer, or agent, any agricultural product for processing, handling, sale, or resale.

(6) "Commission merchant" means any person who receives on consignment for sale or processing and sale from the consignor thereof any agricultural product for sale on commission on behalf of the consignor, or who accepts any farm product in trust from the consignor thereof for the purpose of resale, or who sells or offers for sale on commission any agricultural

product, or who in any way handles for the account of or as an agent of the consignor thereof, any agricultural product.

(7) "Dealer" means any person other than a cash buyer, as defined in subsection (10) of this section, who solicits, contracts for, or obtains from the consignor thereof for reselling or processing, title, possession, or control of any agricultural product, or who buys or agrees to buy any agricultural product from the consignor thereof for sale or processing and includes any person, other than one who acts solely as a producer, who retains title in an agricultural product and delivers it to a producer for further production or increase. For the purposes of this chapter, the term dealer includes any person who purchases livestock on behalf of and for the account of another, or who purchases cattle in another state or country and imports these cattle into this state for resale.

(8) "Limited dealer" means any person operating under the alternative bonding provision in RCW 20.01.211.

(9) "Broker" means any person other than a commission merchant, dealer, or cash buyer who negotiates the purchase or sale of any agricultural product, but no broker may handle the agricultural products involved or proceeds of the sale.

(10) "Cash buyer" means any person other than a commission merchant, dealer, or broker, who obtains from the consignor thereof for the purpose of resale or processing, title, possession, or control of any agricultural product or who contracts for the title, possession, or control of any agricultural product, or who buys or agrees to buy for resale any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of the agricultural product, in coin or currency, lawful money of the United States. However, a cashier's check, certified check, or bankdraft may be used for the payment. For the purposes of this subsection, "agricultural product," does not include hay, grain, straw, or livestock.

(11) "Agent" means any person who, on behalf of any commission merchant, dealer, broker, or cash buyer, acts as liaison between a consignor and a principal, or receives, contracts for, or solicits any agricultural product from the consignor thereof or who negotiates the consignment or purchase of any agricultural product on behalf of any commission merchant, dealer, broker, or cash buyer and who transacts all or a portion of that business at any location other than at the principal place of business of his employer. With the exception of an agent for a commission merchant or dealer handling horticultural products, an agent may operate only in the name of one principal and only to the account of that principal.

(12) "Retail merchant" means any person operating from a bona fide or established place of business selling agricultural products twelve months of each year.

(13) "Fixed or established place of business" for the purpose of this chapter means any permanent warehouse, building, or structure, at which necessary and appropriate equipment and fixtures are maintained for properly handling those agricultural products generally dealt in, and at which supplies of the agricultural products being usually transported are stored, offered for sale, sold, delivered, and generally dealt in in quantities reasonably adequate for and usually carried for the requirements of such a business, and that is recognized as a permanent business at such place, and carried on as such in good faith and not for the purpose of evading this chapter, and where specifically designated personnel are available to handle transactions concerning those agricultural products generally dealt in, which personnel are available during designated and appropriate hours to that business, and shall not mean a residence, barn, garage, tent, temporary stand or other temporary quarters, any railway car, or permanent quarters occupied pursuant to any temporary arrangement.

(14) "Processor" means any person, firm, company, or other organization that purchases agricultural crops from a consignor and that cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes those crops in any manner whatsoever for eventual resale.

(15) "Pooling contract" means any written agreement whereby a consignor delivers a horticultural product to a commission merchant under terms whereby the commission merchant may commingle the consignor's horticultural products for sale with others similarly agreeing, which must include all of the following:

(a) A delivery receipt for the consignor that indicates the variety of horticultural product delivered, the number of containers, or the weight and tare thereof;

(b) Horticultural products received for handling and sale in the fresh market shall be accounted for to the consignor with individual pack-out records that shall include variety, grade, size, and date of delivery. Individual daily packing summaries shall be available within forty-eight hours after packing occurs. However, platform inspection shall be acceptable by mutual contract agreement on small deliveries to determine variety, grade, size, and date of delivery;

(c) Terms under which the commission merchant may use his judgment in regard to the sale of the pooled horticultural product;

(d) The charges to be paid by the consignor as filed with the state of Washington;

(e) A provision that the consignor shall be paid for his pool contribution when the pool is in the process of being marketed in direct proportion, not less than eighty percent of his interest less expenses directly incurred, prior liens, and other advances on the grower's crop unless otherwise mutually agreed upon between grower and commission merchant.

(16) "Date of sale" means the date agricultural products are delivered to the person buying the products.

~~(17) ("Boom loader" means a person who owns or operates, or both, a mechanical device mounted on a vehicle and used to load hay or straw for compensation.~~

~~(18))~~ (18) "Conditioner" means any person, firm, company, or other organization that receives turf, forage, or vegetable seeds from a consignor for drying or cleaning.

~~((19))~~ (19) "Seed bailment contract" means any contract meeting the requirements of chapter 15.48 RCW.

~~((20))~~ (20) "Proprietary seed" means any seed that is protected under the Federal Plant Variety Protection Act.

~~((21))~~ (21) "Licensed public weighmaster" means any person, licensed under the provisions of chapter 15.80 RCW, who weighs, measures, or counts any commodity or thing and issues therefor a signed certified statement, ticket, or memorandum of weight, measure, or count upon which the purchase or sale of any commodity or upon which the basic charge of payment for services rendered is based.

~~((22))~~ (22) "Certified weight" means any signed certified statement or memorandum of weight, measure or count issued by a licensed public weighmaster in accordance with the provisions of chapter 15.80 RCW.

Sec. 38. Section 3, chapter 139, Laws of 1959 as last amended by section 10, chapter 254, Laws of 1988 and RCW 20.01.030 are each amended to read as follows:

This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.86 RCW or chapter 24.32 RCW, except as to that portion of the activities of the association or federation that involve the handling or dealing in the agricultural products of nonmembers of the organization: PROVIDED, That the associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: PROVIDED FURTHER, That if the cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets the processed agricultural crops on behalf of the grower or its own behalf, the association or federation is subject to the provisions of RCW 20.01.500 through 20.01.560 and the license provision of this chapter excluding bonding provisions: PROVIDED FURTHER, That none of the foregoing exemptions in this subsection apply to any such cooperative or federation dealing in or handling grain in any manner, and not licensed under the provisions of chapter 22.09 RCW;

(2) Any person who sells exclusively his or her own agricultural products as the producer thereof;

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of the public livestock market's obligation. However, any such market operating as a livestock dealer or order buyer, or both, is subject to all provisions of this chapter except for the payment of the license fee required in RCW 20.01.040;

(4) Any retail merchant having a bona fide fixed or permanent place of business in this state, but only for the retail merchant's retail business conducted at such fixed or established place of business;

(5) Any person buying farm products for his or her own use or consumption;

(6) Any warehouseman or grain dealer licensed under the state grain warehouse act, chapter 22.09 RCW, with respect to his or her handling of any agricultural product as defined under that chapter;

(7) Any nurseryman who is required to be licensed under the horticultural laws of the state with respect to his or her operations as such licensee;

(8) Any person licensed under the now existing dairy laws of the state with respect to his or her operations as such licensee;

(9) Any producer who purchases less than fifteen percent of his or her volume to complete orders;

(10) Any person, association, or corporation regulated under chapter 67.16 RCW and the rules adopted thereunder while performing acts regulated by that chapter and the rules adopted thereunder(;

~~(11) Any boom loader who loads exclusively his or her own hay or straw as the producer thereof).~~

Sec. 39. Section 4, chapter 139, Laws of 1959 as last amended by section 13, chapter 393, Laws of 1987 and RCW 20.01.040 are each amended to read as follows:

No person may act as a commission merchant, dealer, broker, cash buyer, or agent(~~;~~ ~~or boom loader~~) without a license. Any person applying for such a license shall file an application with the director on or before January 1st of each year. The application shall be accompanied by a license fee as prescribed by the director by rule.

Sec. 40. Section 33, chapter 139, Laws of 1959 as last amended by section 1, chapter 20, Laws of 1982 and RCW 20.01.330 are each amended to read as follows:

The director may refuse to grant a license or renew a license and may revoke or suspend a license or issue a conditional or probationary order if he is satisfied after a hearing, as herein provided, of the existence of any of the following facts, which are hereby declared to be a violation of this chapter:

(1) That fraudulent charges or returns have been made by the applicant, or licensee, for the handling, sale or storage of, or for rendering of any service in connection with the handling, sale or storage of any agricultural product.

(2) That the applicant, or licensee, has failed or refused to render a true account of sales, or to make a settlement thereon, or to pay for agricultural products received, within the time and in the manner required by this chapter.

(3) That the applicant, or licensee, has made any false statement as to the condition, quality or quantity of agricultural products received, handled, sold or stored by him.

(4) That the applicant, or licensee, directly or indirectly has purchased for his own account agricultural products received by him upon consignment without prior authority from the consignor together with the price fixed by consignor or without promptly notifying the consignor of such purchase. This shall not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of agricultural products remaining unsold, if such commission merchant shall forthwith enter such transaction on his account of sales.

(5) That the applicant, or licensee, has intentionally made any false or misleading statement as to the conditions of the market for any agricultural products.

(6) That the applicant, or licensee, has made fictitious sales or has been guilty of collusion to defraud the consignor.

(7) That a commission merchant to whom any consignment is made has reconsigned such consignment to another commission merchant and has received, collected, or charged by such means more than one commission for making the sale thereof, for the consignor, unless by written consent of such consignor.

(8) That the licensee was guilty of fraud or deception in the procurement of such license.

(9) That the licensee or applicant has failed or refused to file with the director a schedule of his charges for services in connection with agricultural products handled on account of or as an agent of another, or that the applicant, or licensee, has indulged in any unfair practice.

(10) That the licensee has rejected, without reasonable cause, or has failed or refused to accept, without reasonable cause, any agricultural product bought or contracted to be bought from a consignor by such licensee; or failed or refused, without reasonable cause, to furnish or provide boxes or other containers, or hauling, harvesting, or any other service contracted to be done by licensee in connection with the acceptance, harvesting, or other handling of said agricultural products bought or handled or contracted to be bought or handled; or has used any other device to avoid acceptance or unreasonably to defer acceptance of agricultural products bought or handled or contracted to be bought or handled.

(11) That the licensee has otherwise violated any provision of this chapter and/or rules and regulations adopted hereunder.



(12) That the licensee has knowingly employed an agent, as defined in this chapter, without causing said agent to comply with the licensing requirements of this chapter applicable to agents.

(13) That the applicant or licensee has, in the handling of any agricultural products, been guilty of fraud, deceit, or negligence.

(14) That the licensee has failed or refused, upon demand, to permit the director or his agents to make the investigations, examination or audits, as provided in this chapter, or that the licensee has removed or sequestered any books, records, or papers necessary to any such investigations, examination, or audits, or has otherwise obstructed the same.

(15) That the licensee, without reasonable cause, has failed or refused to execute or carry out a lawful contract with a consignor.

(16) That the licensee has failed or refused to keep and maintain the records as required by this chapter and/or rules and regulations adopted hereunder.

(17) That the licensee has attempted payment by a check the licensee knows not to be backed by sufficient funds to cover such check.

(18) That the licensee has been guilty of fraud or deception in his dealings with purchasers including misrepresentation of goods as to grade, quality, weights, quantity, or any other essential fact in connection therewith.

(19) That the licensee has permitted (~~(an agent)~~) a person to in fact operate his own separate business under cover of the licensee's license and bond.

(20) That a commission merchant or dealer has failed to furnish additional bond coverage within fifteen days of when it was requested in writing by the director.

(21) That the licensee has discriminated in the licensee's dealings with consignors on the basis of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical handicap.

Sec. 41. Section 37, chapter 139, Laws of 1959 as last amended by section 18, chapter 254, Laws of 1988 and RCW 20.01.370 are each amended to read as follows:

Every commission merchant taking control of any agricultural products for sale as such commission merchant, shall promptly make and keep for a period of (~~(one year)~~) three years, beginning on the day the sale of the product is complete, a correct record showing in detail the following with reference to the handling, sale, or storage of such agricultural products:

(1) The name and address of the consignor.

(2) The date received.

(3) The quality and quantity delivered by the consignor, and where applicable the dockage, tare, grade, size, net weight, or quantity.

(4) An accounting of all sales, including dates, terms of sales, quality and quantity of agricultural products sold, and proof of payments received on behalf of the consignor.

(5) The terms of payment to the producer.

(6) An itemized statement of the charges to be paid by consignor in connection with the sale.

(7) The names and addresses of all purchasers if said commission merchant has any financial interest in the business of said purchasers, or if said purchasers have any financial interest in the business of said commission merchant, directly or indirectly, as holder of the other's corporate stock, as copartner, as lender or borrower of money to or from the other, or otherwise. Such interest shall be noted in said records following the name of any such purchaser.

(8) A lot number or other identifying mark for each consignment, which number or mark shall appear on all sales tags and other essential records needed to show what the agricultural products actually sold for.

(9) Any claim or claims which have been or may be filed by the commission merchant against any person for overcharges or for damages resulting from the injury or deterioration of such agricultural products by the act, neglect or failure of such person and such records shall be open to the inspection of the director and the consignor of agricultural products for whom such claim or claims are made.

Where a pooling arrangement is agreed to in writing between the consignor and commission merchant, the reporting requirements of subsections (4), (5), (6), and (8) of this section shall apply to the pool rather than to the individual consignor or consignment and the records of the pool shall be available for inspection by any consignor to that pool.

The commission merchant shall transmit a copy of the record required by this section to the consignor on the same day the final remittance is made to the consignor as required by RCW 20.01.430 as now or hereafter amended.

Sec. 42. Section 38, chapter 139, Laws of 1959 as last amended by section 17, chapter 254, Laws of 1988 and RCW 20.01.380 are each amended to read as follows:

Every dealer or cash buyer purchasing any agricultural products from the consignor thereof shall promptly make and keep for ~~((one year))~~ three years a correct record showing in detail the following:

(1) The name and address of the consignor.

(2) The date received.

(3) The terms of the sale.

(4) The quality and quantity delivered by the consignor, and where applicable the dockage, tare, grade, size, net weight, or quantity.

(5) An itemized statement of any charges paid by the dealer or cash buyer for the account of the consignor.

(6) The name and address of the purchaser: PROVIDED, That the name and address of the purchaser may be deleted from the record furnished to the consignor.

(7) A copy of the itemized list of charges required under RCW 20.01-.080 in effect on the date the terms of sale were agreed upon.

A copy of such record containing the above matters shall be forwarded to the consignor forthwith.

Livestock dealers must also maintain individual animal identification and disposition records as may be required by law, or regulation adopted by the director.

Sec. 43. Section 46, chapter 139, Laws of 1959 as last amended by section 19, chapter 254, Laws of 1988 and RCW 20.01.460 are each amended to read as follows:

(1) Any person who violates the provisions of this chapter or fails to comply with the rules adopted under this chapter is guilty of a gross misdemeanor, except as provided in subsections (2) and (3) of this section.

(2) Any commission merchant, dealer, or cash buyer, or any person assuming or attempting to act as a commission merchant, dealer, or cash buyer without a license is guilty of a class C felony who:

(a) Imposes false charges for handling or services in connection with agricultural products.

(b) Makes fictitious sales or is guilty of collusion to defraud the consignor.

(c) Intentionally makes false statement or statements as to the grade, conditions, markings, quality, or quantity of goods shipped or packed in any manner.

(d) With the intent to defraud the consignor, fails to comply with the ((payment)) requirements set forth under RCW 20.01.010(10), 20.01.390 or 20.01.430.

(3) Any person who violates the provisions of RCW 20.01.040, 20.01-.080, 20.01.120, 20.01.125, 20.01.410 or 20.01.610 has committed a civil infraction.

Sec. 44. Section 16, chapter 305, Laws of 1983 as last amended by section 11, chapter 254, Laws of 1988 and RCW 22.09.011 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or his duly authorized representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, cooperative, two or more persons

having a joint or common interest, or any unit or agency of local, state, or federal government.

(4) "Agricultural commodities," or "commodities," means: (a) ~~((All the grains, peas, beans, lentils, corn, sorghums, malt, peanuts, and flax, and (b)))~~ Grains for which inspection standards have been established under the United States grain standards act; (b) pulses and similar commodities for which inspection standards have been established under the agricultural marketing act of 1946; and (c) other similar agricultural products ((similar to those listed in (a) of this subsection)) for which inspection standards have been established or which have been otherwise designated by the department by rule for inspection services or the warehousing requirements of this chapter.

(5) "Warehouse," also referred to as a public warehouse, means any elevator, mill, subterminal grain warehouse, terminal warehouse, country warehouse, or other structure or enclosure located in this state that is used or useable for the storage of agricultural products, and in which commodities are received from the public for storage, handling, conditioning, or shipment for compensation. The term does not include any warehouse storing or handling fresh fruits and/or vegetables, any warehouse used exclusively for cold storage, or any warehouse that conditions yearly less than three hundred tons of an agricultural commodity for compensation.

(6) "Terminal warehouse" means any warehouse designated as a terminal by the department, and located at an inspection point where inspection facilities are maintained by the department and where commodities are ordinarily received and shipped by common carrier.

(7) "Subterminal warehouse" means any warehouse that performs an intermediate function in which agricultural commodities are customarily received from dealers rather than producers and where the commodities are accumulated before shipment to a terminal warehouse.

(8) "Station" means two or more warehouses between which commodities are commonly transferred in the ordinary course of business and that are (a) immediately adjacent to each other, or (b) located within the corporate limits of any city or town and subject to the same transportation tariff zone, or (c) at any railroad siding or switching area and subject to the same transportation tariff zone, or (d) at one location in the open country off rail, or (e) in any area that can be reasonably audited by the department as a station under this chapter and that has been established as such by the director by rule adopted under chapter ~~((34.04))~~ 34.05 RCW, or (f) within twenty miles of each other but separated by the border between Washington and Idaho or Oregon when the books and records for the station are maintained at the warehouse located in Washington.

(9) "Inspection point" means a city, town, or other place wherein the department maintains inspection and weighing facilities.

(10) "Warehouseman" means any person owning, operating, or controlling a warehouse in the state of Washington.

(11) "Depositor" means (a) any person who deposits a commodity with a Washington state licensed warehouseman for storage, handling, conditioning, or shipment, or (b) any person who is the owner or legal holder of a warehouse receipt, outstanding scale weight ticket, or other evidence of the deposit of a commodity with a Washington state licensed warehouseman or (c) any producer whose agricultural commodity has been sold to a grain dealer through the dealer's place of business located in the state of Washington, or any Washington producer whose agricultural commodity has been sold to or is under the control of a grain dealer, whose place of business is located outside the state of Washington.

(12) "Historical depositor" means any person who in the normal course of business operations has consistently made deposits in the same warehouse of commodities produced on the same land. In addition the purchaser, lessee, and/or inheritor of such land from the original historical depositor with reference to the land shall be considered a historical depositor with regard to the commodities produced on the land.

(13) "Grain dealer" means any person who, through his place of business located in the state of Washington, solicits, contracts for, or obtains from a producer, title, possession, or control of any agricultural commodity for purposes of resale, or any person who solicits, contracts for, or obtains from a Washington producer, title, possession, or control of any agricultural commodity for purposes of resale.

(14) "Producer" means any person who is the owner, tenant, or operator of land who has an interest in and is entitled to receive all or any part of the proceeds from the sale of a commodity produced on that land.

(15) "Warehouse receipt" means a negotiable or nonnegotiable warehouse receipt as provided for in Article 7 of Title 62A RCW.

(16) "Scale weight ticket" means a load slip or other evidence of deposit, serially numbered, not including warehouse receipts as defined in subsection (15) of this section, given a depositor on request upon initial delivery of the commodity to the warehouse and showing the warehouse's name and state number, type of commodity, weight thereof, name of depositor, and the date delivered.

(17) "Put through" means agricultural commodities that are deposited in a warehouse for receiving, handling, conditioning, or shipping, and on which the depositor has concluded satisfactory arrangements with the warehouseman for the immediate or impending shipment of the commodity.

(18) "Conditioning" means, but is not limited to, the drying or cleaning of agricultural commodities.

(19) "Deferred price contract" means a contract for the sale of commodities that conveys the title and all rights of ownership to the commodities represented by the contract to the buyer, but allows the seller to set the

price of the commodities at a later date based on an agreed upon relationship to a future month's price or some other mutually agreeable method of price determination. Deferred price contracts include but are not limited to those contracts commonly referred to as delayed price, price later contracts, or open price contracts.

(20) "Shortage" means that a warehouseman does not have in his possession sufficient commodities at each of his stations to cover the outstanding warehouse receipts, scale weight tickets, or other evidence of storage liability issued or assumed by him for the station.

(21) "Failure" means:

(a) An inability to financially satisfy claimants in accordance with this chapter and the time limits provided for in it;

(b) A public declaration of insolvency;

(c) A revocation of license and the leaving of an outstanding indebtedness to a depositor;

(d) A failure to redeliver any commodity to a depositor or to pay depositors for commodities purchased by a licensee in the ordinary course of business and where a bona fide dispute does not exist between the licensee and the depositor;

(e) A failure to make application for license renewal within sixty days after the annual license renewal date; or

(f) A denial of the application for a license renewal.

(22) "Original inspection" means an initial, official inspection of a grain or commodity.

(23) "Reinspection" means an official review of the results of an original inspection service by an inspection office that performed that original inspection service. A reinspection may be performed either on the basis of the official file sample or a new sample obtained by the same means as the original if the lot remains intact.

(24) "Appeal inspection" means, for commodities covered by federal standards, a review of original inspection or reinspection results by an authorized United States department of agriculture inspector. For commodities covered under state standards, an appeal inspection means a review of original or reinspection results by a supervising inspector. An appeal inspection may be performed either on the basis of the official file sample or a new sample obtained by the same means as the original if the lot remains intact.

Sec. 45. Section 2, chapter 124, Laws of 1963 as amended by section 17, chapter 305, Laws of 1983 and RCW 22.09.020 are each amended to read as follows:

The department shall administer and carry out the provisions of this chapter and rules adopted hereunder, and it has the power and authority to:

(1) Supervise the receiving, handling, conditioning, weighing, storage, and shipping of all commodities;

- (2) Supervise the inspection and grading of ~~((att))~~ commodities;
- (3) Approve or disapprove the facilities, including scales, of all warehouses;
- (4) Approve or disapprove all rates and charges for the handling, storage, and shipment of all commodities;
- (5) Investigate all complaints of fraud in the operation of any warehouse;
- (6) Examine, inspect, and audit, during ordinary business hours, any warehouse licensed under this chapter, including all commodities therein and examine, inspect, audit, or record all books, documents, and records;
- (7) Examine, inspect, and audit during ordinary business hours, all books, documents, and records, and examine, inspect, audit, or record records of any grain dealer licensed hereunder at the grain dealer's principal office or headquarters;
- (8) Inspect at reasonable times any warehouse or storage facility where commodities are received, handled, conditioned, stored, or shipped, including all commodities stored therein and all books, documents, and records in order to determine whether or not such facility should be licensed pursuant to this chapter;
- (9) Inspect at reasonable times any grain dealer's books, documents, and records in order to determine whether or not the grain dealer should be licensed under this chapter;
- (10) Administer oaths and issue subpoenas to compel the attendance of witnesses, and/or the production of books, documents, and records anywhere in the state pursuant to a hearing relative to the purpose and provisions of this chapter. Witnesses shall be entitled to fees for attendance and travel, as provided in chapter 2.40 RCW;
- (11) Adopt rules establishing inspection standards and procedures for grains and commodities;
- (12) Adopt rules regarding the identification of commodities by the use of confetti or other similar means so that such commodities may be readily identified if stolen or removed in violation of the provisions of this chapter from a warehouse or if otherwise unlawfully transported;
- ~~((12))~~ (13) Adopt all the necessary rules for carrying out the purpose and provisions of this chapter. The adoption of rules under the provisions of this chapter shall be subject to the provisions of chapter ~~((34.04))~~ 34.05 RCW, the Administrative Procedure Act. When adopting rules in respect to the provisions of this chapter, the director shall hold a public hearing and shall to the best of his ability consult with persons and organizations or interests who will be affected thereby, and any final rule adopted as a result of the hearing shall be designed to promote the provisions of this chapter and shall be reasonable and necessary and based upon needs and conditions of the industry, and shall be for the purpose of promoting the well-being of the industry to be regulated and the general welfare of the people of the state.

Sec. 46. Section 29, chapter 124, Laws of 1963 as last amended by section 43, chapter 305, Laws of 1983 and RCW 22.09.290 are each amended to read as follows:

(1) Every warehouse receipt issued for commodities covered by this chapter shall embody within its written or printed terms:

(a) The grade of the commodities (~~(received)~~) as (~~(established)~~) described by the official standards of this state, unless the identity of the commodity is in fact preserved in a special pile or special bin, and an identifying mark of such pile or bin shall appear on the face of the receipt and on the pile or bin. A commodity in a special pile or bin shall not be removed or relocated without canceling the outstanding receipt and issuing a new receipt showing the change;

(b) Such other terms and conditions as required by Article 7 of Title 62A RCW: PROVIDED, That nothing contained therein requires a receipt issued for wheat to specifically state the variety of wheat by name;

(c) A clause reserving for the warehouseman the optional right to terminate storage upon thirty days' written notice to the depositor and collect outstanding charges against any lot of commodities after June 30th following the date of the receipt.

(2) Warehouse receipts issued under the United States Warehouse Act (7 USCA § 241 et seq.) are deemed to fulfill the requirements of this chapter so far as it pertains to the issuance of warehouse receipts.

Sec. 47. Section 39, chapter 124, Laws of 1963 and RCW 22.09.720 are each amended to read as follows:

The grades and standards established by the United States department of agriculture as of (~~(July 1, 1963)~~) September 30, 1988, for all commodities included within the provisions of this chapter are hereby adopted as the grades and standards for such commodities in this state: PROVIDED, That the department is hereby authorized to adopt by regulation any new or future amendments to such federal grades and standards. The department is also authorized to issue regulations whether or not in accordance with the federal government and to prescribe therein grades and standards which it may deem suitable for (~~(such)~~) inspection of commodities(~~(; except hops;)~~) in the state of Washington. In adopting any new or amendatory regulations the department shall give appropriate consideration, among other relevant factors, to the following:

(1) The usefulness of uniform federal and state grades;

(2) The common classifications given such commodities within the industry;

(3) The utility of various grades;

(4) The kind and type of grades requested by those dealing with the particular type of commodity; and

(5) The condition of the commodity with regard to its wholesomeness and purity.



Sec. 48. Section 40, chapter 124, Laws of 1963 and RCW 22.09.730 are each amended to read as follows:

Inspection ~~((and))~~ or grading of a lot ~~((or parcel))~~, partial lot, or sample of a commodity tendered for inspection ~~((and))~~ or grading under this chapter shall consist of taking and examining a representative sample thereof and making such tests as are necessary to determine its grade, condition, or other qualitative measurement. Commodities tendered for inspection must be offered and made accessible for sampling at inspection points during customary business hours.

(1) No inspector shall issue a certificate of grade, grading factors, condition, or other qualitative measurement for any commodity unless the inspection ~~((and))~~ or grading thereof be based upon a correct and representative sample of the commodity and the inspection is made under conditions which permit the determination of its true grade or quality, except as provided in subsections (2) and (3) of this section. No sample shall be deemed to be representative unless it is of the size and procured in accordance with the uniform methods prescribed by the department.

(2) An inspection may be made of a submitted sample ~~((or package))~~ of a commodity, provided that the certificate issued in such case clearly shows that the inspection ~~((and))~~ or grading covers only the submitted sample ~~((or package))~~ of such commodity and not the lot from which it ~~((was))~~ is purportedly drawn.

(3) When commodities are tendered for inspection in such a manner as to make the drawing of a representative sample impossible, a qualified inspection may be made. In such case, the certificate shall clearly show the condition preventing proper sampling such as heavily loaded ~~((box))~~ car, truck, barge, or other container, or other condition.

Sec. 49. Section 41, chapter 124, Laws of 1963 and RCW 22.09.740 are each amended to read as follows:

From all commodities inspected, samples may be drawn, which samples, unless returned by agreement to the applicant, shall become the property of the state and subject to disposition by the department. Upon ~~((prior))~~ request the department may transmit a portion of such samples to interested ~~((persons))~~ parties upon payment of a reasonable fee ~~((therefor))~~ set by regulation. Official state file samples shall be retained for ~~((a))~~ periods ~~((of fifteen days))~~ prescribed by state or federal regulation.

Sec. 50. Section 42, chapter 124, Laws of 1963 as amended by section 54, chapter 305, Laws of 1983 and RCW 22.09.750 are each amended to read as follows:

The department's inspectors shall, at terminal warehouses, have exclusive control of the weighing, inspecting, and grading of the commodities that are included within the provisions of this chapter ~~((, and))~~: PROVIDED, That official supervision of weighing under the United States grain standards act shall be deemed in compliance with this section. The action

and the certificates of the inspectors in the discharge of their duties, as to all commodities (~~((weighed or))~~) inspected or weighed by them, shall be accepted as prima facie evidence of the correctness of the above activity. ~~((However, an appeal may be taken as provided in RCW 22.09.780 to the director of the department. Suitable books and records shall be kept in which shall be entered a record of every carload, or cargo, or part of cargo of commodities inspected or weighed by them, showing the number and initial or other designation of the vehicle or boat containing the carload, or cargo, or part of cargo, its weight, the kind of commodity, and its grade, the reason for the grade if of inferior grade, the amount of the dockage, the amount of fees and forfeitures and disposition of them, and for each vehicle or cargo, or part of cargo, of commodity inspected, they shall give a certificate of inspection showing the kind and grade of the same and the reason for all grades established. They shall also keep a record of all appeals, decisions, and a complete record of every official act, which books and records shall be open to inspection by any party in interest. They shall also furnish the agent of the railroad company, or other carrier over which the commodity was shipped or carried, a report showing the weight thereof, if requested to do so))~~ Suitable books and records shall be maintained in which shall be entered a record of each inspection activity and the fees assessed and collected. These books and records shall be available for inspection by any party of interest during customary business hours. The records shall be maintained for periods set by regulation.

Sec. 51. Section 45, chapter 124, Laws of 1963 and RCW 22.09.780 are each amended to read as follows:

(1) In case any owner, consignee, or shipper of any commodity included under the provisions of this chapter, or his agent or broker, or any warehouseman shall be aggrieved at the grading of such commodity, ~~((such aggrieved))~~ the person may ((appeal to the department from such decision within fifteen)) request a reinspection or appeal inspection within three business days from the date of certificate ((by giving notice of appeal, and paying a fee to be fixed by the department, not exceeding twenty dollars, which shall be retained if the decision appealed is sustained, otherwise to be refunded. Such notice of appeal may be given by a letter or other written notice to the department stating the inspector's name, number of the certificate, date of inspection, and that such party appeals from such decision concerning such grade:

(2) It shall be the duty of the department upon receiving such notice of appeal to hold a hearing within twenty days and inquire into the reasonableness and correctness of such original grading and such evidence shall be received as the parties thereto may desire to offer. After such hearing the director of the department shall make such order affirming or modifying the grade so established by the inspector as the facts may justify)). The reinspection or appeal may be based in the official file sample or upon a new

sample drawn from the lot of the grain or commodity if the lot remains intact and available for sampling. The reinspection or appeal inspection shall be of the same factors and scope as the original inspection.

(2) For commodities inspected under federal standards, the reinspection and appeal inspection procedure provided in the applicable federal regulations shall apply. For commodities inspected under state standards, the department shall provide a minimum of a reinspection and appeal inspection service. The reinspection shall consist of a full review of all relevant information and a reexamination of the commodity to determine the correctness of the grade assigned or other determination. The reinspection shall be performed by an authorized inspector of the department other than the inspector who performed the original inspection unless no other inspector is available. An appeal inspection shall be performed by a supervisory inspector.

(3) If the grading of any commodity for which federal standards have been fixed and the same adopted as official state standards has not been the subject of a hearing, in accordance with subsection (2) of this section, any interested party who is aggrieved with the grading of such commodity, may, with the approval of the secretary of the United States department of agriculture, appeal to the federal grain supervisor of the supervision district in which the state of Washington may be located. Such federal grain supervisor shall confer with the department inspectors and any other interested party and shall make such tests as he may deem necessary to determine the correct grade of the commodity in question. Such federal grade certificate shall be prima facie evidence of the correct grade of the commodity in any court in the state of Washington.

Sec. 52. Section 50, chapter 124, Laws of 1963 as amended by section 25, chapter 297, Laws of 1981 and RCW 22.09.830 are each amended to read as follows:

(1) All moneys collected as warehouse license fees, fees for weighing, grading, and inspecting commodities and all other fees collected under the provisions of this chapter, except as provided in subsection (2) of this section, shall be deposited ~~((into))~~ in the grain ~~((and hay))~~ inspection revolving fund, which is hereby established. The state treasurer is the custodian of the revolving fund. Disbursements from the revolving fund shall be on authorization of the director of the department of agriculture. The revolving fund is subject to the allotment procedure provided in chapter 43.88 RCW, but no appropriation is required for disbursements from the fund. ~~((Such))~~ The fund shall be used for all expenses directly incurred by the commodity inspection division ~~((of grain and agricultural chemicals))~~ in carrying out the provisions of this chapter. The department may use so much of such fund not exceeding five percent thereof as the director of agriculture may determine necessary for research and promotional work, including rate studies, relating to wheat and wheat products.

(2) All fees collected for the inspection, grading, and testing of hops shall be deposited into the hop inspection fund, which is hereby established, and shall be retained by the department for the purpose of inspecting, grading, and testing hops. Any moneys in any fund retained by the department on July 1, 1963, and derived from hop inspection and grading shall be deposited to this hop inspection fund. For the purposes of research which would contribute to the development of superior hop varieties and to improve hop production and harvest practices, the department may expend up to twenty percent of the moneys deposited in the hop inspection fund during the fiscal year ending June 30th immediately preceding the year in which such expenditures are to be made. No expenditures shall be made under the provisions of this subsection when the hop inspection fund is, or the director may reasonably anticipate that it will be, reduced below twenty thousand dollars as the result of such expenditure or other necessary expenditures made to carry out the inspection, grading, and testing of hops.

Sec. 53. Section 15.24.010, chapter 11, Laws of 1961 as last amended by section 22, chapter 240, Laws of 1967 and RCW 15.24.010 are each amended to read as follows:

As used in this chapter:

(1) "Commission" means the Washington state apple advertising commission;

(2) "Ship" means to load apples into a conveyance for transport, except apples being moved from the orchard where grown to a packing house or warehouse within the immediate area of production;

(3) "Handler" means any person who ships or initiates a shipping operation, whether for himself or for another;

(4) "Dealer" means any person who handles, ships, buys, or sells apples, or who acts as sales or purchasing agent, broker, or factor of apples;

(5) "Processor" and "processing plant" means every person to whom and every place to which apples are delivered for drying, dehydrating, canning, pressing, powdering, extracting, cooking, or for use in producing a product or manufacturing a manufactured article;

(6) "Processing apples" means all apples delivered to a processing plant for drying, dehydrating, canning, pressing, powdering, extracting, cooking, or for use in producing a product or manufacturing a manufactured article;

(7) "Fresh apples" means all apples other than processing apples;

(8) "Director" means the director of the department of agriculture or his duly authorized representative;

(9) "Grower district No. 1" includes the counties of Chelan, Okanogan, and Douglas;

(10) "Grower district No. 2" includes the counties of Kittitas, Yakima, Benton, and Franklin;

(11) "Grower district No. 3" includes all counties in the state not included in the first and second districts; ~~((and))~~

(12) "Dealer district No. 1" includes the area of the state north of interstate 90;

(13) "Dealer district No. 2" includes the area of the state south of interstate 90; and

(14) "Executive officer" includes, but is not limited to, the principal management executive, sales manager, general manager, or other executive employee of similar responsibility and authority.

Sec. 54. Section 15.24.020, chapter 11, Laws of 1961 as last amended by section 23, chapter 240, Laws of 1967 and RCW 15.24.020 are each amended to read as follows:

There is hereby created a Washington state apple advertising commission to be thus known and designated. The commission shall be composed of nine practical apple producers and four practical apple dealers. The director shall be an ex officio member of the commission without vote.

The nine producer members shall be citizens and residents of this state, over the age of twenty-five years, each of whom, either individually or as an executive officer of a corporation, firm or partnership, is and has been actually engaged in growing and producing apples within the state of Washington for a period of five years, currently operates a commercial producing orchard in the district represented, and has during that period derived a substantial portion of his income therefrom: PROVIDED, That he may own and operate an apple warehouse and pack and store apples grown by others, without being disqualified, so long as a substantial quantity of the apples handled in such warehouse are grown by him; and he may sell apples grown by himself and others so long as he does not sell a larger quantity of apples grown by others than those grown by himself. The four dealer members shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association, or cooperative organization, are and have been actively engaged as dealers in apples within the state of Washington for a period of five years, and are citizens and residents of this state, and are engaged as apple dealers in the district represented. The qualifications of members of the commission as herein set forth must continue during their term of office.

Sec. 55. Section 15.24.030, chapter 11, Laws of 1961 as last amended by section 24, chapter 240, Laws of 1967 and RCW 15.24.030 are each amended to read as follows:

Thirteen persons with the qualifications stated in RCW 15.24.020 (~~as amended in section 23, chapter 240, Laws of 1967~~) shall be elected members of said commission. Four of the grower members, being positions one, two, three and four, shall be from grower district No. 1, at least one of whom shall be a resident of and engaged in growing and producing apples in Okanogan county; four of the grower members, being positions five, six,

seven and eight, from grower district No. 2; and one grower member, being position nine from grower district No. 3. Two of the dealer members, being positions ten and eleven, shall be from dealer district No. 1; and two of the dealer members, being positions twelve and thirteen, shall be from dealer district No. 2.

The commission shall have authority in its discretion to establish by regulation one or more subdivisions of grower district No. 1 and one or more subdivisions of grower district No. 2; provided that each of the same includes a substantial apple producing district or districts, and provided the same does not result in an unfair or unequitable voting situation or an unfair or unequitable representation of apple growers on said commission. In such event each of said subdivisions shall be entitled to be represented by one of the said grower members of the commission, who shall be elected by vote of the qualified apple growers in said subdivision of said district, and who shall be a resident of and engaged in growing and producing apples in said subdivision.

The regular term of office of the members of the commission shall be three years from March 1 following their election and until their successors are elected and qualified. The commission shall hold its annual meeting during the month of March each year for the purpose of electing officers and the transaction of other business and shall hold such other meetings during the year as it shall determine.

Sec. 56. Section 15.24.040, chapter 11, Laws of 1961 as last amended by section 25, chapter 240, Laws of 1967 and RCW 15.24.040 are each amended to read as follows:

The director shall call a meeting of apple growers (~~(in each of the three districts)~~), and meetings of apple dealers in dealer district No. 1 and dealer district No. 2 for the purpose of nominating their respective members of the commission, when a term is about to expire, or when a vacancy exists, except as provided in RCW 15.24.050, as amended, at times and places to be fixed by the commission. Said meetings shall be held not later than February 15th of each year and insofar as practicable, the said meetings of the growers shall be held at the same time and place as the annual (~~(state and district)~~) meeting(~~(s)~~) of the Washington state horticultural association (~~(and its affiliated clubs)~~), or the annual meeting of any other producer organization which represents a majority of the state's apple producers, as determined by the commission, but not while the same (~~(are)~~) is in actual session. Public notice of such meetings shall be given by the commission in such manner as it may determine: PROVIDED, That nonreceipt of the notice by any interested person shall not invalidate the proceedings. Any qualified person may be nominated orally for such positions at the said respective meetings. Nominations may also be made within five days after any such meeting by written petition filed in the Wenatchee office of the commission, signed by not less than five apple growers or dealers, as the case

may be, residing within the district or within the subdivision if the nomination is made from a subdivision.

The members of the commission shall be elected by secret mail ballot under the supervision of the director: PROVIDED, That in any case where there is but one nomination for a position, a secret mail ballot shall not be conducted or required and the director shall certify the candidate to be elected. Grower members of the commission shall be elected by a majority of the votes cast by the apple growers in the respective districts or subdivisions thereof, as the case may be, each grower who operates a commercial producing apple orchard within the district or subdivision being represented, whether an individual proprietor, partnership, joint venture, or corporation, being entitled to one vote. As to bona fide leased or rented orchards, only the lessee-operator, if otherwise qualified, shall be entitled to vote. An individual commercial orchard operator, if otherwise qualified, shall be entitled to vote as such, even though he is also a member of a partnership or corporation which votes for other apple acreage. Dealer members of the commission shall be elected by a majority of the votes cast by the apple dealers in the respective districts, each dealer being entitled to one vote. If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

NEW SECTION. Sec. 57. A new section is added to chapter 15.58 RCW to read as follows:

The director of agriculture may adopt rules to allow the department of agriculture to take possession and dispose of canceled, suspended, or otherwise unusable pesticides held by persons licensed under chapter 15.58 RCW or regulated under chapter 17.21 RCW. For purposes of this section, the department may become licensed as a hazardous waste generator. The department may set fees to cover expenses in connection with pesticide waste received from persons licensed under chapter 15.58 RCW.

NEW SECTION. Sec. 58. The following acts or parts of acts are each repealed:

- (1) Section 15.32.170, chapter 11, Laws of 1961 and RCW 15.32.170;
- (2) Section 15.32.180, chapter 11, Laws of 1961 and RCW 15.32.180;
- (3) Section 15.32.190, chapter 11, Laws of 1961 and RCW 15.32.190;
- (4) Section 15.32.200, chapter 11, Laws of 1961 and RCW 15.32.200;
- (5) Section 15.32.230, chapter 11, Laws of 1961 and RCW 15.32.230;
- (6) Section 15.32.240, chapter 11, Laws of 1961 and RCW 15.32.240;
- (7) Section 15.32.270, chapter 11, Laws of 1961 and RCW 15.32.270;
- (8) Section 15.32.280, chapter 11, Laws of 1961 and RCW 15.32.280;
- (9) Section 15.32.300, chapter 11, Laws of 1961 and RCW 15.32.300;
- (10) Section 15.32.310, chapter 11, Laws of 1961 and RCW 15.32-

.310;

(11) Section 15.32.390, chapter 11, Laws of 1961, section 5, chapter 58, Laws of 1963 and RCW 15.32.390;

(12) Section 15.32.400, chapter 11, Laws of 1961 and RCW 15.32-.400;

(13) Section 15.32.470, chapter 11, Laws of 1961 and RCW 15.32-.470;

(14) Section 15.32.480, chapter 11, Laws of 1961 and RCW 15.32-.480;

(15) Section 15.32.690, chapter 11, Laws of 1961 and RCW 15.32-.690;

(16) Section 15.32.692, chapter 11, Laws of 1961 and RCW 15.32-.692;

(17) Section 15.32.694, chapter 11, Laws of 1961 and RCW 15.32-.694;

(18) Section 15.32.698, chapter 11, Laws of 1961 and RCW 15.32-.698;

(19) Section 15.36.130, chapter 11, Laws of 1961, section 21, chapter 141, Laws of 1979 and RCW 15.36.130;

(20) Section 15.36.290, chapter 11, Laws of 1961, section 4, chapter 297, Laws of 1981 and RCW 15.36.290;

(21) Section 15.36.310, chapter 11, Laws of 1961 and RCW 15.36-.310;

(22) Section 15.36.450, chapter 11, Laws of 1961 and RCW 15.36-.450;

(23) Section 15.36.560, chapter 11, Laws of 1961, section 24, chapter 141, Laws of 1979 and RCW 15.36.560; and

(24) Section 15.36.570, chapter 11, Laws of 1961 and RCW 15.36-.570.

**NEW SECTION.** Sec. 59. Section 4, chapter 247, Laws of 1985 and RCW 15.86.040 are each repealed.

**NEW SECTION.** Sec. 60. Section 7, chapter 305, Laws of 1983 and RCW 20.01.600 are each repealed.

**NEW SECTION.** Sec. 61. Section 21, chapter 124, Laws of 1963, section 18, chapter 238, Laws of 1979 ex. sess., section 38, chapter 305, Laws of 1983 and RCW 22.09.700 are each repealed.

**NEW SECTION.** Sec. 62. A new section is added to chapter 1.20 RCW to read as follows:

Agropyron spicatum, the species of natural grass commonly called "bluebunch wheatgrass," is hereby designated as the official grass of the state of Washington.

**NEW SECTION.** Sec. 63. A new section is added to chapter 1.20 RCW to read as follows:

The official fruit of the state of Washington is the apple.



**NEW SECTION.** Sec. 64. The county legislative authority of any county of the third class located east of the cascade crest and bordering on the southern side of the Snake river shall have the power to designate by an order made and published, as provided in section 66 of this act, certain territories as apiary coordinated areas in which they may designate the number of colonies per apiary, the distance between apiaries, the minimum required setback distance from property lines, and/or the time of year the regulations shall be in effect. No territory so designated shall be less than two square miles in area.

**NEW SECTION.** Sec. 65. When the county legislative authority determines that it would be desirable to establish an apiary coordinated area or areas in their county, they shall make an order fixing a time and place when a hearing will be held, notice of which shall be published at least once each week for two successive weeks in a newspaper having general circulation within the county. It shall be the duty of the county legislative authority at the time fixed for such hearing, to hear all persons interested in the establishment of apiary coordinated areas as defined in sections 64 through 68 of this act.

**NEW SECTION.** Sec. 66. Within thirty days after the conclusion of any such hearing the county legislative authority shall make an order describing the apiary coordinated areas within the county as to the maximum allowable number of hives per site, the minimum allowable distance between sites, and the minimum required setback from property lines. The order shall be entered upon the records of the county and published in a newspaper having general circulation in the county at least once each week for four successive weeks.

**NEW SECTION.** Sec. 67. Any person, or any agent, employee, or representative of a corporation, violating any of the provisions of such order after the order has been published or posted as provided in section 66 of this act, or violating any provision of this chapter, shall be guilty of a misdemeanor.

**NEW SECTION.** Sec. 68. When the county legislative authority of any county deems it advisable to change the boundary or boundaries of any apiary coordinated area, a hearing shall be held in the same manner as provided in section 65 of this act. If the county legislative authority decides to change the boundary or boundaries of any apiary coordinated area or areas, they shall within thirty days after the conclusion of such hearing make an order describing the change or changes. Such order shall be entered upon the records of the county and published in a newspaper having general circulation in the county once each week for four successive weeks.

**NEW SECTION.** Sec. 69. Sections 64 through 68 of this act are each added to chapter 15.60 RCW.

**NEW SECTION.** Sec. 70. The purpose of this chapter is to provide uniformity and consistency in the packaging of agricultural, vegetable, and flower seeds so as to facilitate the interstate movement of seed, to protect consumers, and to provide a dispute-resolution process. The department of agriculture is hereby authorized to adopt rules in accordance with chapter 34.05 RCW to implement this chapter. To the extent possible, the department shall seek to incorporate into the rules provisions from the recommended uniform state seed law in order to attain consistency with other states.

**NEW SECTION.** Sec. 71. (1) The department shall establish by rule standards and label requirements for the following seed types: Agricultural seed (including grass, lawn, and turf seed), flower seed, and vegetable seed.

(2) The standards and label requirements shall be divided into the following categories:

(a) Percentage of kind and variety of each seed component present; and

(b) Percentage of weed seed (restricted and common).

(3) The standards and label requirements developed by the department shall at a minimum include:

(a) Amount of inert material;

(b) Specifics and warning for treated seed;

(c) Specifics for coated seed;

(d) Specifics and duration for inoculated seed;

(e) Specifics for seed which is below standard;

(f) Specifics for seed contained in containers, mats, tapes, or other planting devices;

(g) Specifics for seed sold in bulk;

(h) Specifics for hybrid seed; and

(i) Specifics for seed mixtures.

**NEW SECTION.** Sec. 72. In addition to the requirements contained in section 71 of this act, each seed label shall contain the following:

(1) The name and address of the person who labeled the seed and who sells, offers, or exposes the seed for sale within the state;

(2) Lot number identification;

(3) Seed origin;

(4) Germination rate and date of germination test or the year for which the seed was packaged for sale.

**NEW SECTION.** Sec. 73. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this chapter.

(2) "Agricultural seed" includes grass, forage, cereal, oil, fiber, and other kinds of crop seeds commonly recognized within this state as agricultural seeds, lawn seeds, and combinations of such seeds, and may include common and restricted noxious weed seeds but not prohibited noxious weed seeds.

(3) "Blend" means seed consisting of more than one variety of a kind, each in excess of five percent by weight of the whole.

(4) "Bulk seed" means seed distributed in a nonpackage form.

(5) "Certifying agency" means (a) an agency authorized under the laws of any state, territory, or possession to certify seed officially and which has standards and procedures approved by the United States secretary of agriculture to assure the genetic purity and identity of the seed certified; or (b) an agency of a foreign country determined by the United States secretary of agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed-certifying agencies under (a) of this subsection.

(6) "Conditioning" means drying, cleaning, scarifying, and other operations that could change the purity or germination of the seed and require the seed lot to be retested to determine the label information.

(7) "Dealer" means any person who distributes.

(8) "Department" means the department of agriculture of the state of Washington or its duly authorized representative.

(9) "Director" means the director of the department of agriculture.

(10) "Distribute" means to import, consign, offer for sale, hold for sale, sell, barter, or otherwise supply seed in this state.

(11) "Flower seeds" includes seeds of herbaceous plants grown from their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower seeds in this state.

(12) The terms "foundation seed," "registered seed," and "certified seed" mean seed that has been produced and labeled in compliance with the regulations of the department.

(13) "Germination" means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.

(14) "Hard seeds" means seeds that remain hard at the end of the prescribed test period because they have not absorbed water due to an impermeable seed coat.

(15) "Hybrid" means the first generation seed of a cross produced by controlling the pollination and by combining (a) two or more inbred lines; (b) one inbred or a single cross with an open pollinated variety; or (c) two varieties or species, except open-pollinated varieties of corn (*Zea mays*). The second generation or subsequent generations from such crosses shall not

be regarded as hybrids. Hybrid designations shall be treated as variety names.

(16) "Inert matter" means all matter not seed, that includes broken seeds, sterile florets, chaff, fungus bodies, and stones as determined by methods defined by rule.

(17) "Kind" means one or more related species or subspecies that singly or collectively is known by one common name, for example, corn, oats, alfalfa, and timothy.

(18) "Label" includes a tag or other device attached to or written, stamped, or printed on any container or accompanying any lot of bulk seeds purporting to set forth the information required on the seed label by this chapter, and it may include any other information relating to the labeled seed.

(19) "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors that appear in the labeling.

(20) "Lot number" shall identify the producer or dealer and year of production or the year distributed for each lot of seed. This requirement may be satisfied by use of a conditioner's or dealer's code.

(21) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed using a master application and a master license expiration date common to each renewable license endorsement.

(22) "Mixture," "mix," or "mixed" means seed consisting of more than one kind, each in excess of five percent by weight of the whole.

(23) "Official sample" means any sample of seed taken and designated as official by the department.

(24) "Other crop seed" means seed of plants grown as crops, other than the kind or variety included in the pure seed, as determined by methods defined by rule.

(25) "Prohibited (primary) noxious weed seeds" are the seeds of weeds which when established are highly destructive, competitive, and/or difficult to control by cultural or chemical practices.

(26) "Person" means an individual, partnership, corporation, company, association, receiver, trustee, or agent.

(27) "Pure live seed" means the product of the percent of germination plus hard or dormant seed multiplied by the percent of pure seed divided by one hundred. The result is expressed as a whole number.

(28) "Pure seed" means seed exclusive of inert matter and all other seeds not of the seed being considered as determined by methods defined by rule.

(29) "Restricted (secondary) noxious weed seeds" are the seeds of weeds which are objectionable in fields, lawns, and gardens of this state, but which can be controlled by cultural or chemical practices.

(30) "Retail" means to distribute to the ultimate consumer.

(31) "Screenings" mean chaff, seed, weed seed, inert matter, and other materials removed from seed in cleaning or conditioning.

(32) "Seed labeling registrant" means a person who has obtained a permit to label seed for distribution in this state.

(33) "Seeds" mean agricultural or vegetable seeds or other seeds as determined by rules adopted by the department.

(34) "Stop sale, use, or removal order" means an administrative order restraining the sale, use, disposition, and movement of a specific amount of seed.

(35) "Treated" means that the seed has received an application of a substance, or that it has been subjected to a process for which a claim is made.

(36) "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

(37) "Variety" means a subdivision of a kind that is distinct, uniform, and stable; "distinct" in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; "uniform" in the sense that variations in essential and distinctive characteristics are describable; and "stable" in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.

(38) "Vegetable seeds" includes the seeds of those crops that are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state.

(39) "Weed seeds" include the seeds of all plants generally recognized as weeds within this state, and includes the seeds of prohibited and restricted noxious weeds as determined by regulations adopted by the department.

(40) "Inoculant" means a commercial preparation containing nitrogen fixing bacteria applied to the seed.

(41) "Coated seed" means seed that has been treated and has received an application of inert material during the treatment process.

**NEW SECTION.** Sec. 74. Every person who fails to comply with this chapter or the rules adopted under it may be subjected to a civil penalty, as determined by the director, in an amount of not more than two thousand dollars for every such violation. Each and every such violation shall be a separate and distinct offense.

**NEW SECTION.** Sec. 75. (1) It is unlawful for any person to sell, offer for sale, expose for sale, or transport for sale any agricultural, vegetable, or flower seeds within this state unless the test to determine the percentage of germination is completed within a fifteen-month period prior to sale, provided that germination tests for seed packaged in hermetically sealed containers shall be completed within thirty-six months prior to sale. The department shall establish rules for allowing retesting.

(2) It is unlawful for any person to sell, offer for sale, expose for sale, or transport for sale any agricultural, vegetable, or flower seed within this state not labeled in accordance with this chapter or having false or misleading labeling or for which there has been false or misleading advertisement.

(3) It is unlawful to represent seed to be certified unless it has been determined by a seed-certifying agency that such seed conformed to standards of purity and identity or variety in compliance with the rules adopted under this chapter.

(4) It is unlawful to attach any tags of similar size and format to the official certification tag that could be mistaken for the official certification tag.

(5) It is unlawful for any person to sell, offer for sale, expose for sale, or transport for sale any agricultural, vegetable, or flower seed within this state labeled with a variety name but not certified by an official seed-certifying agency when it is a variety for which a United States certification of plant variety protection under the plant variety protection act (7 U.S.C. Sec. 2321 et seq.) specifies sale only as a class of certified seed: PROVIDED, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety.

(6) It is unlawful for any person within this state:

(a) To detach, alter, deface, or destroy any label required by this chapter or its implementing rules or to alter or substitute seed in a manner that may defeat the purpose of this chapter;

(b) To disseminate any false or misleading advertisements concerning seeds subject to this chapter in any manner or by any means;

(c) To hinder or obstruct in any way, any authorized person in the performance of his or her duties under this chapter;

(d) To fail to comply with a "stop sale" order or to move or otherwise handle or dispose of any lot of seed held under a "stop sale" order or tags attached thereto, except with express permission of the enforcing officer, and for the purpose specified thereby;

(e) To use the word "trace" as a substitute for any statement that is required; and

(f) To use the word "type" in any labeling in connection with the name of any agricultural seed variety.

(7) It is unlawful for any person to sell, offer for sale, expose for sale, or transport for sale any agricultural, vegetable, or flower seed within this state that consists of or contains: (a) Prohibited noxious weed seeds; or (b) restricted noxious weed seeds in excess of the number declared on the label.

NEW SECTION. Sec. 76. (1) The provisions of sections 71 through 75 of this act do not apply:

(a) To seed or grain not intended for sowing purposes;

(b) To seed in storage by, or being transported or consigned to a conditioning establishment for conditioning if the invoice or labeling accompanying the shipment of such seed bears the statement "seeds for conditioning" and if any labeling or other representation that may be made with respect to the unconditioned seed is subject to this chapter;

(c) To any carrier with respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier if the carrier is not engaged in producing, conditioning, or marketing seeds subject to this chapter; or

(d) Seed stored or transported by the grower of the seed.

(2) No person may be subject to the penalties of this chapter for having sold or offered for sale seeds subject to this chapter that were incorrectly labeled or represented as to kind, species, variety, or type, which seeds cannot be identified by examination thereof, unless he or she has failed to obtain an invoice, genuine grower's declaration, or other labeling information and to take such other precautions as may be reasonable to ensure the identity to be that stated. A genuine grower's declaration of variety shall affirm that the grower holds records of proof concerning parent seed, such as invoice and labels.

NEW SECTION. Sec. 77. (1) When a buyer is damaged by the failure of any seed covered by this chapter to produce or perform as represented by the required label, by warranty, or as a result of negligence, the buyer, as a prerequisite to maintaining a legal action against the dealer of such seed, shall have first provided for the arbitration of the claim. Any statutory period of limitations with respect to such claim shall be tolled from the date arbitration proceedings are instituted until ten days after the date on which the arbitration award becomes final.

(2) Similarly, no such claim may be asserted as a counterclaim or defense in any action brought by a dealer against a buyer until the buyer has first provided for arbitration of the claim. Upon the buyer's filing of a written notice of intention to assert such a claim as a counterclaim or defense in the action accompanied by a copy of the buyer's complaint in arbitration filed as provided in this chapter, the action shall be stayed, and any applicable statute of limitations shall be tolled with respect to such claim from the date arbitration proceedings are instituted until ten days after the arbitration award becomes final.

(3) Conspicuous language calling attention to the requirement for arbitration under this section shall be referenced or included on the analysis label required under sections 71 through 80 of this act.

(4) If the parties agree to submit the claim to arbitration and to be bound by the arbitration award, then the arbitration shall be subject to chapter 7.04 RCW, and sections 78 through 81 of this act will not apply to the arbitration. If the parties do not so agree, then the buyer may provide for mandatory arbitration by the arbitration committee under sections 78 through 81 of this act. An award rendered in such mandatory arbitration shall not be binding upon the parties and any trial on any claim so arbitrated shall be de novo.

(5) This section applies only to claims, or counterclaims, where the relief sought is, or includes, a monetary amount in excess of two thousand dollars. All claims for two thousand dollars or less shall be commenced in either district court or small claims court.

**NEW SECTION.** Sec. 78. The director shall adopt rules, in conformance with chapter 34.05 RCW, providing for mandatory arbitration under this chapter and governing the proceedings of the arbitration committee. The decisions and proceedings of the arbitration committee shall not be subject to chapter 34.05 RCW. The department shall establish by rule a filing fee to cover the administrative costs of processing a complaint and submitting it to the arbitration committee.

**NEW SECTION.** Sec. 79. (1) To submit a claim to mandatory arbitration, the buyer shall make and file with the department a sworn complaint against the dealer alleging the damages sustained. The buyer shall send a copy of the complaint to the dealer by United States registered mail. The filing fee shall be submitted to the department with each complaint filed and may be recovered from the dealer or other seller upon recommendations of the arbitration committee.

(2) Within twenty days after receipt of a copy of the complaint, the dealer shall file with the department, by United States registered mail, the answer to the complaint. Failure of a dealer to file a timely answer to the complaint shall be so documented for the record.

(3) The director shall, upon receipt of the answer, refer the complaint and answer to the arbitration committee for investigation, findings, and recommendations.

(4) Any dealer may request an investigation by the arbitration committee for any dispute involving seed which may not otherwise be before the arbitration committee.

**NEW SECTION.** Sec. 80. (1) Upon referral of a complaint for investigation, the arbitration committee shall make a prompt and full investigation of the matters complained of and report its award to the director within



sixty days of such referral or such later date as parties may determine or as may be required in subsection (3) of this section.

(2) The report of the arbitration committee shall include, in addition to its award, recommendations as to costs, if any.

(3) In the course of its investigation, the arbitration committee may examine the buyer and the dealer on all matters that the arbitration committee may consider relevant; may grow a representative sample of the seed referred to in the complaint if considered necessary; and may hold informal hearings at such time and place as the committee chairman may direct upon reasonable notice to all parties. If the committee decides to grow a representative sample of the seed, the sixty-day period identified in this section shall be extended an additional thirty days.

(4) After the committee has made its award, the director shall promptly transmit the report by certified mail to all parties.

**NEW SECTION.** Sec. 81. (1) The director shall create an arbitration committee composed of five members, including the director, or a department employee designated by the director, and four members appointed by the director. The director shall make appointments so that the committee is balanced and does not favor the interests of either buyers or dealers. The director also shall appoint four alternates to the committee. In making appointments the director, to the extent practical, shall seek the recommendations of each of the following:

(a) The dean of the college of agriculture and home economics at Washington State University;

(b) The chief officer of an organization in this state representing the interests of seed dealers;

(c) The chief officer of an agriculture organization in this state as the director may determine to be appropriate; and

(d) The president of an agricultural organization in this state representing persons who purchase seed.

(2) Each alternate member shall serve only in the absence of the member for whom the person is an alternate.

(3) The committee shall elect a chairman and a secretary from its membership. The chairman shall conduct meetings and deliberations of the committee and direct all of its other activities. The secretary shall keep accurate records of all such meetings and deliberations and perform such other duties for the commission as the chairman may direct.

(4) The purpose of the committee is to conduct arbitration as provided in this chapter. The committee may be called into session by or at the direction of the director or upon direction of its chairman to consider matters referred to it by the director in accordance with this chapter.

(5) The members of the committee shall receive no compensation for performing their duties but shall be reimbursed for travel expenses; expense reimbursement shall be borne equally by the parties to the arbitration.

(6) For purposes of this chapter, a quorum of four members or their alternates is necessary to conduct an arbitration investigation or to make an award. If a quorum is present, a simple majority of members present shall be sufficient to make a decision. Any member disagreeing with the award may prepare a dissenting opinion and such opinion also will be included in the committee's report.

(7) The director shall make provisions for staff support, including legal advice, as the committee finds necessary.

**NEW SECTION.** Sec. 82. A new section is added to chapter 15.04 RCW to read as follows:

(1) The director shall conduct a study to recommend a resolution of the agricultural products clear title issue and to accomplish the following goals:

(a) Assure that any resolution of the issues involved does not require further expenditures by the state of Washington;

(b) Assure that any resolution, so far as possible, serves the respective interests of holders of security interests in crops, of buyers of farm products, and of creditors;

(c) Formulate such recommendations to the president of the United States and the congress of the United States as may be deemed useful to resolve these issues; and

(d) Provide adequate opportunity for public comment on the progress of the study and the formulation of its recommendations.

(2) The director shall report his or her findings and recommendations to the legislature at the regular session held in 1990 after which the study shall be terminated.

**NEW SECTION.** Sec. 83. The sum of forty thousand dollars or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the department of agriculture solely to carry out the purposes of section 82 of this act.

Sec. 84. Section 1, chapter 83, Laws of 1961 as amended by section 19, chapter 3, Laws of 1983 and RCW 15.14.010 are each amended to read as follows:

For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or his duly appointed representative.

(3) "Person" means a natural person, individual, or firm, partnership, corporation, company, society and association and every officer, agent or employee thereof. This term shall import either the singular or plural, as the case may be.

(4) "Plant pests" means, but is not limited to, any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses or any organisms similar to or allied with any of the foregoing, or any infectious substance, which can directly or indirectly injure or cause disease or damage to any plant or parts thereof, or any processed, manufactured, or other products of plants.

(5) "Plant propagating stock" hereinafter referred to as "planting stock" includes any propagating materials used for the production or processing of horticultural, floricultural, viticultural or olericultural plants for the purpose of being sold, offered for sale or exposed for sale for planting or reproduction purposes: PROVIDED, That it shall not include agricultural and vegetable seeds as defined in (~~RCW 15.49.050 and 15.49.060~~) section 73 of this act.

(6) "Certified plant stock" means the progeny of foundation, registered or certified plant stock if designated foundation and plant propagating materials that are so handled as to maintain satisfactory genetic identity and purity and have met certification standards required by this chapter and have been approved and certified by the director.

(7) "Foundation planting stock" means plant stock propagating materials that are increased from breeder or designated plant stock and are so handled as to most nearly maintain specific genetic identity and purity. Foundation plant stock, established by designation shall be that plant stock so designated by the director.

(8) "Breeder planting stock" means plant propagating materials directly controlled by the originating or in certain cases the sponsoring plant breeder or institution, which may include the department and which provides the source of the foundation plant stock.

(9) "Registered planting stock" means the progeny of foundation or registered planting stock or plant propagating material that is so handled as to maintain satisfactory genetic identity and purity and that has been approved and certified by the director. This class of planting stock shall be of a quality suitable for the production of certified planting stock.

NEW SECTION. Sec. 85. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 63, Laws of 1969 and RCW 15.49.010;
- (2) Section 2, chapter 63, Laws of 1969 and RCW 15.49.020;
- (3) Section 3, chapter 63, Laws of 1969 and RCW 15.49.030;
- (4) Section 23, chapter 182, Laws of 1982 and RCW 15.49.035;
- (5) Section 4, chapter 63, Laws of 1969 and RCW 15.49.040;
- (6) Section 5, chapter 63, Laws of 1969 and RCW 15.49.050;
- (7) Section 6, chapter 63, Laws of 1969 and RCW 15.49.060;
- (8) Section 7, chapter 63, Laws of 1969 and RCW 15.49.070;
- (9) Section 8, chapter 63, Laws of 1969 and RCW 15.49.080;

- (10) Section 9, chapter 63, Laws of 1969 and RCW 15.49.090;
- (11) Section 10, chapter 63, Laws of 1969 and RCW 15.49.100;
- (12) Section 11, chapter 63, Laws of 1969 and RCW 15.49.110;
- (13) Section 12, chapter 63, Laws of 1969 and RCW 15.49.120;
- (14) Section 13, chapter 63, Laws of 1969 and RCW 15.49.130;
- (15) Section 14, chapter 63, Laws of 1969 and RCW 15.49.140;
- (16) Section 15, chapter 63, Laws of 1969 and RCW 15.49.150;
- (17) Section 16, chapter 63, Laws of 1969 and RCW 15.49.160;
- (18) Section 17, chapter 63, Laws of 1969 and RCW 15.49.170;
- (19) Section 18, chapter 63, Laws of 1969 and RCW 15.49.180;
- (20) Section 19, chapter 63, Laws of 1969 and RCW 15.49.190;
- (21) Section 20, chapter 63, Laws of 1969 and RCW 15.49.200;
- (22) Section 21, chapter 63, Laws of 1969 and RCW 15.49.210;
- (23) Section 22, chapter 63, Laws of 1969, section 6, chapter 297, Laws of 1981 and RCW 15.49.220;
- (24) Section 23, chapter 63, Laws of 1969 and RCW 15.49.230;
- (25) Section 24, chapter 63, Laws of 1969 and RCW 15.49.240;
- (26) Section 25, chapter 63, Laws of 1969, section 2, chapter 26, Laws of 1977 ex. sess. and RCW 15.49.250;
- (27) Section 26, chapter 63, Laws of 1969 and RCW 15.49.260;
- (28) Section 27, chapter 63, Laws of 1969 and RCW 15.49.270;
- (29) Section 28, chapter 63, Laws of 1969, section 7, chapter 297, Laws of 1981 and RCW 15.49.280;
- (30) Section 29, chapter 63, Laws of 1969, section 8, chapter 297, Laws of 1981 and RCW 15.49.290;
- (31) Section 30, chapter 63, Laws of 1969 and RCW 15.49.300;
- (32) Section 32, chapter 63, Laws of 1969, section 10, chapter 297, Laws of 1981 and RCW 15.49.320;
- (33) Section 34, chapter 63, Laws of 1969, section 3, chapter 26, Laws of 1977 ex. sess., section 12, chapter 297, Laws of 1981 and RCW 15.49-.340;
- (34) Section 43, chapter 63, Laws of 1969 and RCW 15.49.430;
- (35) Section 44, chapter 63, Laws of 1969 and RCW 15.49.440; and
- (36) Section 45, chapter 63, Laws of 1969 and RCW 15.49.450.

**NEW SECTION.** Sec. 86. Sections 70 through 81 of this act are each added to chapter 15.49 RCW.

**NEW SECTION.** Sec. 87. Section 30 of this act shall take effect on January 1, 1991.

**NEW SECTION.** Sec. 88. Sections 70 through 81 and 84 through 86 of this act shall take effect January 1, 1990.

**NEW SECTION.** Sec. 89. 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 April 23, 1989.

Passed the House April 22, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 355

[Substitute House Bill No. 2000]

### AGRICULTURAL MARKETING—FAIR PRACTICES

AN ACT Relating to agricultural marketing; adding a new chapter to Title 15 RCW; prescribing penalties; making an appropriation; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. Agricultural products are produced by many individual farmers and ranchers located throughout the state. The efficient production and marketing of agricultural products by farmers, ranchers, and handlers is of vital concern to the welfare and general economy of the state. It is the purpose of this chapter to establish standards of fair practices required of handlers, producers, and associations of producers, with respect to certain agricultural commodities, to establish the mutual obligation of handlers and accredited associations of producers to negotiate relative to the production or marketing of these agricultural commodities.

It is the intent of the legislature that a workable process be developed through which a fair price and other contract terms can be arrived at through negotiations between processors of agricultural products and an accredited association of producers, and that in developing rules and administering this chapter the director of agriculture shall recognize this intent.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Accredited association of producers" means an association of producers which is accredited by the director to be the exclusive negotiation agent for all producer members of the association within a negotiating unit.

(2) "Advance contract" means a contract for purchase and sale of a crop entered into before the crop becomes a growing crop and providing for delivery at or after the harvest of that crop.

(3) "Agricultural products" as used in this chapter means sweet corn and potatoes produced for sale from farms in this state.

(4) "Association of producers" means any association of producers of agricultural products engaged in marketing, negotiating for its members, shipping, or processing as defined in section 15(a) of the federal agriculture marketing act of 1929 or in section 1 of 42 Stat. 388.

(5) "Director" means the director of the department of agriculture.

(6) "Handler" means a processor or a person engaged in the business or practice of:

(a) Acquiring agricultural products from producers or associations of producers for use by a processor;

(b) Processing agricultural products received from producers or associations of producers, provided that a cooperative association owned by producers shall not be a handler except when contracting for crops from producers who are not members of the cooperative association;

(c) Contracting or negotiating contracts or other arrangements, written or oral, with or on behalf of producers or associations of producers with respect to the production or marketing of any agricultural product for use by a processor; or

(d) Acting as an agent or broker for a handler in the performance of any function or act specified in (a), (b), or (c) of this subsection.

(7) "Negotiate" means meeting at reasonable times and for reasonable periods of time commencing at least sixty days before the normal planting date and concluding within thirty days of the normal planting date to make a serious, fair, and reasonable attempt to reach agreement by acknowledging or refuting with reason points brought up by either party with respect to the price, terms of sale, compensation for products produced under contract, or other terms relating to the production or sale of these products: PROVIDED, That neither party shall be required to disclose proprietary business or financial records or information.

(8) "Negotiating unit" means a negotiating unit approved by the director under section 3 of this act.

(9) "Person" means an individual, partnership, corporation, association, or any other entity.

(10) "Processor" means any person that purchases agricultural crops from a producer and cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes those crops in any manner for eventual resale. A person who solely cleans, sorts, grades, and packages a farm product for sale without altering the natural condition of the product is not a processor. A person processing any portion of a crop is a processor.

(11) "Producer" means a person engaged in the production of agricultural products as a farmer or planter, including a grower or farmer furnishing inputs, production management, or facilities for growing or raising agricultural products. A producer who is also a handler shall be considered a handler under this chapter.

(12) "Qualified commodity" means agricultural products as defined in subsection (3) of this section.

**NEW SECTION.** Sec. 3. (1) An association of producers may file an application with the director:

(a) Requesting accreditation to serve as the exclusive negotiating agent on behalf of its producer members who are within a proposed negotiating unit with respect to any qualified commodity;

(b) Describing geographical boundaries of the proposed negotiating unit;

(c) Specifying the number of producers and the quantity of products included within the proposed negotiating unit;

(d) Specifying the number and location of the producers and the quantity of products represented by the association; and

(e) Supplying any other information required by the director.

(2) Within a reasonable time after receiving an application under subsection (1) of this section, the director shall approve or disapprove the application in accordance with this section.

(a) The director shall approve the initial application or renewal if the director determines that:

(i) The association is owned and controlled by producers under the charter documents or bylaws of the association;

(ii) The association has valid and binding contracts with its members empowering the association to sell or negotiate terms of sale of its members' products or to negotiate for compensation for products produced under contract by its members;

(iii) The association represents a sufficient percentage of producers or that its members produce a sufficient percentage of agricultural products to enable it to function as an effective agent for producers in negotiating with a given handler as defined in rules promulgated by the department. In making this finding, the director shall exclude any quantity of the agricultural products contracted by producers with producer-owned and controlled processing cooperatives with its members and any quantity of these products produced by handlers;

(iv) One of the association's functions is to act as principal or agent for its members in negotiations with handlers for prices and other terms of trade with respect to the production, sale, and marketing of the products of its members, or for compensation for products produced by its members under contract; and

(v) Accreditation would not be contrary to the policies established in section 1 of this act.

(b) If the director does not approve the application under (a) of this subsection, then the association of producers may file an amended application with the director. The director, within a reasonable time, shall approve the amended application if it meets the requirements set out in (a) of this subsection.

(3) At the discretion of the director, or upon submission of a timely filed petition by an affected handler or an affected association of producers, the association of producers accredited under this section may be required

by the director to renew the application for accreditation by providing the information required under subsection (1) of this section.

**NEW SECTION.** Sec. 4. It shall be unlawful for any handler to engage, or permit any employee or agent to engage, in the following practices:

(1) To refuse to negotiate with an association of producers accredited under section 3 of this act with respect to any qualified commodity: PROVIDED, That the obligation to negotiate does not require either party to agree to a proposal, to make a concession, or to enter into a contract;

(2) To coerce any producer in the exercise of his or her right to contract with, join, refrain from contracting with or joining, belong to an association of producers, or refuse to deal with any producer because of the exercise of that producer's right to contract with, join, or belong to an association or because of that producer's promotion of legislation on behalf of an association of producers;

(3) To discriminate against any producer with respect to price, quantity, quality, or other terms of purchase, acquisition, or other handling of agricultural products because of that producer's membership in or contract with an association of producers or because of that producer's promotion of legislation on behalf of an association of producers;

(4) To coerce or intimidate any producer to enter into, maintain, breach, cancel, or terminate a membership agreement or marketing contract with an association of producers or a contract with a handler;

(5) To pay or loan money, give anything of value, or offer any other inducement or reward to a producer for refusing or ceasing to belong to an association of producers;

(6) To make knowingly false reports about the finances, management, or activities of associations of producers or handlers; or

(7) To conspire, agree, or arrange with any other person to do, aid, or abet any act made unlawful by this chapter.

**NEW SECTION.** Sec. 5. It shall be unlawful for any accredited association of producers or members of such association to engage, or permit any employee or agent to engage, in the following practices:

(1) To refuse to negotiate with a handler for any qualified commodity for which the association is accredited under section 3 of this act;

(2) To coerce or intimidate a handler to breach, cancel, or terminate a marketing contract with an individual producer, association of producers, or a member of an association;

(3) To knowingly make or circulate false reports about the finances, management, or activities of an association of producers or a handler;

(4) To coerce or intimidate a producer to enter into, breach, cancel, or terminate a membership agreement or marketing contract with an association of producers;

(5) To conspire, agree, or arrange with any other person to do, aid, or abet any practice which is in violation of this chapter; or



(6) To pay or loan money, give anything of value, or offer any other inducement or reward to a producer for refusing to contract or negotiate with a processor.

**NEW SECTION.** Sec. 6. (1) If any person is charged with violating any provision of this chapter, the director shall investigate the charges. If, upon investigation, the director has reasonable cause to believe that the person charged has violated the provision, the director shall issue and cause to be served upon the person, a complaint stating the charges. A hearing on the charges shall be conducted in accordance with the provisions of chapter 34.05 RCW concerning contested cases.

(2) No complaint may be issued based upon any act occurring more than six months before the filing of the charge with the director. At the discretion of the director, any other person may be allowed to intervene in the proceeding and to present testimony and other evidence.

(3) If upon the preponderance of the evidence taken, the director is of the opinion that any person named in the complaint has engaged in or is engaging in any prohibited practice, the director shall make and enter findings of fact and shall issue and cause to be served on that person, an order requiring that person to cease and desist from the practice and to take affirmative action to further the policies of this chapter. The order may also require the person to make reports from time to time showing the extent of compliance with the order. If, upon the preponderance of the testimony and other evidence, the director determines that the person named in the complaint has not engaged in or is not engaging in any prohibited practice, the director shall make and enter findings of fact and an order dismissing the complaint.

**NEW SECTION.** Sec. 7. If required to carry out the objectives of this chapter, including the conduct of any investigations or hearing:

(1) The director shall require any person to:

(a) Establish and maintain records;

(b) Make reports; and

(c) Provide other information as may be reasonably required.

(2) Any person subject to the provisions of this chapter shall provide the information, records, and reports reasonably required by the director, or make such material available to the director for inspection and/or copying at reasonable times and places, except that no person shall be required under this section to provide to the director proprietary business or financial records or information.

**NEW SECTION.** Sec. 8. A person injured in his or her business or property by reason of any violation of or conspiracy to violate section 4 or 5 of this act may sue in a court of competent jurisdiction of the county in which such violation occurred without respect to the amount in controversy, and shall recover damages sustained, including reasonable attorneys' fees

and costs of bringing the suit. Any action to enforce any cause of action under this section shall be forever barred unless commenced not later than two years after the cause of action accrues.

**NEW SECTION.** Sec. 9. A person who violates section 4 or 5 of this act may be assessed a civil penalty by the director of not more than five thousand dollars for each offense. No civil penalty may be assessed unless the person charged has been given notice and opportunity for a hearing pursuant to chapter 34.05 RCW. In determining the amount of the penalty, the director shall consider the size of the business of the person charged, the penalty's affect on the person's ability to continue in business, and the gravity of the violation. If the director is unable to collect the civil penalty, the director shall refer the collection to the attorney general.

**NEW SECTION.** Sec. 10. The director or any aggrieved producer, accredited association, or handler may bring an action to enjoin the violation of any provision of this chapter or any regulation made pursuant to this chapter in a court of competent jurisdiction of the county in which such violation occurs or is about to occur.

**NEW SECTION.** Sec. 11. The director may promulgate such rules in accordance with chapter 34.05 RCW, and orders, as may be necessary to carry out this chapter.

**NEW SECTION.** Sec. 12. The director shall establish an advisory committee consisting of the following persons: Six producers who are producers from names submitted by an association of producers, and six handlers subject to this chapter from names submitted by handlers. The advisory committee shall study and report on all issues related to this chapter.

**NEW SECTION.** Sec. 13. This chapter may be known and cited as the agricultural marketing and fair practices act.

**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. Sections 1 through 13 of this act shall constitute a new chapter in Title 15 RCW.

**NEW SECTION.** Sec. 16. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

**NEW SECTION.** Sec. 17. The sum of twenty-five thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund for the biennium ending June 30, 1991, to carry out the purposes of this act.

Passed the House April 18, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 356

[House Bill No. 1794]

### STATE FINANCING CONTRACTS

AN ACT Relating to public contracts; amending RCW 39.42.060; adding a new section to chapter 28B.10 RCW; and adding a new chapter to Title 39 RCW.

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

**NEW SECTION.** Sec. 1. The purposes of this chapter are to confirm the authority of the state, its agencies, departments, and instrumentalities, the state board for community college education, and the state institutions of higher education to enter into contracts for the acquisition of real and personal property which provide for payments over a term of more than one year and to exclude such contracts from the computation of indebtedness under RCW 39.42.060 and Article VIII, section 1 of the state Constitution. It is further the purpose of this chapter to permit the state, its agencies, departments, and instrumentalities, the state board for community college education, and the state institutions of higher education to enter into financing contracts which make provision for the issuance of certificates of participation and other financing structures. Financing contracts, whether or not entered into under this chapter, shall be subject to approval by the state finance committee except as provided in this chapter.

This chapter shall be liberally construed to effect its purposes.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Credit enhancement" includes insurance, letters of credit, lines of credit, or other similar agreements which enhance the security for the payment of the state's obligations under financing contracts.

(2) "Financing contract" means any contract entered into by the state which provides for the use and purchase of real or personal property by the state and provides for payment by the state over a term of more than one year, and which provides that title to the subject property shall, upon exercise of an option, transfer to the state for a nominal amount or for a price determined without reference to fair market value upon the termination of

the contract. Financing contracts shall include, but not be limited to, conditional sales contracts, financing leases, lease purchase contracts, or refinancing contracts, but shall not include operating or true leases. For purposes of this chapter, the term "financing contract" shall not include any nonrecourse financing contract or other obligation payable only from money or other property received from private sources and not payable from any public money or property. The term "financing contract" shall include a "master financing contract."

(3) "Master financing contract" means a financing contract which provides for the use and purchase of property by the state, and which may include more than one financing contract and appropriation.

(4) "State" means the state, agency, department, or instrumentality of the state, the state board for community college education, and any state institution of higher education.

(5) "State finance committee" means the state finance committee under chapter 43.33 RCW.

(6) "Trustee" means a bank or trust company, within or without the state, authorized by law to exercise trust powers.

NEW SECTION. Sec. 3. (1) The state may enter into financing contracts for the use and acquisition for public purposes of real and personal property. Payments under financing contracts shall be made by the state from currently appropriated funds or funds not constituting "general state revenues" as defined in Article VIII, section 1 of the state Constitution. The term of any financing contract shall not exceed thirty years or the remaining useful life of the property, whichever is shorter. Financing contracts may include other terms and conditions agreed upon by the parties.

(2) The state may enter into contracts for credit enhancement, which shall limit the recourse of the provider of credit enhancement solely to the security provided under the financing contract secured by the credit enhancement.

(3) The state may grant a security interest in real or personal property acquired under financing contracts. The security interest may be perfected as provided by the uniform commercial code – secured transactions, or otherwise as provided by law for perfecting liens on real estate. Other terms and conditions may be included as agreed upon by the parties.

(4) Financing contracts and contracts for credit enhancement entered into under the limitations set forth in this chapter shall not constitute a debt or the contracting of indebtedness under RCW 39.42.060 or any other law limiting debt of the state. It is the intent of the legislature that such contracts also shall not constitute a debt or the contracting of indebtedness under Article VIII, section 1 of the state Constitution. Certificates of participation in payments to be made under financing contracts also shall

not constitute a debt or the contracting of an indebtedness under RCW 39-.42.060 if payment is conditioned upon payment by the state under the financing contract with respect to which the same relates. It is the intent of the legislature that such certificates also shall not constitute a debt or the contracting of indebtedness under Article VIII, section 1 of the state Constitution if payment of the certificates is conditioned upon payment by the state under the financing contract with respect to which those certificates relate.

**NEW SECTION.** Sec. 4. (1) Except as provided in section 6 of this act, the state may not enter into any financing contract if the aggregate principal amount payable thereunder is greater than an amount to be established from time to time by the state finance committee or participate in a program providing for the issuance of certificates of participation, including any contract for credit enhancement, without the prior approval of the state finance committee. Except as provided in section 6 of this act, the state finance committee shall approve the form of all financing contracts or a standard format for all financing contracts. The state finance committee also may:

(a) Consolidate existing or potential financing contracts into master financing contracts with respect to property acquired by one or more agencies, departments, instrumentalities of the state, the state board for community college education, or a state institution of higher learning;

(b) Approve programs providing for the issuance of certificates of participation in master financing contracts;

(c) Enter into agreements with trustees relating to master financing contracts; and

(d) Make appropriate rules for the performance of its duties under this chapter.

(2) In the performance of its duties under this chapter, the state finance committee may consult with representatives from the department of general administration, the office of financial management, and the department of information services.

(3) With the approval of the state finance committee, the state also may enter into agreements with trustees relating to financing contracts and the issuance of certificates of participation.

(4) The state may not enter into any financing contract for real property without prior approval of the legislature.

**NEW SECTION.** Sec. 5. The provisions of this chapter shall apply to all financing contracts entered into following the effective date of this act.

**NEW SECTION.** Sec. 6. A new section is added to chapter 28B.10 RCW to read as follows:

The boards of regents of the state universities and the boards of trustees of the regional universities, The Evergreen State College, and the state

board for community college education, are severally authorized to enter into financing contracts as provided in sections 1 through 5 of this act. Except as provided in this section, financing contracts shall be subject to the approval of the state finance committee. The board of regents of a state university may enter into financing contracts which are payable solely from and secured by all or any component of the fees and revenues of the university derived from its ownership and operation of its facilities not subject to appropriation by the legislature and not constituting "general state revenues," as defined in Article VIII, section 1 of the state Constitution, without the prior approval of the state finance committee. The board of regents shall notify the state finance committee at least sixty days prior to entering into such contract and provide information relating to such contract as requested by the state finance committee.

Sec. 7. Section 6, chapter 184, Laws of 1971 ex. sess. as last amended by section 1, chapter 36, Laws of 1983 1st ex. sess. and RCW 39.42.060 are each amended to read as follows:

No bonds, notes, or other evidences of indebtedness for borrowed money shall be issued by the state which will cause the aggregate debt contracted by the state to exceed that amount for which payments of principal and interest in any fiscal year would require the state to expend more than seven percent of the arithmetic mean of its general state revenue, as defined in section 1 of Article VIII of the Washington state Constitution for the three immediately preceding fiscal years as certified by the treasurer in accordance with RCW 39.42.070. It shall be the duty of the state finance committee to compute annually the amount required to pay principal of and interest on outstanding debt. In making such computation, the state finance committee shall include all borrowed money represented by bonds, notes, or other evidences of indebtedness which are secured by the full faith and credit of the state or are required to be paid, directly or indirectly, from general state revenues and which are incurred by the state, any department, authority, public corporation or quasi public corporation of the state, any state university or college, or any other public agency created by the state but not by counties, cities, towns, school districts, or other municipal corporations, and shall include debt incurred pursuant to section 3 of Article VIII of the Washington state Constitution, but shall exclude the following:

(1) Obligations for the payment of current expenses of state government;

(2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;

(3) Principal of and interest on bond anticipation notes;

(4) Any indebtedness which has been refunded; ~~((and))~~

(5) Financing contracts entered into under sections 1 through 5 of this act; and

(6) Indebtedness incurred pursuant to statute heretofore or hereafter enacted which requires that the state treasury be reimbursed, in the amount

of the principal of and the interest on such indebtedness, from money other than general state revenues or from the special excise tax imposed pursuant to chapter 67.40 RCW.

To the extent necessary because of the constitutional or statutory debt limitation, priorities with respect to the issuance or guaranteeing of bonds, notes, or other evidences of indebtedness by the state shall be determined by the state finance committee.

NEW SECTION. Sec. 8. Sections 1 through 5 of this act shall constitute a new chapter in Title 39 RCW.

Passed the House March 15, 1989.

Passed the Senate April 11, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

## CHAPTER 357

[Substitute House Bill No. 1711]

### CRIME PREVENTION TRAINING FOR EMPLOYEES OF LATE NIGHT BUSINESSES

AN ACT Relating to establishing a crime prevention employee training program in businesses operating during late night hours; adding a new chapter to Title 49 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Department" means the department of labor and industries.

(2) "Late night retail establishment" means any business or commercial establishment making sales to the public between the hours of eleven o'clock p.m. and six o'clock a.m., except restaurants, hotels, taverns, or any lodging facility.

(3) "Employer" means the operator, lessee, or franchisee of a late night retail establishment.

***\*NEW SECTION. Sec. 2. All employers operating late night retail establishments shall provide to their employees crime prevention training. Such crime prevention training shall be a part of the accident prevention program requirements imposed pursuant to the Washington industrial safety and health act of 1973, chapter 49.17 RCW, and shall be limited to:***

***(1) Providing a training manual developed and distributed by the department to employers or a manual which has been certified by the department pursuant to this section containing security policies, safety and security procedures, and personal safety and crime avoidance techniques; and***

***(2) Attendance at a training seminar or training video presentation developed and distributed by the department or at a training seminar or training video presentation certified by the department pursuant to this section.***

\*Sec. 2 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 3. In addition to providing crime prevention training as provided in section 2 of this act, all employers operating late night retail establishments shall:

(1) Post a conspicuous sign in the window or door which states that there is a safe on the premises and it is not accessible to the employees on the premises and that the cash register contains only the minimal amount of cash needed to conduct business: **PROVIDED**, That an employer shall not be subject to penalties under section 4 of this act for having moneys in the cash register in excess of the minimal amount needed to conduct business;

(2) So arrange all material posted in the window or door so as to provide a clear and unobstructed view of the cash register, provided the cash register is otherwise in a position visible from the street;

(3) Have a drop-safe, limited access safe, or comparable device on the premises; and

(4) Operate the outside lights for that portion of the parking area that is necessary to accommodate customers during all night hours the late night retail establishment is open, if the late night retail establishment has a parking area for its customers.

**NEW SECTION.** Sec. 4. The requirements of this chapter shall be implemented and enforced, including rules, citations, violations, penalties, appeals, and other administrative procedures by the director of the department of labor and industries pursuant to the Washington industrial safety and health act of 1973, chapter 49.17 RCW.

***\*NEW SECTION. Sec. 5. It is the sole responsibility of the employer to comply with the provisions of this chapter: PROVIDED, That no employer is subject to the penalties for noncompliance with section 2 of this act if the training manual was provided to employees and the employer gave written notice to the employees of the time, date, and place of the training seminar or video presentation.***

\*Sec. 5 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 6. Sections 1 through 5 of this act shall constitute a new chapter in Title 49 RCW.

**NEW SECTION.** Sec. 7. This act shall take effect January 1, 1990. The director of the department of labor and industries may immediately



take such steps as are necessary to ensure that this act is implemented on its effective date.

Passed the House April 20, 1989.

Passed the Senate April 14, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to sections 2 and 5, Substitute House Bill No. 1711 entitled:

"AN ACT Relating to establishing a crime prevention employee training program in businesses operating during late night hours."

This bill will enhance security for employees of businesses that are open late at night, through physical safety specifications and educational programs. I applaud the intent of the bill and most of its provisions.

Section 2, however, would require that crime prevention programs be developed or certified by the Department of Labor and Industries. This would impose a significant cost on the Department, which is not funded. It would also involve the Department in the establishment of specific crime prevention procedures for individual establishments, a function that is more appropriately performed by the employer.

Crime prevention training can be a meaningful factor in reducing risks to employees who work late at night and in the early hours of the morning. I believe this is an essential protection for workers. While I am vetoing section 2, I am also asking the Department of Labor and Industries to adopt rules to require employers to develop appropriate instruction programs.

Section 5 references section 2, which I have vetoed. This section is also objectionable. It runs contrary to the fundamental intent of the Washington Industrial Safety and Health Act by shifting responsibility for training from the employer to the employee. For these reasons, I have also vetoed section 5.

With the exception of sections 2 and 5, Substitute House Bill No. 1711 is approved."

## CHAPTER 358

[Substitute Senate Bill No. 5474]

### INTERPRETERS IN LEGAL PROCEEDINGS—QUALIFICATION AND APPOINTMENT

AN ACT Relating to interpreters in legal proceedings; amending RCW 2.42.010, 2.42.020, and 2.42.050; and adding new sections to chapter 2.42 RCW.

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

**NEW SECTION.** Sec. 1. It is hereby declared to be the policy of this state to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the use and procedure for the appointment of such interpreters. Nothing in this act abridges the parties' rights or obligations under other statutes or court rules or other law.

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

(1) "Non-English-speaking person" means any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include hearing-impaired persons who are covered under chapter 2.42 RCW.

(2) "Qualified interpreter" means a person who is able readily to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.

(3) "Legal proceeding" means a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before administrative board, commission, agency, or licensing body of the state or any political subdivision thereof.

(4) "Certified interpreter" means an interpreter who is certified by the office of the administrator for the courts.

(5) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision thereof.

**NEW SECTION.** Sec. 3. (1) Whenever an interpreter is appointed to assist a non-English-speaking person in a legal proceeding, the appointing authority shall, in the absence of a written waiver by the person, appoint a certified or a qualified interpreter to assist the person throughout the proceedings.

(a) Except as otherwise provided for in (b) of this subsection, the interpreter appointed shall be a qualified interpreter.

(b) Beginning on July 1, 1990, when a non-English-speaking person is a party to a legal proceeding, or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified by the office of the administrator for the courts, unless good cause is found and noted on the record by the appointing authority. For purposes of this act, "good cause" includes but is not limited to a determination that:

(i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of a certified interpreter are not reasonably available to the appointing authority; or

(ii) The current list of certified interpreters maintained by the office of the administrator for the courts does not include an interpreter certified in the language spoken by the non-English-speaking person.

(2) If good cause is found for using an interpreter who is not certified or if a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

(a) Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and

(b) Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.

NEW SECTION. Sec. 4. (1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings in which the non-English-speaking person is a party, or is subpoenaed or summoned by the appointing authority or is otherwise compelled by the appointing authority to appear, including criminal proceedings, grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government, the cost of providing the interpreter shall be borne by the governmental body initiating the legal proceedings.

(3) In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

(4) The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed.

NEW SECTION. Sec. 5. Before beginning to interpret, every interpreter appointed under this chapter shall take an oath affirming that the interpreter will make a true interpretation to the person being examined of all the proceedings in a language which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

NEW SECTION. Sec. 6. (1) The right to a qualified interpreter may not be waived except when:

(a) A non-English-speaking person requests a waiver; and

(b) The appointing authority determines on the record that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter may be set aside and an interpreter appointed, in the discretion of the appointing authority, at any time during the proceedings.

**NEW SECTION.** Sec. 7. (1) Subject to the availability of funds, the office of the administrator for the courts shall establish and administer a comprehensive testing and certification program for language interpreters.

(2) The office of the administrator for the courts shall work cooperatively with community colleges and other private or public educational institutions, and with other public or private organizations to establish a certification preparation curriculum and suitable training programs to ensure the availability of certified interpreters. Training programs shall be made readily available in both eastern and western Washington locations.

(3) The office of the administrator for the courts shall establish and adopt standards of proficiency, written and oral, in English and the language to be interpreted.

(4) The office of the administrator for the courts shall conduct periodic examinations to ensure the availability of certified interpreters. Periodic examinations shall be made readily available in both eastern and western Washington locations.

(5) The office of the administrator for the courts shall compile, maintain, and disseminate a current list of interpreters certified by the office of the administrator for the courts.

(6) The office of the administrator for the courts may charge reasonable fees for testing, training, and certification.

**NEW SECTION.** Sec. 8. All language interpreters serving in a legal proceeding, whether or not certified or qualified, shall abide by a code of ethics established by supreme court rule.

**\*NEW SECTION.** Sec. 9. *The office of the administrator for the courts shall create and consult with an advisory committee on certification of interpreters. The committee shall consist of representatives of county prosecutors, public defenders, the bar association, judges, and groups representing non-English-speaking persons. The committee shall advise the office of the administrator for the courts on procedures and standards for the certification of interpreters, and shall determine in what order of priority various groups of non-English-speaking persons are in need of certified interpreters. The committee shall also consider and recommend to the legislature its findings regarding whether the function of certifying interpreters ought to be carried out by an agency other than the administrator for the courts.*

\*Sec. 9 was vetoed, see message at end of chapter.

**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. Sections 1 through 9 of this act are each added to chapter 2.42 RCW.

Sec. 12. Section 1, chapter 22, Laws of 1973 as amended by section 1, chapter 222, Laws of 1983 and RCW 2.42.010 are each amended to read as follows:

It is hereby declared to be the policy of this state to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, (~~(or non-English-speaking cultural background)~~) are unable to readily understand or communicate the spoken English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the appointment of such interpreters.

Sec. 13. Section 2, chapter 22, Laws of 1973 as amended by section 2, chapter 222, Laws of 1983 and RCW 2.42.020 are each amended to read as follows:

As used in this chapter (1) an "impaired person" is any person involved in a legal proceeding who is deaf or who, because of other hearing or speech defects, (~~(or because of non-English-speaking cultural background)~~) cannot readily understand or communicate in spoken language (~~(or readily speak or understand the English language)~~) and who, when involved as a party to a legal proceeding, is unable by reason of such defects to obtain due process of law; (2) a "qualified interpreter" is one who is able readily to translate spoken (~~(and written English)~~) language to (~~(and for)~~) impaired persons and to translate statements of impaired persons into spoken (~~(English)~~) language; (3) "legal proceeding" is a proceeding in any court in this state, at grand jury hearings or hearings before an inquiry judge, or before administrative boards, commissions, agencies, or licensing bodies of the state or any political subdivision thereof.

Sec. 14. Section 5, chapter 22, Laws of 1973 as amended by section 20, chapter 389, Laws of 1985 and RCW 2.42.050 are each amended to read as follows:

Every qualified interpreter appointed under this chapter in a judicial or administrative proceeding shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings (~~(in a language or)~~) in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or other agency conducting the proceedings, (~~(in the English language;)~~) to the best of the interpreter's skill and judgment.

Passed the Senate April 17, 1989.

Passed the House April 13, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to sections 1 and 3, Substitute Senate Bill No. 5474 entitled:

"AN ACT Relating to interpreters in legal proceedings."

Section 9 requires the Office of the Administrator for the Courts to create a new statutory advisory committee for certification of interpreters. The committee would advise the office regarding procedures and standards for certification of foreign language interpreters in legal proceedings. The recommendations of this committee would affect the use and availability of interpreters for state agencies, boards and commissions, courts, counties, cities, towns, and other political subdivisions covered by the act.

Section 9 limits the membership of the committee to representatives of county prosecutors, public defenders, the Bar Association, judges, and groups representing non-English-speaking persons. By precluding state agency and city and town participation on the advisory committee, the procedures and standards adopted for this new program may not adequately address the special needs of these entities.

I have asked the Administrator for the Courts to administratively create an advisory group to perform these tasks and to have representatives of all affected groups included. I believe it to be in the best interests of the program to veto section 9 and thereby allow creation of such a group under the authority of the Administrator for the Courts.

With the exception of section 9, Substitute Senate Bill No. 5474 is approved."

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## CHAPTER 359

[Substitute Senate Bill No. 5827]

### PETS—THEFT FOR SALE FOR BIOMEDICAL RESEARCH

AN ACT Relating to pet theft prevention, pet protection, and certification to minimize theft or unintentional sale for biomedical research purposes and nonimpairment of biomedical research; amending RCW 9.08.070; adding a new section to chapter 9.08 RCW; adding new sections to chapter 16.52 RCW; adding a new section to chapter 19.86 RCW; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 9.08 RCW to read as follows:

As used in RCW 9.08.070:

(1) "Pet animal" means a tamed or domesticated animal legally retained by a person and kept as a companion. "Pet animal" does not include livestock raised for commercial purposes.

(2) "Research institution" means a facility licensed by the United States department of agriculture to use animals in biomedical or product research.

(3) "U.S.D.A. licensed dealer" means a person who is licensed or required to be licensed by the United States department of agriculture to commercially buy, receive, sell, negotiate for sale, or transport animals.

Sec. 2. Section 1, chapter 114, Laws of 1982 and RCW 9.08.070 are each amended to read as follows:

(1) Any person who, with intent to deprive or defraud the owner thereof, does any of the following shall be guilty of a gross misdemeanor

and shall be punished as prescribed under RCW 9A.20.021(2) and by a mandatory fine of not less than five hundred dollars per pet animal except as provided by (d) of this subsection:

~~((1))~~ (a) Takes, leads away, confines, secretes or converts any ((dog)) pet animal, except in cases in which the value of the ((dog)) pet animal exceeds two hundred fifty dollars;

~~((2))~~ (b) Conceals the identity of any ((dog)) pet animal or its owner by obscuring, altering, or removing from the ((dog)) pet animal any collar, tag, license, tattoo, or other identifying device or mark((; or)).

~~((3))~~ (c) Willfully or recklessly kills or injures any ((dog)) pet animal, unless excused by law.

~~((Such violations shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars, or by both such fine and imprisonment.))~~

(d) Nothing in this subsection or subsection (2) of this section shall prohibit a person from also being convicted of separate offenses under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft or under RCW 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property.

(2) (a) It is unlawful for any person to receive with intent to sell to a research institution in the state of Washington, or sell or otherwise directly transfer to a research institution in the state of Washington, a pet animal that the person knows or has reason to know has been stolen or fraudulently obtained. This subsection does not apply to U.S.D.A. licensed dealers.

(b) The first conviction under (a) of this subsection is a gross misdemeanor and is punishable as prescribed under RCW 9A.20.021(2) and by a mandatory fine of not less than five hundred dollars per pet animal. A second or subsequent conviction under (a) of this subsection is a class C felony and is punishable as prescribed under RCW 9A.20.021 (1)(c) and by a mandatory fine of not less than one thousand dollars per pet animal.

(3) (a) It is unlawful for any person, who knows or has reason to know that a pet animal has been stolen or fraudulently obtained, to sell or otherwise transfer the pet animal to another who the person knows or has reason to know has previously sold a stolen or fraudulently obtained pet animal to a research institution in the state of Washington.

(b) A conviction under (a) of this subsection is a class C felony and shall be punishable as prescribed under RCW 9A.20.021 (1)(c) and by a mandatory fine of not less than one thousand dollars per pet animal.

(4)(a) It is unlawful for a U.S.D.A. licensed dealer to receive with intent to sell, or sell or transfer directly or through a third party, to a research institution in the state of Washington, a pet animal that the dealer knows or has reason to know has been stolen or fraudulently obtained.

(b) A conviction under (a) of this subsection is a class C felony and shall be punishable as prescribed under RCW 9A.20.021 (1)(c) and by a mandatory fine of not less than one thousand dollars per pet animal.

(5) The sale, receipt, or transfer of each individual pet animal in violation of subsections (1), (2), (3), and (4) of this section constitutes a separate offense.

(6) The provisions of subsections (1), (2), (3), and (4) of this section shall not apply to the lawful acts of any employee, agent, or director of any humane society, animal control agency, or animal shelter operated by or on behalf of any government agency, operating under law.

NEW SECTION. Sec. 3. A new section is added to chapter 16.52 RCW to read as follows:

(1) All transfers of mammals, other than rats and mice bred for use in research and livestock, to research institutions in this state, whether by sale or otherwise, shall conform with federal laws and, except as to those animals obtained from a source outside the United States, shall be accompanied by one of the following written certifications, dated and signed under penalty of perjury:

(a) Breeder certification: A written statement certifying that the person signing the certification is a United States department of agriculture-licensed class A dealer whose business license in the state of Washington includes only those animals that the dealer breeds and raises as a closed or stable colony and those animals that the dealer acquires for the sole purpose of maintaining or enhancing the dealer's breeding colony, that the animal being sold is one of those animals, and that the person signing the certification is authorized to do so. The certification shall also include an identifying number for the dealer, such as a business license number.

(b) True owner certification: A written statement certifying that the animal being transferred is owned by the person signing the certification, and that the person signing the certification either (i) has no personal knowledge or reason to believe that the animal is a pet animal, or (ii) consents to having the animal used for research at a research institution. The certification shall also state the date that the owner obtained the animal, and the person or other source from whom it was obtained. The certification shall also include an identifying number for the person signing the certification, such as a drivers' license number or business license number. The certifications signed by or on behalf of a humane society, animal control agency, or animal shelter need not contain a statement that the society, agency, or shelter owns the animal, but shall state that the animal has been in the possession of the society, agency, or shelter for the minimum period required by law that entitles it to legally dispose of the animal.

(2) In addition to the foregoing certification, all research institutions in this state shall open at the time a dog or cat is transferred to it a file that contains the following information for each dog or cat transferred to the institution:

- (a) All information required by federal law;
- (b) The certification required by this section; and



(c) A brief description of the dog or cat (e.g. breed, color, sex, any identifying characteristics), and a photograph of the dog or cat.

The brief description may be contained in the written certification.

These files shall be maintained and open for public inspection for a period of at least two years from the date of acquisition of the animal.

(3) All research institutions in this state shall, within one hundred eighty days of the effective date of this act, adopt and operate under written policies governing the acquisition of animals to be used in biomedical or product research at that institution. The written policies shall be binding on all employees, agents, or contractors of the institution. These policies must contain, at a minimum, the following provisions:

(a) Animals shall be acquired in accordance with the federal animal welfare act, public health service policy, and other applicable statutes and regulations;

(b) No research may be conducted on a pet animal without the written permission of the pet animal's owner;

(c) Any animal acquired by the institution that is determined to be a pet animal shall be returned to its legal owner, unless the institution has the owner's written permission to retain the animal; and

(d) A person at the institution shall be designated to have the responsibility for investigating any facts supporting the possibility that an animal in the institution's possession may be a pet animal, including any inquiries from citizens regarding their pets. This person shall devise and insure implementation of procedures to inform inquiring citizens of their right to prompt review of the relevant files required to be kept by the institution for animals obtained under subsection (2) of this section, and shall be responsible for facilitating the rapid return of any animal determined to be a pet animal to the legal owner who has not given the institution permission to have the animal or transferred ownership of it to the institution.

(4) For the purposes of this section, "research institution" means any facility licensed by the United States department of agriculture to use animals in biomedical or product research.

NEW SECTION. Sec. 4. A new section is added to chapter 19.86 RCW to read as follows:

Any violation of RCW 9.08.070 or section 3 of this act constitutes an unfair or deceptive practice in violation of this chapter. The relief available under this chapter for violations of RCW 9.08.070 or section 3 of this act by a research institution shall be limited to only monetary penalties in an amount not to exceed two thousand five hundred dollars.

NEW SECTION. Sec. 5. A new section is added to chapter 16.52 RCW to read as follows:

No provision of RCW 9.08.070 or section 3 of this act shall in any way interfere with or impair the operation of any other provision of this chapter or Title 28B RCW, relating to higher education or biomedical research. The

provisions of RCW 9.08.070 and section 3 of this act are cumulative and nonexclusive and shall not affect any other remedy.

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

Passed the Senate April 22, 1989.

Passed the House April 21, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

## CHAPTER 360

[Substitute House Bill No. 1635]

### SUPPORT ENFORCEMENT—REVISED PROVISIONS

AN ACT Relating to support enforcement; amending RCW 4.16.020, 4.56.210, 6.17.020, 74.20A.220, 74.20A.100, 26.23.030, 74.20.101, 74.20A.040, 74.20A.060, 74.20A.080, 74.20.040, 74.20.330, 26.23.050, 26.23.110, 26.23.120, 26.26.130, 4.56.110, 6.27.360, 6.15.020, 2.10.180, 2.12.090, 41.26.180, 41.32.590, 41.24.240, 41.40.380, 41.44.240, 74.20A.120, 26.23.100, 26.23.060, 74.20A.270, 26.26.160, 26.09.060, 26.09.100, 26.23.040, and 26.19.030; reenacting and amending RCW 26.09.120, 74.20A.030, and 43.43.310; adding new sections to chapter 26.23 RCW; repealing RCW 74.20A.190 and 26.26.131; prescribing penalties; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 2, page 363, Laws of 1854 as last amended by section 1, chapter 76, Laws of 1984 and RCW 4.16.020 are each amended to read as follows:

The period prescribed for the commencement of actions shall be as follows:

Within ten years:

(1) For actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appears that the plaintiff, his ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action.

(2) For an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or of any territory or possession of the United States outside the boundaries thereof, or of any extraterritorial court of the United States.

(3) Of the eighteenth birthday of the youngest child named in the order for whom support is ordered for an action to collect past due child support that has accrued under an order entered after the effective date of this act by any of the above-named courts or that has accrued under an administrative order as defined in RCW 74.20A.020(6), which is issued after the effective date of this act.

Sec. 2. Section 7, chapter 60, Laws of 1929 as amended by section 1, chapter 236, Laws of 1979 ex. sess. and RCW 4.56.210 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, after the expiration of ten years from the date of the entry of any judgment heretofore or hereafter rendered in this state, it shall cease to be a lien or charge against the estate or person of the judgment debtor(~~(, and)~~). No suit, action or other proceeding shall ever be had on any judgment rendered in this state by which the lien (~~(or duration of such judgment, claim or demand;)~~) shall be extended or continued in force for any greater or longer period than ten years (~~(from the date of the entry of the original judgment)~~).

(2) An underlying judgment or judgment lien entered after the effective date of this act for accrued child support shall continue in force for ten years after the eighteenth birthday of the youngest child named in the order for whom support is ordered. All judgments entered after the effective date of this act shall contain the birth date of the youngest child for whom support is ordered.

Sec. 3. Section 2, chapter 25, Laws of 1929 as last amended by section 402, chapter 442, Laws of 1987 and RCW 6.17.020 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the party in whose favor a judgment of a court of record of this state or a district court of this state has been or may be rendered, or the assignee, may have an execution issued for the collection or enforcement of the judgment at any time within ten years from entry of the judgment.

(2) After the effective date of this act, a party who obtains a judgment or order of a court of record of any state, or an administrative order entered as defined in RCW 74.20A.020(6) for accrued child support, may have an execution issued upon that judgment or order at any time within ten years of the eighteenth birthday of the youngest child named in the order for whom support is ordered.

Sec. 4. Section 22, chapter 164, Laws of 1971 ex. sess. as last amended by section 16, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.220 are each amended to read as follows:

Any support debt due the department from a responsible parent which the secretary deems uncollectible may be transferred from accounts receivable to a suspense account and cease to be accounted as an asset(~~(-PROVIDED, That)~~). At any time after six years from the date a support debt was incurred, the secretary may charge off as uncollectible any support debt upon which the secretary finds there is no available, practical, or lawful means by which said debt may be collected.

The department may accept offers of compromise of disputed claims or may grant partial or total charge-off of support arrears owed to the department up to the total amount of public assistance paid to or for the benefit of

the persons for whom the support obligation was incurred. The department shall adopt rules as to the considerations to be made in the granting or denial of partial or total charge-off and offers of compromise of disputed claims of debt for support arrears. The rights of the payee under an order for support shall not be prejudiced if the department accepts an offer of compromise, or grants a partial or total charge-off under this section.

The responsible parent owing a support debt may execute a written extension or waiver of any statute(~~(, including but not limited to RCW 4.56.210;)~~) which may bar or impair the collection of the debt and the extension or waiver shall be effective according to its terms.

Sec. 5. Section 10, chapter 164, Laws of 1971 ex. sess. as last amended by section 7, chapter 276, Laws of 1985 and RCW 74.20A.100 are each amended to read as follows:

~~((Should))~~ (1) Any person, firm, corporation, association, political subdivision or department of the state shall be 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 earnings, or the amount that should have been withheld, whichever amount is less, together with costs, interest, and reasonable attorney fees if that person or entity:

(a) Fails to ((make)) answer ((to)) an order to withhold and deliver within the time prescribed herein; ((or))

(b) Fails or refuses to deliver property pursuant to said order; ((or))

(c) After actual notice of filing of a support lien, pays over, releases, sells, transfers, or conveys real or personal property subject to a support lien to or for the benefit of the debtor or any other person; ((or))

(d) Fails or refuses to surrender ((upon demand)) property distrained under RCW 74.20A.130 upon demand; or

(e) Fails or refuses to honor an assignment of ((wages)) earnings presented by the secretary((, said person, firm, corporation, association, political subdivision or department of the state shall be 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)).

~~((If a judgment has been entered as the result of an action in superior court against a person, firm, corporation, association, political subdivision, or department of the state based on a violation of this section;))~~ (2) The secretary is authorized to issue a notice of debt pursuant to RCW 74.20A-.040 and to take appropriate action to collect the debt under this chapter if:

(a) A judgment has been entered as the result of an action in superior court against a person, firm, corporation, association, political subdivision, or department of the state based on a violation of this section; or

(b) Liability has been established under RCW 74.20A.270.

Sec. 6. Section 3, chapter 435, Laws of 1987 as amended by section 18, chapter 275, Laws of 1988 and RCW 26.23.030 are each amended to read as follows:

(1) There is created a Washington state support registry within the office of support enforcement as the agency designated in Washington state to administer the child support program under Title IV-D of the federal social security act. The registry shall:

((1)) (a) Account for and disburse all support payments received by the registry;

((2)) (b) Maintain the necessary records including, but not limited to, information on support orders, support debts, the date and amount of support due; the date and amount of payments; and the names, social security numbers, and addresses of the parties;

((3)) (c) Develop procedures for providing information to the parties regarding action taken by, and support payments collected and distributed by the registry;

((4)) (2) The office of support enforcement may assess and collect interest at the rate of twelve percent per year on unpaid child support that has accrued under any support order entered into the registry. This interest rate shall not apply to those support orders already specifying an interest assessment at a different rate.

(3) The secretary of social and health services shall adopt rules for the maintenance and retention of records of support payments and for the archiving and destruction of such records when the support obligation terminates or is satisfied. When a support obligation established under court order entered in a superior court of this state has been satisfied, a satisfaction of judgment form shall be prepared by the registry and filed with the clerk of the court in which the order was entered.

~~((The child support registry shall distribute all moneys received in compliance with 42 U.S.C. Sec. 657. Support received by the office of support enforcement shall be distributed promptly but not later than eight days from the date of receipt unless circumstances exist which make such distribution impossible. Such circumstances include when: (a) The location of the custodial parent is unknown; (b) the child support debt is in litigation; or (c) the responsible parent or custodial parent cannot be identified. When, following termination of public assistance, the office of support enforcement collects support, all moneys collected up to the maximum of the support due for the period following termination from public assistance shall, to the extent permitted by federal law, be paid to the custodial parent before any distribution to the office of support enforcement under 42 U.S.C. Sec. 657. This section shall not apply to support collected through intercepting federal tax refunds under 42 U.S.C. Sec. 664. When a responsible parent has more than one support obligation, or a support debt is owed to more than one~~

~~party, moneys received will be distributed between the parties proportionally, based upon the amount of the support obligation and/or support debt owed:~~

~~If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and up to ten percent of amounts collected as current support:))~~

Sec. 7. Section 16, chapter 173, Laws of 1969 ex. sess. as last amended by section 30, chapter 435, Laws of 1987 and RCW 74.20.101 are each amended to read as follows:

~~((Whenever, as a result of any action, support money is paid by the person or persons responsible for support, such payment)) (1) A responsible parent shall ((be paid)) make all support payments through the office of support enforcement or the Washington state support registry if:~~

~~(a) The parent's support order contains a provision directing the ((responsible)) parent to make support payments through the office of support enforcement or the Washington state support registry ((or upon)); or~~

~~(b) If the parent has received written notice ((by)) from the office of support enforcement ((to the responsible parent or to the clerk of the court, if appropriate;)) under RCW 26.23.110, 74.20A.040, or 74.20A.055 that all future support payments must be made through the office of support enforcement or the Washington state support registry.~~

~~((After service on)) (2) A responsible parent ((of a notice under this section or RCW 74.20A.040 or 74.20A.055, payment of moneys for the support of the responsible parent's children)) who has been ordered or notified to make support payments to the office of support enforcement or the Washington state support registry shall not receive credit for payments which are not paid to the office of support enforcement or the Washington state support registry ((shall not be credited against or set-off against any obligation to provide support which has been assigned to the department; whether the obligation has been determined by court order, or pursuant to RCW 74.20A.055, or is unliquidated)) unless:~~

~~(a) The department determines that the granting of credit would not prejudice the rights of the residential parent or other person or agency entitled to receive the support payments and circumstances of an equitable nature exist; or~~

~~(b) A court, after a hearing at which all interested parties were given an opportunity to be heard, on equitable principles, orders that credit be given.~~

~~(3) The rights of the payee under an order for support shall not be prejudiced if the department grants credit under subsection (2)(a) of this~~

section. If the department determines that credit should be granted pursuant to subsection (2) of this section, the department shall mail notice of its decision to the last known address of the payee, together with information about the procedure to contest the determination.

Sec. 8. Section 4, chapter 164, Laws of 1971 ex. sess. as last amended by section 2, chapter 276, Laws of 1985 and RCW 74.20A.040 are each amended to read as follows:

(1) The secretary may issue a notice of a support debt accrued and/or accruing based upon RCW 74.20A.030, assignment of a support debt or a request for support enforcement services under RCW 74.20.040 (2) or (3), to enforce and collect a support debt created by a superior court order or administrative order. The payee under the order shall be informed when a notice of support debt is issued under this section.

((Said)) (2) The notice may be served upon the debtor in the manner prescribed for the service of a summons in a civil action or be mailed to the debtor at his last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt.

((Said)) (3) The notice of debt shall include:

(a) A statement of the support debt accrued and/or accruing, computable on the amount required to be paid under any superior court order to which the department is subrogated or is authorized to enforce and collect under RCW 74.20A.030, has an assigned interest, or has been authorized to enforce pursuant to RCW 74.20.040 (2) or (3);

(b) A statement that the property of the debtor is subject to collection action;

(c) A statement that the property is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and

(d) A statement that the net proceeds will be applied to the satisfaction of the support debt.

(4) Action to collect a support debt by lien and foreclosure, or distraint, seizure and sale, or order to withhold and deliver shall be lawful after twenty days from the date of service upon the debtor or twenty days from the receipt or refusal by the debtor of said notice of debt.

(5) The secretary shall not be required to issue or serve such notice of support debt prior to taking collection action under this chapter when a responsible parent's support order:

(a) Contains language directing the parent to make support payments to the Washington state support registry; and

(b) Includes a statement that income-withholding action under this chapter may be taken without further notice to the responsible parent, as provided in RCW 26.23.050(1).

Sec. 9. Section 5, chapter 164, Laws of 1971 ex. sess. as last amended by section 5, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.060 are each amended to read as follows:

(1) The secretary may assert a lien upon the real or personal property of a responsible parent:

(a) When a support payment is past due, if the parent's support order was entered in accordance with RCW 26.23.050(1);

(b) Twenty-one days after ~~((receipt or refusal))~~ service of a notice of support debt under ~~((provisions of))~~ RCW 74.20A.040~~((, or))~~;

(c) Twenty-one days after service of a notice and finding of financial responsibility~~((, or as otherwise appropriate))~~ under RCW 74.20A.055~~((, or as))~~;

(d) Twenty-one days after service of a notice and finding of parental responsibility;

(e) Twenty-one days after service of a notice of support owed under RCW 26.23.110; or

(f) When appropriate under RCW 74.20A.270 ~~((a lien may be asserted by the secretary upon the real or personal property of the debtor)).~~

(2) The claim of the department for a support debt, not paid when due, shall be a lien against all property of the debtor with priority of a secured creditor. This lien shall be separate and apart from, and in addition to, any other lien created by, or provided for, in this title. The lien shall attach to all real and personal property of the debtor on the date of filing of such statement with the county auditor of the county in which such property is located~~((A lien against earnings shall attach and be effective subject to service requirements of RCW 74.20A.070 upon filing with the county auditor of the county in which the employer does business or maintains an office or agent for the purpose of doing business)).~~

(3) Whenever a support lien has been filed and there is in the possession of any person, firm, corporation, association, political subdivision or department of the state having notice of said lien any property which may be subject to the support lien, such property shall not be paid over, released, sold, transferred, encumbered or conveyed, except as provided for by the exemptions contained in RCW 74.20A.090 and 74.20A.130, unless:

(a) A written release or waiver signed by the secretary has been delivered to said person, firm, corporation, association, political subdivision or department of the state; or ~~((unless))~~

(b) A determination has been made in a fair hearing pursuant to RCW 74.20A.055 or by a superior court ordering release of said support lien on the basis that no debt exists or that the debt has been satisfied.

Sec. 10. Section 8, chapter 164, Laws of 1971 ex. sess. as last amended by section 6, chapter 276, Laws of 1985 and RCW 74.20A.080 are each amended to read as follows:

~~((Twenty-one days after service of a notice of debt as provided for in RCW 74.20A.040, or twenty-one days after service of the notice and finding of financial responsibility or as otherwise appropriate under RCW 74.20A.055, or as appropriate under RCW 74.20A.270;)) (1) The secretary~~



~~((is hereby authorized to))~~ 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 said debtor. Such order to withhold and deliver may be issued:

(a) When a support payment is past due, if a responsible parent's support order:

(i) Contains language directing the parent to make support payments to the Washington state support registry; and

(ii) Includes a statement that other income-withholding action under this chapter may be taken without further notice to the responsible parent, as provided for in RCW 26.23.050(1);

(b) Twenty-one days after service of a notice of support debt under RCW 74.20A.040;

(c) Twenty-one days after service of a notice and finding of parental responsibility;

(d) Twenty-one days after service of a notice of support owed under RCW 26.23.110;

(e) Twenty-one days after service of a notice and finding of financial responsibility under RCW 74.20A.055; or

(f) When appropriate under RCW 74.20A.270.

(2) The order to withhold and deliver shall:

(a) State the amount of the support debt accrued~~((, and shall));~~

(b) State in summary the terms of RCW 74.20A.090 and 74.20A.100~~((The order to withhold and deliver shall));~~

(c) Be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested.

(3) Any person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made is hereby required to:

(a) Answer said order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein~~((The secretary may require));~~ and

(b) Provide further and additional answers ~~((to be completed by the person, firm, corporation, association, political subdivision or department of the state. In the event there is in the possession of))~~ when requested by the secretary.

(4) Any such person, firm, corporation, association, political subdivision, or department of the state in possession of any property which may be

subject to the claim of the department of social and health services(~~(, such property))~~) shall ~~((be withheld))~~;

(a)(i) Immediately withhold such property upon receipt of the order to withhold and deliver; and ((shall, after the twenty day period, upon demand, be))

(ii) Deliver(~~(ed forthwith))~~ the property to the secretary(~~(The secretary shall hold said 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))~~ as soon as the twenty-day answer period expires;

(iii) Continue to withhold earnings payable to the debtor at each succeeding disbursement interval as provided for in RCW 74.20A.090, and deliver amounts withheld from earnings to the obligee within ten days of the date earnings are payable to the debtor;

(iv) Inform the secretary of the date the amounts were withheld as requested under this section; or

(b) Furnish(~~(ed))~~ to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability.

(5) Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, or association, political subdivision, or department of the state subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary.

(6) Delivery to the secretary of the money or other property held or claimed shall satisfy the requirement and serve as full acquittance of the order to withhold and deliver. (~~(Delivery to the secretary shall serve as full acquittance and))~~

(7) The state warrants and represents that:

(a) 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))~~); and

(b) It shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter. (~~(The foregoing is subject to the))~~

(8) The secretary may hold the money or property delivered under this section in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability.

(9) Exemptions contained in RCW 74.20A.090 apply to orders to withhold and deliver issued under this section.

(10) 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. This requirement is not jurisdictional, but, if the copy is not mailed or served as in this section provided, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy.

(11) An order to withhold and deliver issued in accordance with this section has priority over any other wage assignment or garnishment(~~(, except for another wage assignment or garnishment for support moneys)~~).

(12) The office of support enforcement shall notify any person, firm, corporation, association, or political subdivision or department of the state required to withhold and deliver the earnings of a debtor under this action that they may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars for the first disbursement to the department and one dollar for each subsequent disbursement under the order to withhold and deliver.

Sec. 11. Section 12, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 5, chapter 363, Laws of 1987 and by section 15, chapter 435, Laws of 1987 and RCW 26.09.120 are each reenacted and amended to read as follows:

(1) The court shall order support (~~(and maintenance)~~) payments, including spousal maintenance if child support is ordered, to be made to the Washington state support registry, or the person entitled to receive the payments under an alternate payment plan approved by the court as provided in RCW 26.23.050.

(2) Maintenance payments, when ordered in an action where there is no dependent child, may be ordered to be paid to the person entitled to receive the payments, or the clerk of the court as trustee for remittance to the persons entitled to receive the payments.

(3) If support or maintenance payments are made to the clerk of court, the clerk:

(a) Shall maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order(:-);

~~((3))~~ (b) May by local court rule accept only certified funds or cash as payment(:- In all cases, the clerk); and

(c) Shall accept only certified funds or cash for five years in all cases after one check has been returned for nonsufficient funds or account closure.

(4) The parties affected by the order shall inform the registry through which the payments are ordered to be paid of any change of address or of other conditions that may affect the administration of the order.

Sec. 12. Section 5, chapter 322, Laws of 1959 as last amended by section 1, chapter 276, Laws of 1985 and RCW 74.20.040 are each amended to read as follows:

(1) Whenever the department of social and health services receives an application for public assistance on behalf of a child, the department shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

(2) The secretary may accept a request for support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. Requests accepted under this subsection may be conditioned upon the payment of a fee as required through regulation issued by the secretary. Action may be taken under the provisions of chapter 74.20 RCW, the abandonment or nonsupport statutes, or other appropriate statutes of this state, including but not limited to remedies established in chapter 74.20A RCW, to establish and enforce said support obligations. The secretary may establish by regulation, reasonable standards and qualifications for support enforcement services under this subsection.

(3) The secretary may accept requests for support enforcement services from child support enforcement agencies in other states operating child support programs under Title IV-D of the social security act or from foreign countries, and may take appropriate action to establish and enforce support obligations against the parent or other person owing a duty to pay support moneys. ~~((Requests from such agencies must be accompanied by a request for support enforcement services executed by the state agency submitting the application and the person to whom the support moneys were owed authorizing the secretary to initiate appropriate action to establish, enforce, and collect the support obligation on their behalf.))~~ The ~~((application))~~ request shall contain and be accompanied by such information and documentation as the secretary may by rule require, and be signed by an authorized representative of the agency.

(4) The department may take action to establish, enforce, and collect a support obligation, including performing related services, under this chapter and chapter 74.20A RCW, or through the attorney general or prosecuting attorney for action under chapter 26.09, 26.18, 26.20, 26.21, or 26.26 RCW or other appropriate statutes or the common law of this state.

~~((4))~~ (5) Whenever a support order is filed with the Washington state support registry under chapter 26.23 RCW, the department may take appropriate action under the provisions of this chapter, chapter 26.23 or 74.20A RCW, or other appropriate law of this state to establish or enforce the support obligations contained in that order against the responsible parent or other persons owing a duty to pay support moneys.

(6) The secretary may charge and collect a fee from the person obligated to pay support to compensate the department for services rendered in establishment of or enforcement of support obligations. This fee shall be limited to not more than ten percent of any support money collected as a result of action taken by the secretary. The fee charged shall be in addition to the support obligation. In no event may any moneys collected by the department of social and health services from the person obligated to pay support be retained as satisfaction of fees charged until all current support obligations have been satisfied. The secretary shall by regulation establish reasonable fees for support enforcement services and said schedule of fees shall be made available to any person obligated to pay support. The secretary may, on showing of necessity, waive or defer any such fee.

~~((5))~~ (7) Fees, due and owing, may be collected as delinquent support moneys utilizing any of the remedies in chapter 74.20 RCW, chapter 74.20A RCW, chapter 26.21 RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

~~((6))~~ (8) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys owed.

Sec. 13. Section 22, chapter 171, Laws of 1979 ex. sess. as last amended by section 19, chapter 275, Laws of 1988 and RCW 74.20.330 are each amended to read as follows:

(1) Whenever public assistance is paid under this title, each applicant or recipient is deemed to have made assignment to the department of any rights to a support obligation from any other person the applicant or recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving public assistance, including any unpaid support obligation or support debt which has accrued at the time the assignment is made.

(2) Payment of public assistance under this title shall:

(a) Operate~~((s))~~ as an assignment by operation of law~~((:))~~; and

~~((2))~~ Upon the recipient's request, the department shall continue to establish the support obligation and to enforce and collect the support debt

~~after the family ceases to receive public assistance, and thereafter if a non-assistance request for support enforcement services has been made under RCW 74.20.040 (2) and (3). The department shall distribute all amounts collected in accordance with 42 U.S.C. Sec. 657 and RCW 26.23.030.))~~

(b) Constitute an authorization to the department to provide the assistance recipient with support enforcement services.

Sec. 14. Section 3, chapter 164, Laws of 1971 ex. sess. as last amended by section 913, chapter 176, Laws of 1988 and by section 20, chapter 275, Laws of 1988 and RCW 74.20A.030 are each reenacted and amended to read as follows:

(1) The department shall be subrogated to the right of any dependent child or children or person having the care, custody, and control of said child or children, if public assistance money is paid to or for the benefit of the child, to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the state of Washington to obtain reimbursement of moneys expended, based on the support obligation of the responsible parent established by a superior court order or RCW 74.20A.055. Distribution of any support moneys shall be made in accordance with 42 U.S.C. Sec. 657.

~~((Public assistance moneys shall be exempt from collection action under this chapter except as provided in RCW 74.20A.270.~~

~~No collection action shall be taken against parents of children eligible for admission to, or children who have been discharged from a residential habilitation center as defined by RCW 71A.10.020(7).))~~

(2) The department may initiate, continue, maintain, or execute an action to establish, enforce, and collect a support obligation, including establishing paternity and performing related services, under this chapter and chapter 74.20 RCW, or through the attorney general or prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21, 26.23, or 26.26 RCW or other appropriate statutes or the common law of this state, for ((a period not to exceed three months from the month following the month in which the family or any member thereof ceases to receive public assistance and thereafter if a nonassistance request for support enforcement services has been made under RCW 74.20.040 and 26.23.030)) so long as and under such conditions as the department may establish by regulation.

(3) Public assistance moneys shall be exempt from collection action under this chapter except as provided in RCW 74.20A.270.

(4) No collection action shall be taken against parents of children eligible for admission to, or children who have been discharged from a residential habilitation center as defined by RCW 71A.10.020(7).

Sec. 15. Section 5, chapter 435, Laws of 1987 and RCW 26.23.050 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the superior court shall include in all superior court orders which establish or modify a support obligation~~((, a))~~:

(a) A provision which orders and directs that the responsible parent~~((to))~~ make all support payments to the Washington state support registry~~((, or the person entitled to receive the payments if the parties agree to an alternate payment plan and the court finds that the alternate payment plan includes reasonable assurances that payments will be made in a regular and timely manner. The superior court shall also include))~~;

(b) A statement that a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent~~((:))~~;

(i) If a support payment is~~((more than fifteen days past))~~ not paid when due~~((in))~~, and an amount equal to or greater than the support payable for one month~~((, If the court approves an alternate payment plan, the order shall include a statement that the order may be submitted to the Washington state support registry for enforcement if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month.))~~ is owed under an order entered prior to July 1, 1990; or

(ii) At any time after entry of the court order for orders entered by the court on or after July 1, 1990; and

(c) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child.

(2) The court may order the responsible parent to make payments directly to the person entitled to receive the payments or, for orders entered on or after July 1, 1990, direct that the issuance of a notice of payroll deduction or other income withholding actions be delayed until a support payment is past due if the court approves an alternate payment plan. The parties to the order must agree to such a plan and the plan must contain reasonable assurances that payments will be made in a regular and timely manner. If the order directs payment to the person entitled to receive the payments instead of to the Washington state support registry, the order shall include a statement that the order may be submitted to the registry if a support payment is past due. If the order directs delayed issuance of the notice of payroll deduction or other income withholding action, the order shall include a statement that such action may be taken, without further notice, at any time after a support payment is past due. The provisions of this subsection do not apply if the department is providing public assistance under Title 74 RCW.

~~((2))~~ (3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs

that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that a notice of payroll deduction may be issued, or other income withholding action taken without further notice to the responsible parent((:));

(a) If a support payment is ((more than fifteen days past)) not paid when due ((in)) and an amount equal to or greater than the support payable for one month is owed under an order entered prior to July 1, 1990; or

(b) At any time after entry of the order for administrative orders entered on or after July 1, 1990.

~~((3))~~ (4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that a notice of payroll deduction may be issued if a support payment is past due or at any time after the entry of the order, the office of support enforcement may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

~~((4))~~ (5) Every support order shall state:

(a) That payment shall be made to the Washington state support registry or in accordance with the alternate payment plan approved by the court;

(b) That a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent((:));

(i) If a support payment is ((more than fifteen days past due in)) not paid when due and an amount equal to or greater than the support payable for one month is owed under an order entered prior to July 1, 1990; or

(ii) At any time after entry of an order by the court on or after July 1, 1990, unless the court approves an alternate payment plan under subsection (2) of this section;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The social security number, residence address, and name of employer of the responsible parent;

(g) The social security number and residence address of the ((custodial parent)) physical custodian except as provided in subsection (6) of this section;

(h) The names, dates of birth, and social security numbers, if any, of the dependent children; ~~((and))~~

(i) That the parties are to notify the Washington state support registry of any change in residence address((:));

~~((5))~~ (j) That any parent owing a duty of child support shall be obligated to provide health insurance coverage for his or her child if coverage



that can be extended to cover the child is or becomes available to that parent through employment or is union-related as provided under RCW 26.09.105;

(k) That if proof of health insurance coverage is not provided within twenty days, the obligee or the department may seek direct enforcement of the coverage through the obligor's employer or union without further notice to the obligor as provided under chapter 26.18 RCW; and

(l) The reasons for not ordering health insurance coverage if the order fails to require such coverage.

(6) The physical custodian's address shall be omitted from an order entered under the administrative procedure act. A responsible parent whose support obligation has been determined by such administrative order may request the physical custodian's residence address by submission of a request for disclosure under RCW 26.23.120.

(7) The superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry, a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation which provide that support payments shall be made to the support registry. If a superior court order entered prior to January 1, 1988, directs the responsible parent to make support payments to the clerk, the clerk shall send a true and correct copy of the support order and the payment record to the registry for enforcement action when the clerk identifies that a payment is more than fifteen days past due. The office of support enforcement shall reimburse the clerk for the reasonable costs of copying and sending copies of court orders to the registry at the reimbursement rate provided in Title IV-D of the social security act.

~~((6))~~ (8) Receipt of a support order by the registry or other action under this section on behalf of a person or persons who are not recipients of public assistance is deemed to be a request for support enforcement services under RCW ~~((74.20A.040))~~ 74.20.040.

~~((7))~~ (9) After the responsible parent has been ordered or notified to make payments to the Washington state support registry in accordance with subsection (1), (2), or (3) of this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

Sec. 16. Section 11, chapter 435, Laws of 1987 and RCW 26.23.110 are each amended to read as follows:

(1) The department ((shall establish, by regulation, a process that may be utilized)) may serve a notice of support owed on a responsible parent when a support order:

(a) Does not state the ((obligation to pay)) current and future support obligation as a fixed dollar amount((, or if there is a dispute about the amount of the support debt owed under a support order. This process is authorized in order to)); or

(b) Contains an escalation clause or adjustment provision for which additional information not contained in the order is needed to determine the amount of the accrued debt and/or the current and future obligation.

(2) The notice of support owed shall facilitate enforcement of the support order(;) and ((is intended to)) implement and effectuate the terms of the order, rather than ((to)) modify those terms. When the office of support enforcement issues a notice of support owed, the office shall inform the payee under the order.

(3) The ((process)) notice of support owed shall ((provide for a notice to)) be served on ((the)) a responsible parent by personal service or any form of mailing requiring a return receipt. The notice shall contain an initial finding of the amount of current and future support that should be paid and/or the amount of the support debt owed under the support order. ((A copy of the notice of hearing shall be mailed to the person to whom support is payable under the support order:))

(4) A responsible parent who objects to the amounts stated in the notice has twenty days from the date of the service of the notice to file an application for an adjudicative proceeding or initiate an action in superior court.

(5) The notice shall ((direct the responsible parent)) state that the parent may:

(a) File an application for an adjudicative proceeding in which the parent will be required to appear and show cause ((at a hearing held by the department)) why the amount ((of)) stated in the notice for current and future support ((to be paid)) and/or the ((amount of the)) accrued support debt is incorrect and should not be ordered; or

(b) Initiate an action in superior court.

((The notice shall provide that the responsible parent has twenty days from the date of the service of the notice to request an administrative hearing or initiate an action in superior court. If the responsible parent does not request a hearing or initiate an action in superior court, the amount of current and future support and/or the amount of the support debt stated in the notice shall be subject to collection action:))

(6) If the parent does not file an application for an adjudicative proceeding or initiate an action in superior court, the amount of current and future support and/or the support debt stated in the notice shall become final and subject to collection action.

(7) If an adjudicative proceeding is requested, the department shall mail a copy of the notice of hearing to the payee under the support order at the payee's last known address. A payee who appears for the hearing shall be allowed to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the proceeding, and offering rebuttal to other testimony. Nothing in this section shall preclude the administrative law judge from limiting participation to preserve the confidentiality of information protected by law.

(8) If the responsible parent does not initiate ((such)) an action in superior court, and serve notice of the action on the department within the twenty-day period, the responsible parent shall be deemed to have made an election of remedies and shall be required to exhaust administrative remedies under this chapter with judicial review available as provided for in RCW ((34.04.130)) 34.05.510 through 34.05.598.

~~((The administrative hearing shall be a contested hearing under chapter 34.04 RCW and shall be conducted in accordance with the rules and regulations adopted by the department and the office of administrative hearings. A copy of the notice of hearing shall be mailed to the person to whom support is payable under the support order.))~~

(9) An administrative order entered in accordance with this section shall state the basis, rationale, or formula upon which the amounts established in the order were based. The amount of current and future support and/or the amount of the support debt determined under this section shall be subject to collection under this chapter and other applicable state statutes.

(10) The ((regulation)) department shall also provide for:

(a) An annual review of the support order if either the office of support enforcement or the responsible parent requests such a review; and

(b) A late hearing if the responsible parent fails to file an application for an adjudicative proceeding in a timely manner under this section.

(11) If an annual review or late hearing is requested under subsection (10) of this section, the department shall mail a copy of the notice of hearing to the payee at the payee's last known address. A payee who appears for the proceeding shall be allowed to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the proceeding, and offering rebuttal to other testimony. Nothing in this section shall preclude the administrative law judge from limiting participation to preserve the confidentiality of information protected by law.

Sec. 17. Section 12, chapter 435, Laws of 1987 and RCW 26.23.120 are each amended to read as follows:

(1) Any information or records concerning individuals who owe a support obligation or for whom support enforcement services are being provided

which are obtained or maintained by the Washington state support registry, the office of support enforcement, or under chapter 74.20 RCW shall be private and confidential and shall only be subject to public disclosure as provided in subsection (2) of this section.

(2) The secretary of the department of social and health services shall adopt rules which specify the individuals or agencies to whom this information and these records may be disclosed, the purposes for which the information may be disclosed, and the procedures to obtain the information or records. The rules adopted under this section shall provide for disclosure of the information and records, under appropriate circumstances, which shall include, but not be limited to:

(a) When authorized or required by federal statute or regulation governing the support enforcement program;

(b) To the person the subject of the records or information, unless the information is exempt from disclosure under RCW 42.17.310;

(c) To government agencies, whether state, local, or federal, and including law enforcement agencies, prosecuting agencies, and the executive branch, if the records or information are needed for child support enforcement purposes;

(d) To the parties in a judicial or formal administrative proceeding upon a specific written finding by the presiding officer that the need for the information outweighs any reason for maintaining the privacy and confidentiality of the information or records;

(e) To private persons or organizations if the disclosure is necessary to permit private contracting parties to assist in the management and operation of the department;

(f) Disclosure of address and employment information to the parties to a court order for support for purposes relating to the establishment, enforcement, or modification of the order;

(g) Disclosure of information or records when necessary to the efficient administration of the support enforcement program or to the performance of functions and responsibilities of the support registry and the office of support enforcement as set forth in state and federal statutes; or

(h) Disclosure of the information or records when authorized under RCW 74.04.060.

(3) Prior to disclosing the physical custodian's address (~~((information to a party to a child custody order))~~) under subsection (1)(f) of this section, a notice shall be mailed, if appropriate under the circumstances, to the physical custodian at the physical custodian's last known address (~~((of the party whose address has been requested))~~). The notice shall advise the ~~((party))~~ physical custodian that a request for disclosure has been made and will be complied with unless the department receives a copy of a court order which enjoins the disclosure of the information or restricts or limits the requesting party's right to contact or visit the ~~((other party))~~ physical custodian or the

child, or the custodial parent requests a hearing to contest the disclosure. The administrative law judge shall determine whether the address of the custodial parent should be disclosed based on the same standard as a claim of "good cause" as defined in 42 U.S.C. Sec. 602 (a)(26)(c).

(4) Nothing in this section shall be construed as limiting or restricting the effect of RCW 42.17.260(5). Nothing in this section shall be construed to prevent the disclosure of information and records if all details identifying an individual are deleted or the individual consents to the disclosure.

(5) It shall be unlawful for any person or agency in violation of this section to solicit, publish, disclose, receive, make use of, or to authorize, knowingly permit, participate in or acquiesce in the use of any lists of names for commercial or political purposes or the use of any information for purposes other than those purposes specified in this section. A violation of this section shall be a gross misdemeanor as provided in chapter 9A.20 RCW.

Sec. 18. Section 14, chapter 42, Laws of 1975-'76 2nd ex. sess. as last amended by section 56, chapter 460, Laws of 1987 and RCW 26.26.130 are each amended to read as follows:

(1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, ~~((the custody and guardianship of the child, visitation privileges with the child;))~~ the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(4) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the father's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just ~~((~~PROVIDED HOWEVER, That~~)).~~ The court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(5) ~~((In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, the court shall consider all relevant facts, including, but not limited to:~~

~~(a) The needs of the child;~~

~~(b) The standard of living and circumstances of the parents;~~  
~~(c) The relative financial means of the parents;~~  
~~(d) The earning ability of the parents;~~  
~~(e) The need and capacity of the child for education, including higher education;~~  
~~(f) The age of the child;~~  
~~(g) The responsibility of the parents for the support of others; and~~  
~~(h) The value of services contributed by the custodial parent))~~ After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards adopted under RCW 26.19.040.

(6) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party.

(7) In any dispute between the natural parents of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the natural parent or parents, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

Sec. 19. Section 4, chapter 136, Laws of 1895 as last amended by section 1, chapter 147, Laws of 1983 and RCW 4.56.110 are each amended to read as follows:

Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in the contracts: PROVIDED, That said interest rate is set forth in the judgment.

(2) All judgments for unpaid child support that have accrued under a superior court order or an order entered under the administrative procedure act shall bear interest at the rate of twelve percent.

(3) Except as provided under subsections (1) and (2) of this section, judgments shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date of entry thereof: PROVIDED, That in any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

Sec. 20. Section 8, chapter 61, Laws of 1970 ex. sess. as amended by section 1035, chapter 442, Laws of 1987 and RCW 6.27.360 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a lien obtained under RCW 6.27.350 shall have priority over any subsequent garnishment lien or wage assignment except that service of a writ shall not be effective to create a continuing lien with such priority if a writ in the same case is pending at the time of the service of the new writ.

(2) A lien obtained under RCW 6.27.350 shall not have priority over a notice of payroll deduction issued under RCW 26.23.060 or a wage assignment or other garnishment for child support issued under chapters 26.18 and 74.20A RCW.

Sec. 21. Section 6, chapter 231, Laws of 1988 and RCW 6.15.020 are each amended to read as follows:

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

(2) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Washington under any employee benefit plan, and any fund created by such a plan or arrangement, shall be exempt from execution, attachment, or seizure by or under any legal process whatever(~~(-PROVIDED, That))~~). This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order (as such term is defined in section 206(d) of the federal employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1056(d) or in section 401(a)(13) of the internal revenue code of 1954, as amended).

(3) For the purposes of this section, the term "employee benefit plan" means any plan or arrangement that is subject to the provisions of the federal employee retirement income security act of 1974, as amended, 29 U.S.C. Secs. 1001 through 1461 or that is described in sections 401(a),

403(a), 403(b), 408, or 409 (as in effect before January 1, 1984) of the internal revenue code of 1954, as amended, or both(~~(-PROVIDED, That))~~. The term "employee benefit plan" shall not include any employee benefit plan that is excluded from the application of the federal employee retirement income security act of 1974, as amended, pursuant to section 4(b)(1) of that act, 29 U.S.C. Sec. 1003(b)(1).

Sec. 22. Section 18, chapter 267, Laws of 1971 ex. sess. as last amended by section 17, chapter 326, Laws of 1987 and RCW 2.10.180 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, or any other process of law whatsoever.

(2) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(3) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section.

(4) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW, (c) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, ~~((t))~~ (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or ~~((t))~~ (e) any administrative or court order expressly authorized by federal law.

Sec. 23. Section 32, chapter 52, Laws of 1982 1st ex. sess. as amended by section 18, chapter 326, Laws of 1987 and RCW 2.12.090 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions of this chapter and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for



child support issued pursuant to chapter 26.18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW, (c) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, ~~((c))~~ (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or ~~((d))~~ (e) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(4) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section.

Sec. 24. Section 23, chapter 209, Laws of 1969 ex. sess. as last amended by section 22, chapter 326, Laws of 1987 and RCW 41.26.180 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, to the return of accumulated contributions, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable.

(2) On the written request of any person eligible to receive benefits under this section, the department of retirement systems may deduct from such payments the premiums for life, health, or other insurance. The request on behalf of any child or children shall be made by the legal guardian of such child or children. The department of retirement systems may provide for such persons one or more plans of group insurance, through contracts with regularly constituted insurance carriers or health care service contractors.

(3) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or ~~((d))~~ (e) any administrative or court order expressly authorized by federal law.

Sec. 25. Section 59, chapter 80, Laws of 1947 as last amended by section 23, chapter 326, Laws of 1987 and RCW 41.32.590 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, or disability allowance, to the return of contributions, any optional benefit or death benefit, any other right accrued or accruing to any person under the provisions of this chapter and the moneys in the various funds created by this chapter shall be unassignable, and are hereby exempt from any state, county, municipal or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance who is eligible:

(a) Under RCW 41.05.080 from authorizing monthly deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions;

(b) Under a group health care benefit plan approved pursuant to RCW 28A.58.420 or (~~41.05.025~~) 41.05.065 from authorizing monthly deductions therefrom, of the amount or amounts of subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance; or

(c) Under the Washington state teachers' retirement system from authorizing monthly deductions therefrom for payment of dues and other membership fees to any retirement association composed of retired teachers and/or public employees pursuant to a written agreement between the director and the retirement association.

Deductions under (a) and (b) of this subsection shall be made in accordance with rules and regulations that may be promulgated by the director of retirement systems.

(3) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (~~(d)~~) (e) any administrative or court order expressly authorized by federal law.

Sec. 26. Section 24, chapter 261, Laws of 1945 as last amended by section 3, chapter 205, Laws of 1979 ex. sess. and RCW 41.24.240 are each amended to read as follows:

The right of any person to any future payment under the provisions of this chapter shall not be transferable or assignable at law or in equity, and none of the moneys paid or payable or the rights existing under this chapter, shall be subject to execution, levy, attachment, garnishment, or other legal

process, or to the operation of any bankruptcy or insolvency law(~~(-PROVIDED, That)~~). This section shall not be applicable to any child support collection action taken under chapter 26.18, 26.23, or 74.20A RCW. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

Nothing in this chapter shall be construed to deprive any fireman, eligible to receive a pension hereunder, from receiving a pension under any other act to which he may become eligible by reason of services other than or in addition to his services as a fireman under this chapter.

Sec. 27. Section 39, chapter 274, Laws of 1947 as last amended by section 20, chapter 107, Laws of 1988 and RCW 41.40.380 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules and regulations that may be promulgated by the state health care authority and/or the department of retirement systems, and this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or ~~((d))~~ (e) any administrative or court order expressly authorized by federal law.

Sec. 28. Section 24, chapter 71, Laws of 1947 as amended by section 7, chapter 205, Laws of 1979 ex. sess. and RCW 41.44.240 are each amended to read as follows:

The right of a person to a pension, annuity or a retirement allowance, to the return of contribution, the pension, annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter shall not be subject to execution, garnishment, or any other process whatsoever (~~(-PROVIDED, That)~~). This section shall not apply to child support collection actions taken under chapter 26.18, 26.23, or 74.20A RCW against benefits payable under any such plan or arrangement. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

Sec. 29. Section 43.43.310, chapter 8, Laws of 1965 as last amended by section 1, chapter 63, Laws of 1987 and by section 25, chapter 326, Laws of 1987 and RCW 43.43.310 are each reenacted and amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or ~~((d))~~ (e) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the Washington state patrol or other public employees of the state of Washington, or for contributions to the Washington state patrol memorial foundation.

Sec. 30. Section 12, chapter 164, Laws of 1971 ex. sess. as amended by section 3, chapter 41, Laws of 1983 1st ex. sess. and RCW 74.20A.120 are each amended to read as follows:

~~((In the case of a bank, bank association, mutual savings bank, or savings and loan association maintaining branch offices, service of))~~ A lien

~~((or)), order to withhold and deliver, or any other notice or document authorized by this chapter or chapter 26.23 RCW may be served on the main office of a bank, savings and loan association, or credit union or on a branch office of such financial institution. Service on the main office shall ((only)) be effective ((as)) to ((the)) attach the deposits of a responsible parent in the financial institution and compensation payable for personal services due the responsible parent from the financial institution. Service on a branch office shall be effective to attach the deposits, accounts, credits, or other personal property of the ((debtor)) responsible parent, excluding compensation payable for personal services, in the possession or control of the particular branch ((upon which service is made)) served.~~

If the department initiates collection action under this chapter against a community bank account, the debtor or the debtor's spouse, upon service on the department of a timely request, shall have a right to a ~~((contested))~~ hearing under chapter ~~((34.04))~~ 34.05 RCW to establish that the funds in the account, or a portion of those funds, were the earnings of the nonobligated spouse, and are exempt from the satisfaction of the child support obligation of the debtor pursuant to RCW 26.16.200.

Sec. 31. Section 8, chapter 435, Laws of 1987 and RCW 26.23.100 are each amended to read as follows:

The responsible parent subject to a payroll deduction pursuant to this chapter, may file a motion in superior court to quash, modify, or terminate the payroll deduction. The court may grant relief only upon a showing that the payroll deduction causes extreme hardship or substantial injustice or that the ~~((responsible parent))~~ support payment was not ~~((more than fifteen days))~~ past due in an amount equal to or greater than the support payable for one month when the notice of payroll deduction was served on the employer. Satisfaction by the obligor of all past due payments subsequent to the issuance of the notice of payroll deduction is not grounds to quash, modify, or terminate the notice of payroll deduction. If a notice of payroll deduction has been in operation for twelve consecutive months and the obliger's support obligation is current, upon motion of the obligor, the court may order the Washington state support registry to terminate the payroll deduction, unless the obligee can show good cause as to why the payroll deduction should remain in effect.

Sec. 32. Section 6, chapter 435, Laws of 1987 and RCW 26.23.060 are each amended to read as follows:

~~(1) ((If a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the office of support enforcement is authorized to))~~ The department may serve a notice of payroll deduction upon ((an)) a responsible parent's employer for child support obligations ((in compliance with RCW 26.23.050 (1), (2), or (3))) if the responsible parent fails to pay child support as due in an amount

equal to or greater than the support payable for one month. Service shall be by personal service or by any form of mail requiring a return receipt.

(2) Service of a notice of payroll deduction upon an employer requires an employer to immediately make a mandatory payroll deduction from the responsible parent/employee's unpaid disposable earnings. The employer shall thereafter deduct each pay period the amount stated in the notice divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent/employee's disposable earnings.

(3) A notice of payroll deduction for support shall have priority over any wage assignment or garnishment.

(4) The notice of payroll deduction shall be in writing and include:

(a) The name and social security number of the employee;

(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction by the employer;

(c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings; and

(d) The address to which the payments are to be mailed or delivered.

(5) An informational copy of the notice of payroll deduction shall be mailed to the last known address of the responsible parent by regular mail.

(6) An employer who receives a notice of payroll deduction shall make immediate deductions from the employee's unpaid disposable earnings and remit proper amounts to the Washington state support registry on each date the employee is due to be paid.

(7) An employer, upon whom a notice of payroll deduction is served, shall make an answer to the Washington state support registry within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer, whether the employer anticipates paying earnings and the amount of earnings. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known.

(8) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the notice of payroll deduction, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for the first disbursement made by the employer to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.

(9) The notice of payroll deduction shall remain in effect until released by the office of support enforcement or the court enters an order terminating the notice and approving an alternate payment plan under RCW 26.23.050(2).

NEW SECTION. Sec. 33. A new section is added to chapter 26.23 RCW to read as follows:

(1) The office of support enforcement, Washington state support registry, shall provide support enforcement services under the following circumstances:

- (a) Whenever public assistance under RCW 74.20.330 is paid;
- (b) Whenever a request for nonassistance support enforcement services under RCW 74.20.040(2) is received;
- (c) Whenever a request for support enforcement services under RCW 74.20.040(3) is received;
- (d) When a support order which contains language directing a responsible parent to make support payments to the Washington state support registry under RCW 26.23.050 is submitted;
- (e) When a support order is forwarded to the Washington state support registry by the clerk of a superior court under RCW 26.23.050(5);
- (f) When the obligor submits a support order or support payment to the Washington state support registry.

(2) The office of support enforcement shall continue to provide support enforcement services for so long as and under such conditions as the department shall establish by regulation or until the superior court enters an order approving an alternate payment plan as provided for in RCW 26.23.050(1).

NEW SECTION. Sec. 34. A new section is added to chapter 26.23 RCW to read as follows:

(1) The child support registry shall distribute all moneys received in compliance with 42 U.S.C. Sec. 657. Support received by the office of support enforcement shall be distributed promptly but not later than eight days from the date of receipt unless circumstances exist which make such distribution impossible. Such circumstances include when: (a) The location of the custodial parent is unknown; (b) the child support debt is in litigation; or (c) the responsible parent or custodial parent cannot be identified. When, following termination of public assistance, the office of support enforcement collects support, all moneys collected up to the maximum of the support due for the period following termination from public assistance shall, to the extent permitted by federal law, be paid to the custodial parent before any distribution to the office of support enforcement under federal law. This section shall not apply to support collected through intercepting federal tax refunds under 42 U.S.C. Sec. 664. When a responsible parent has more than one support obligation, or a support debt is owed to more than one

party, moneys received will be distributed between the parties proportionally, based upon the amount of the support obligation and/or support debt owed.

(2) Distribute support payments to the payee under the support order or to another person who has lawful physical custody of the child or custody with the payee's consent. The payee may file an application for an adjudicative proceeding to challenge distribution to such other person. Prior to distributing support payments to any person other than the payee, the registry shall:

(a) Obtain a written statement from the child's physical custodian, under penalty of perjury, that the custodian has lawful custody of the child or custody with the payee's consent;

(b) Mail to the responsible parent and to the payee at the payee's last known address a copy of the physical custodian's statement and a notice which states that support payments will be sent to the physical custodian; and

(c) File a copy of the notice with the clerk of the court that entered the original support order.

(3) If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and ten percent of amounts collected as current support.

Sec. 35. Section 18, chapter 171, Laws of 1979 ex. sess. as last amended by section 14, chapter 276, Laws of 1985 and RCW 74.20A.270 are each amended to read as follows:

The secretary may issue a notice of (~~support debt~~) noncompliance to any person, firm, corporation, association or political subdivision of the state of Washington or any officer or agent thereof who has violated chapter 26-.18 RCW, RCW 74.20A.100, or 26.23.040, who is in possession of support moneys, or who has had support moneys in his or her possession at some time in the past, which support moneys were or are claimed by the department as the property of the department by assignment, subrogation, or by operation of law or legal process under chapter 74.20A RCW, if the support moneys have not been remitted to the department as required by law.

The notice shall describe the claim of the department, stating the legal basis for the claim and shall provide sufficient detail to enable the person, firm, corporation, association or political subdivision or officer or agent thereof upon whom service is made to identify the support moneys in issue or the specific violation of RCW 74.20A.100 that has occurred. The notice may also make inquiry as to relevant facts necessary to the resolution of the issue.



The notice may be served by certified mail, return receipt requested, or in the manner of a summons in a civil action. Upon service of the notice all moneys not yet disbursed or spent or like moneys to be received in the future are deemed to be impounded and shall be held in trust pending answer to the notice and any hearing which is requested.

The notice shall be answered under oath and in writing within twenty days of the date of service, which answer shall include true answers to the matters inquired of in the notice. The answer shall also either acknowledge the department's right to the moneys or request an administrative hearing to contest the allegation that chapter 26.18 RCW, RCW 74.20A.100, or 26.23.040, has been violated, or determine the rights to ownership of the support moneys in issue. The hearing shall be held pursuant to this section, chapter ~~((34.04))~~ 34.05 RCW, and the rules of the department and shall be ~~((a contested case))~~ an adjudicative proceeding as provided for in chapter ~~((34.04))~~ 34.05 RCW. The burden of proof to establish ownership of the support moneys claimed, including but not limited to moneys not yet disbursed or spent, is on the department.

If no answer is made within the twenty days, the department's claim shall be assessed and determined and subject to collection action as a support debt pursuant to chapter 26.18 or 74.20A RCW, or RCW 26.23.040. Any such debtor may, at any time within one year from the date of service of the notice of support debt, petition the secretary or the secretary's designee for a hearing upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60. A copy of the petition shall also be served on the department. The filing of the petition shall not stay any collection action being taken, but the debtor may petition the secretary or the secretary's designee for an order staying collection action pending final decision of the secretary or the secretary's designee or the courts on any appeal made pursuant to chapter ~~((34.04))~~ 34.05 RCW. Any moneys held and/or taken by collection action prior to the date of any such stay and any support moneys claimed by the department, including moneys to be received in the future to which the department may have a claim, shall be held in trust pending final decision and appeal, if any, to be disbursed in accordance with the final decision. The secretary or the secretary's designee shall condition the stay to provide for the trust.

If the hearing is granted it shall be an administrative hearing limited to the determination of the ownership of the moneys claimed in the notice of debt. The right to the hearing is conditioned upon holding of any funds not yet disbursed or expended or to be received in the future in trust pending the final order in these proceedings or during any appeal made to the courts. The secretary or the secretary's designee shall enter an appropriate order providing for the terms of the trust.

The hearing shall be an ~~((contested case))~~ adjudicative proceeding as provided for in chapter ~~((34.04))~~ 34.05 RCW and shall be held pursuant to

this section, chapter (~~(34.04)~~) 34.05 RCW, and the rules of the department. The hearing shall be promptly scheduled within thirty days from the date of receipt of the answer by the department. The hearing shall be conducted by a duly qualified hearing examiner appointed for that purpose. Hearings may be held in the county of residence of the debtor or other place convenient to the debtor.

If the debtor fails to appear at the hearing, the hearing examiner shall, upon showing of valid service, enter an initial decision and order declaring the amount of support moneys, as claimed in the notice, to be assessed and determined and subject to collection action. Within thirty days of entry of the decision and order the debtor may petition the secretary or the secretary's designee to vacate the decision and order upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60.

The hearing and review process shall be as provided for in RCW 74.20A.055.

If, at any time, the superior court enters judgment for an amount of debt at variance with the amount determined by the final order in these proceedings, the judgment shall supersede the final order in these proceedings. Any debt determined by the superior court in excess of the amount determined by the final order in these proceedings shall be the property of the department as assigned under 42 U.S.C. 602(A)(26)(a), RCW 74.20.040, 74.20A.250, 74.20.320, or 74.20.330. The department may, despite any final order in these proceedings, take action pursuant to chapters 74.20 or 74.20A RCW to obtain such a judgment or to collect moneys determined by such a judgment to be due and owing.

If public assistance moneys have been paid to a parent for the benefit of that parent's minor dependent children, debt under this chapter shall not be incurred by nor at any time be collected from that parent because of that payment of assistance. Nothing in this section prohibits or limits the department from acting pursuant to RCW 74.20.320 and this section to assess a debt against a recipient or ex-recipient for receipt of support moneys paid in satisfaction of the debt assigned under RCW 74.20.330 which have been assigned to the department but were received by a recipient or ex-recipient from another responsible parent and not remitted to the department. To collect these wrongfully retained funds from the recipient, the department may not take collection action in excess of ten percent of the grant payment standard during any month the public assistance recipient remains in that status unless required by federal law. Payments not credited against the department's debt pursuant to RCW 74.20.101 may not be assessed or collected under this section.

Sec. 36. Section 17, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.26.160 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section the court has continuing jurisdiction to prospectively modify a judgment and order for

future education and future support, and with respect to matters listed in RCW 26.26.130 (3) and (4), and RCW 26.26.150(2) upon showing a substantial change of circumstances. The procedures set forth in RCW 26.09-.175 shall be used in modification proceedings under this section.

(2) A judgment or order entered under this chapter may be modified without a showing of substantial change of circumstances upon the same grounds as RCW 26.09.170 permits support orders to be modified without a showing of a substantial change of circumstance.

Sec. 37. Section 6, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 26, chapter 263, Laws of 1984 and RCW 26.09.060 are each amended to read as follows:

(1) In a proceeding for:

(a) Dissolution of marriage, legal separation, or a declaration of invalidity; or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse; either party may move for temporary maintenance or for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained or enjoined, requiring him to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(b) Molesting or disturbing the peace of the other party or of any child and, upon a showing by clear and convincing evidence that the party so restrained or enjoined has used or displayed or threatened to use a deadly weapon as defined in RCW 9A.04.110 in an act of violence or has previously committed acts of domestic violence and is likely to use or display or threaten to use a deadly weapon in an act of domestic violence, requiring the party to surrender any deadly weapon in his immediate possession or control or subject to his immediate possession or control to the sheriff of the county having jurisdiction of the proceeding or to the restrained or enjoined party's counsel or to any person designated by the court. The court may order temporary surrender of deadly weapons without notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for response has elapsed;

(c) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(d) Removing a child from the jurisdiction of the court.

(3) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(4) The court may issue a temporary restraining order or preliminary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances.

(5) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from entering a party's home shall bear the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(6) The court may order that any temporary restraining order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(7) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final decree is entered, except as provided under subsection (8) of this section, or when the petition for dissolution, legal separation, or declaration of invalidity is dismissed;

(d) May be entered in a proceeding for the modification of an existing decree.

(8) ~~((A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no~~

~~fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding)) Delinquent support payments accrued under an order for temporary support remain collectible and are not extinguished when a final decree is entered unless the decree contains specific language to the contrary. A support debt under a temporary order owed to the state for public assistance expenditures shall not be extinguished by the final decree if:~~

(a) The obligor was given notice of the state's interest under chapter 74.20A RCW; or

(b) The temporary order directs the obligor to make support payments to the office of support enforcement or the Washington state support registry.

*\*Sec. 38. Section 10, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 9, chapter 275, Laws of 1988 and RCW 26.09.100 are each amended to read as follows:*

*(1) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to marital misconduct, the court ((may)) shall order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay ((an amount determined pursuant to the schedule adopted under RCW 26.19.040)) child support. If child support is ordered, the court shall determine each parent's child support obligation pursuant to RCW 26.19.020. The court may require ((annual adjustments of support based upon changes in a party's income or the child's needs, or based upon changes in the child support schedule)) periodic adjustments of support.*

*(2) A parent obligated to pay child support may file a motion for an accounting of how the support is being spent by the receiving parent. The parent filing the motion must meet the following conditions prior to filing the motion:*

*(a) The parent filing the motion must be obligated to pay at least fifty percent of the basic child support obligation for both parents;*

*(b) If support is owed for one child, the parent must be obligated to pay at least three hundred dollars per month in child support; for two children, the parent must be obligated to pay at least five hundred twenty-five dollars per month in child support; for three or more children, the parent must be obligated to pay at least six hundred sixty dollars per month in child support; and*

*(c) The parent must be current in all child support payments.*

(3)(a) The motion for an accounting must be accompanied by an affidavit setting forth facts demonstrating that the parent receiving support is not spending a substantial portion of the child support for the direct or indirect benefit of the child. The motion, affidavit, and notice of hearing shall be served on the parent receiving support. The only issue at the preliminary hearing on the motion shall be whether there is reasonable cause to believe that the support is directly or indirectly benefiting the child.

(b) If the court determines at the preliminary hearing that the motion and affidavit establish reasonable cause to believe that a substantial portion of the support is not directly or indirectly benefiting the child the court may: (i) Set a show cause hearing on the motion and affidavit; or (ii) order the parents to mediate the issue with a court commissioner, family court commissioner, or other appropriate person. The court's order shall be in writing and shall set forth the facts which establish reasonable cause. The parent receiving support may be required to produce at the show cause hearing such documentation as the court determines is necessary to resolve the issue and which is reasonably available to the parent. The parent receiving support shall not be required to provide documentation for expenditures for more than six months prior to the time of the filing of the motion.

(c) If the court determines at the preliminary hearing that the motion and affidavit do not establish reasonable cause to believe that a substantial portion of the support is directly or indirectly benefiting the child, the court shall order the parent filing the motion and affidavit to pay costs and statutory attorneys' fees to the parent receiving the support.

The court may award reasonable attorneys' fees to the parent receiving support if the court determines that:

- (i) The motion was brought in bad faith, for harassment, or frivolously;
- or
- (ii) The motion was based on material statements of fact which were false.

(4) If at the show cause hearing on the motion and affidavit the parent obligated to pay support demonstrates by a preponderance of the evidence that a substantial portion of the support is not directly or indirectly benefiting the child, the court shall enter an appropriate order directing the parent receiving the support to spend the child support to benefit the child. The court may order the child support payments to be paid to a protective payee for the benefit of the child. The only issue at the hearing on the motion shall be whether the parent receiving support is spending support to directly or indirectly benefit the child.

(5) A motion and affidavit for an accounting of child support expenditures may not be filed more than once every twelve months.

\*Sec. 38 was vetoed, see message at end of chapter.

Sec. 39. Section 4, chapter 435, Laws of 1987 and RCW 26.23.040 are each amended to read as follows:

~~((1) The legislature recognizes that, in order for the support registry to operate in an effective and efficient manner and to ensure that delinquent child support payments will be enforced and collected promptly, especially when the responsible parent is employed and earning regular wages, current employment information must be available to the registry. The legislature also recognizes that the current employer reporting requirements to the department of employment security are not sufficient to facilitate the efforts of the registry to operate effectively and efficiently and collect delinquent payments promptly. Finally, the legislature recognizes that it may not be reasonable to create several different employer reporting systems because of the burdens that would be imposed on employers, especially small businesses. Therefore, the legislature directs the secretary of social and health services and the commissioner of employment security to work with business and employer groups to devise a single reporting process which will meet the needs of both departments and which will provide for prompt and timely employer reporting. The secretary and the commissioner shall prepare and submit a joint report to the judiciary and commerce and labor committees of the house of representatives and the senate by November 1, 1987. The report shall describe the progress that has been made in devising a new reporting system and shall include any recommendations for legislative action that have been agreed upon by the departments and the business and employer groups.~~

~~(2) The report shall include exemptions from the reporting requirement for employees employed for less than two months duration, whether they are full-time or part-time employees or employed on a sporadic basis, employees who earn less than three hundred dollars per month, and other appropriate exemptions. The report shall also provide for simple methods for employers to use in reporting information to the registry which shall include mailing a copy of the W-4 form, calling a toll-free telephone number maintained by the registry, or by other authorized means. The reporting process established by the report shall be designed to provide for up-to-date employment reports without imposing undue burdens on employers and small businesses.~~

~~(3) The secretary and the commissioner shall prepare and submit a report to the judiciary and commerce and labor committees of the house of representatives and the senate by January 25, 1989. This report shall describe the system or systems in effect at that time for employer reporting, identify any problems with the system or systems, include an assessment of the costs associated with the system or systems and the benefits derived from the information reported, if these costs and benefits can be quantified and identified, assess the additional work load for employers to comply with reporting requirements, propose a means by which employers may be compensated for their costs to comply with the reporting requirements, and include recommendations for legislative action if appropriate.~~

(4)) (1) Except as provided in subsection (3) of this section, all employers doing business in the state of Washington, and to whom the department of employment security has assigned the standard industrial classification sic codes listed in subsection (2) of this section, shall report to the Washington state support registry:

(a) The hiring of any person who resides or works in this state to whom the employer anticipates paying earnings; and

(b) The rehiring or return to work of any employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment.

(2) Employers in the standard industrial classifications that shall report to the Washington state support registry include:

(a) Construction industry sic codes: 15, building; and 16, other than building;

(b) Manufacturing industry sic code 37, transportation equipment;

(c) Wholesale trade industry sic codes: 73, business services, except sic code 7362 (temporary help supply services); and 80, health services.

(3) Employers are not required to report the hiring of any person who:

(a) Will be employed for less than one months duration;

(b) Will be employed sporadically so that the employee will be paid for less than three hundred fifty hours during a continuous six-month period; or

(c) Will have gross earnings less than three hundred dollars in every month.

The secretary of the department of social and health services may adopt rules to establish additional exemptions if needed to reduce unnecessary or burdensome reporting.

(4) Employers may report by mailing the employee's copy of the W-4 form, or other means authorized by the registry which will result in timely reporting.

(5) Employers shall submit reports within thirty-five days of the hiring, rehiring, or return to work of the employee. The report shall contain:

(a) The employee's name, address, social security number, and date of birth; and

(b) The employer's name, address, and employment security reference number or unified business identifier number.

(6) An employer who fails to report as required under this section shall be given a written warning for the first violation and shall be subject to a civil penalty of up to two hundred dollars per month for each subsequent violation after the warning has been given. All violations within a single month shall be considered a single violation for purposes of assessing the penalty. The penalty may be imposed and collected by the office of support enforcement under RCW 74.20A.270.

(7) The registry shall retain the information for a particular employee only if the registry is responsible for establishing, enforcing, or collecting a



support obligation or debt of the employee. If the employee does not owe such an obligation or a debt, the registry shall not create a record regarding the employee and the information contained in the notice shall be promptly destroyed.

(8) This section shall expire on July 1, 1993.

**NEW SECTION.** Sec. 40. A new section is added to chapter 26.23 RCW to read as follows:

The legislative budget committee shall conduct a study of the effectiveness of the reporting program contained in RCW 26.23.040. The study shall include a cost-benefit analysis using accepted accounting practices, control group comparisons of responsible parent work history and support payment history between industries and employers who report and those who do not, statistical detail by standard industrial code to describe (1) the percentage of reports made to the support registry, (2) the percentage of resulting matches with open support enforcement cases, and (3) the level of recovery of delinquent child support, a review of alternative or expedited reporting procedures utilizing new hire data from other public or private sources, control group comparisons regarding the responsible parent work history and support payment history using existing or expedited data sources compared with the employer reporting program, and recommendations as to expansion, termination, or enhancement of the reporting program.

The secretary of the department of social and health services and the commissioner of employment security shall provide necessary data and assistance to conduct the employer reporting program and the study and participate in the review of alternative reporting procedures. The department of social and health services shall reimburse the employment security department for necessary expenses subject to the approval of the office of financial management.

The committee shall prepare and submit a report to the appropriate committees of the house of representatives and senate by November 7, 1992.

Sec. 41. Section 1, chapter 440, Laws of 1987 as amended by section 4, chapter 275, Laws of 1988 and RCW 26.19.030 are each amended to read as follows:

(1) A child support schedule commission is established. The commission shall review and propose changes to the child support schedule and review and adopt changes to the worksheets and instructions.

(2) The commission shall be composed of the secretary of social and health services or the secretary's designee and ~~((ten))~~ eleven other members. Eight members shall be appointed by the governor, subject to confirmation by the senate, as follows: (a) A superior court judge; (b) a representative from the state bar association; (c) an attorney representing indigent persons in Washington; (d) two other persons who have demonstrated an interest or expertise in the study of economic data or child support issues, one of whom

shall be a non-custodial parent; and (e) three public members who represent the affected populations, two of whom shall be non-custodial parents. ~~((Two))~~ Three members shall be the administrator for the courts or his or her designee ~~((and))~~, the attorney general or his or her designee, and the chief administrative law judge or his or her designee. In making the appointments, the governor shall seek the recommendations of the association of superior court judges in respect to the member who is a superior court judge; and of the state bar association in respect to the state bar association and indigent attorney representatives.

(3) The secretary of social and health services or the secretary's designee shall serve as chair of the commission.

(4) The secretary, administrator for the courts, chief administrative law judge, and attorney general shall serve on the commission while holding their respective positions. The term of the remaining members of the commission shall be three years, except that members serving on the commission as of March 24, 1988, shall serve staggered terms which shall be determined by lot, but shall not serve longer than three years from the date of appointment unless reappointed for an additional three-year term. In the event of a vacancy, the appointing authority shall designate a new member to complete the remainder of the unexpired term.

(5) Commission members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members shall be compensated under RCW 43.03.240.

(6) The office of the administrator for the courts and the office of support enforcement shall provide clerical and other support to the commission to enable it to perform its functions. The office of support enforcement shall be responsible for travel expenses and compensation of commission members.

(7) The commission shall invite public participation and input, particularly from persons who are affected by child support orders.

(8) This section shall expire July 1, 1990.

NEW SECTION. Sec. 42. The following acts or parts of acts are each repealed:

(1) Section 19, chapter 164, Laws of 1971 ex. sess., section 17, chapter 183, Laws of 1973 1st ex. sess., section 33, chapter 435, Laws of 1987 and RCW 74.20A.190; and

(2) Section 16, chapter 275, Laws of 1988 and RCW 26.26.131.

NEW SECTION. Sec. 43. (1) Sections 9, 10, and 16 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.

(2) Section 39 of this act shall take effect July 1, 1990.

Passed the House April 22, 1989.

Passed the Senate April 22, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to section 38, Engrossed Substitute House Bill No. 1635 entitled:

"AN ACT Relating to support enforcement."

This bill was submitted at the request of the Department of Social and Health Services to clarify and strengthen support enforcement procedures.

Section 38 was amended to create a process for petitioning courts to require an accounting of support payment expenditures. Although the procedural requirements of this section are intended to protect receiving parents from frivolous charges and harassment, I believe the result of these changes could encourage an increase in such behavior.

Accountings can be required under section 15 of this Act which amends RCW 26.23.050. It allows Superior Court support orders to state that a receiving parent may be required to submit an accounting of support payment expenditures. This language allows the court to order an accounting without the potential for harassment contained in section 38.

With the exception of section 38, Engrossed Substitute House Bill No. 1635 is approved."

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## CHAPTER 361

[Senate Bill No. 5246]

### DEEDS OF TRUST—JUNIOR LIENS PRESERVED ABSENT NOTICE

AN ACT Relating to deeds of trust; and amending RCW 61.24.040.

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

Sec. 1. Section 4, chapter 74, Laws of 1965 as last amended by section 3, chapter 352, Laws of 1987 and RCW 61.24.040 are each amended to read as follows:

A deed of trust 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 described 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) If their addresses are stated in a recorded instrument evidencing their interest, lien, or claim of lien, or an amendment thereto, or are otherwise known to the trustee, cause a copy of the notice of sale described in RCW 61.24.040(1)(f) to be transmitted by both first class and either certified or registered mail, return receipt requested, to the following persons or their legal representatives, if any, at such address:

- (i) The grantor or the grantor's successor in interest;
- (ii) The beneficiary of any deed of trust or mortgagee of any mortgage, or any person who has a lien or claim of lien against the property, that was recorded subsequent to the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

- (iii) The vendee in any real estate contract, the lessee in any lease or the holder of any conveyances of any interest or estate in any portion or all of the property described in such notice, if that contract, lease, or conveyance of such interest or estate, or a memorandum or other notice thereof, was recorded after the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

- (iv) The last holder of record of any other lien against or interest in the property that is subject to a subordination to the deed of trust being foreclosed that was recorded before the recordation of the notice of sale; and

- (v) The last holder of record of the lien of any judgment subordinate to the deed of trust being foreclosed;

- (c) Cause a copy of the notice of sale described in RCW 61.24.040(1)(f) to be transmitted by both first class and either certified or registered mail, return receipt requested, to the plaintiff or the plaintiff's 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 recorded in the office of the auditor of any county in which all or part of the property is located on the date the notice is recorded;

- (d) Cause a copy of the notice of sale described in RCW 61.24.040(1)(f) to be transmitted by both first class and either certified or registered mail, return receipt requested, to any person who has recorded a request for notice in accordance with RCW 61.24.045, at the address specified in such person's most recently recorded request for notice;

- (e) Cause a copy of the notice of sale described in RCW 61.24.040(1)(f) to be posted in a conspicuous place on the property, or in lieu of posting, cause a copy of said notice to be served upon any occupant of the 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(ies) of . . . . ., State of Washington, to-wit:

which is subject to that certain Deed of Trust dated . . . . ., 19.., recorded . . . . ., 19.., under Auditor's File No. . . . ., 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 recorded under Auditor's File No. . . . . [Include recording information for all counties if the Deed of Trust is recorded in more than one county.]

## II.

No action commenced by the Beneficiary of the Deed of Trust or the Beneficiary's successor is now pending to seek satisfaction of the obligation in any Court by reason of the Grantor's default on the obligation secured by the Deed of Trust.

## III.

The default(s) for which this foreclosure is made is/are 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 provided in the note or other instrument secured from the . . . . . day of . . . . ., 19.., and such other costs and fees as are due under the note or other instrument secured, and 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 the Deed of Trust as provided by statute. The sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the . . . . . day of . . . . ., 19.. The default(s) referred to in paragraph III must be cured by the . . . . . day of

....., 19.. (11 days before the sale date), to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time on or before the .... day of ....., 19.., (11 days before the sale date), the default(s) as set forth in paragraph III is/are cured and the Trustee's fees and costs are paid. The sale may be terminated any time after the .... day of ....., 19.. (11 days before the sale date), and before the sale by the Grantor or the Grantor's successor in interest or the holder of any recorded junior lien or encumbrance paying the entire principal and interest secured by the Deed of Trust, plus costs, fees, and advances, if any, made pursuant to the terms of the obligation and/or Deed of Trust, and curing all other defaults.

**VI.**

A written notice of default was transmitted by the Beneficiary or Trustee to the Grantor or the Grantor's 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; and the Grantor or the Grantor's successor in interest was personally served on the .... day of ....., 19.., with said written notice of default 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 possession of proof of such service or posting.

**VII.**

The Trustee whose name and address are 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 the Grantor 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

[Individual or corporate acknowledgment]

(2) In addition to providing the grantor or the grantor's successor in interest the notice of sale described in RCW 61.24.040(1)(f), the trustee shall include with the copy of the notice which is mailed to the grantor or the grantor's successor in interest, a statement to the grantor or the grantor's successor in interest in substantially the following form:

**NOTICE OF FORECLOSURE**  
 Pursuant to the Revised Code of Washington,  
 Chapter 61.24 RCW

The attached Notice of Trustee's Sale is a consequence of default(s) in the obligation to ....., the Beneficiary of your Deed of Trust and owner of the obligation secured thereby. Unless the default(s) is/are cured, your property will be sold at auction on the ..... day of ....., 19...

To cure the default(s), you must bring the payments current, cure any other defaults, and pay accrued late charges and other costs, advances, and attorneys' fees as set forth below by the ..... day of ....., 19.. (11 days before the sale date). To date, these arrears and costs are as follows:

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	\$ . . . . .	\$ . . . . .
Postage/Copying expense	\$ . . . . .	\$ . . . . .
Publication	\$ . . . . .	\$ . . . . .
Telephone charges	\$ . . . . .	\$ . . . . .
Inspection fees	\$ . . . . .	\$ . . . . .
.....	\$ . . . . .	\$ . . . . .
.....	\$ . . . . .	\$ . . . . .
<b>TOTALS</b>	<b>\$ . . . . .</b>	<b>\$ . . . . .</b>

As to the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust, you must cure each such default. Listed below are the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust. Opposite each such listed default is a brief description of the action necessary to cure the default and a description of the documentation necessary to show that the default has been cured.

Default	Description of Action Required to Cure and Documentation Necessary to Show Cure

You may reinstate your Deed of Trust and the obligation secured thereby at any time up to and including the . . . . . day of . . . . ., 19.. (11 days before the sale date), by paying the amount set forth or estimated above and by curing any other defaults described above. Of course, as time passes other payments may become due, and any further payments coming due and any additional late charges must be added to your reinstating payment. Any new defaults not involving payment of money that occur after



the date of this notice must also be cured in order to effect reinstatement. 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. Tender of payment or performance must be made to: ....., whose address is ....., telephone ( ) ..... AFTER THE ..... DAY OF ....., 19.., YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND FEES AND CURING THE OTHER DEFAULTS AS OUTLINED ABOVE. In such a case, you will only be able to stop the sale by paying, before the sale, the total principal balance (\$.....) plus accrued interest, costs and advances, if any, made pursuant to the terms of the documents and by curing the other defaults as outlined above.

You may contest this default by initiating court action in the Superior Court of the county in which the sale is to be held. In such action, you may raise any legitimate defenses you have to this default. A copy of your Deed of Trust and documents evidencing the obligation secured thereby 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 the secured obligation and your Deed of Trust in the manner set forth above, or if you do not succeed in restraining the sale by court action, your property will be sold to satisfy the obligations secured by your Deed of Trust. 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 of sale described in RCW 61.24.040(1)(f) (excluding the acknowledgment) to be published in a legal newspaper in each county in which the property or any part thereof is situated, once on or between the thirty-second and twenty-eighth day before the date of sale, and once on or 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 any of the counties where the property is located. The sale shall be on 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 the trustee deems advantageous, continue the sale for a period or periods not exceeding a total of one hundred twenty days by a public proclamation at the time and place fixed for sale in the notice of sale or, alternatively, by giving notice of the time and place of the postponed sale in the manner and to the persons specified in RCW 61.24.040(1) (b), (c), (d), and (e) and publishing a copy of such notice once in the newspaper(s) described in RCW 61.24.040(3), more than seven days before the date fixed for sale 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, except that these recitals shall not affect the lien or interest of any person entitled to notice under RCW 61.24.040(1), if the trustee fails to give the required notice to such person. In such case, the lien or interest of such omitted person shall not be affected by the sale and such omitted person shall be treated as if such person was the holder of the same lien or interest and was omitted as a party defendant in a judicial foreclosure proceeding;

(8) The sale as authorized under this chapter shall not take place less than one hundred ninety days from the date of default in any of the obligations secured.

Passed the Senate February 10, 1989.

Passed the House April 13, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 362

[Substitute House Bill No. 1569]

### FOREST FIRE PROTECTION COSTS—FUNDING

AN ACT Relating to forest protection; amending RCW 76.04.610 and 76.04.630; and adding a new section to chapter 43.88 RCW.

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

Sec. 1. Section 35, chapter 100, Laws of 1986 as amended by section 3, chapter 273, Laws of 1988 and RCW 76.04.610 are each amended to read as follows:

(1) If any owner of forest land within a forest protection zone, or any owner of forest land located where fire protection responsibility has not been

mutually agreed upon as provided in RCW 76.04.165(2), neglects or fails to provide adequate fire protection as required by RCW 76.04.600, the department shall provide such protection, notwithstanding the provisions of RCW 76.04.630, at a cost to the owner of not to exceed ~~((twenty-one))~~ twenty-two cents an acre per year ~~((on lands west of the summit of the Cascade mountains and seventeen cents an acre per year on lands east of the summit of the Cascade mountains))~~ for assessments levied after December 31, 1989: PROVIDED, That ~~((a))~~ there shall be no assessment on any parcel of privately owned lands of less than two acres ~~((or on any parcel of tax-exempt lands of less than ten acres; (b) for lands not exempt under (a) of this proviso;))~~. Assessors may, at their option, collect the assessment on any tax exempt lands less than ten acres. If the assessor elects not to collect the assessment, the department may bill the landowner directly. The ~~((cost))~~ minimum assessment for any ownership parcel ~~((containing less than thirty acres))~~ subject to the assessment shall ~~((not))~~ be ~~((less than five))~~ ten dollars ~~((and ten cents east of the Cascade mountains and six dollars and thirty cents west of the Cascade mountains; and (c)))~~ for assessments levied in collection year 1990 and fourteen dollars for each year thereafter.

(2) An owner of two or more parcels per county, each containing less than ~~((thirty))~~ fifty acres, may obtain a refund of the assessments paid on all such parcels over one by applying therefor within the year the assessment was due to the department, in such form as the department may require. Verification that all assessments and property taxes on the property have been paid shall be provided to the department by the owner. If the total acreage of the parcels exceeds ~~((thirty))~~ fifty acres, the per-acre rate shall apply and the refund shall be computed accordingly. Application for the refund may be made by mail.

~~((2))~~ (3) Beginning January 1, 1991, under the administration and at the discretion of the department up to two hundred thousand dollars per year of this assessment shall be used in support of those rural fire districts assisting the department in fire protection services on forest lands.

(4) For the purpose of this chapter, the ~~((supervisor))~~ department may divide the forest lands of the state, or any part thereof, into districts, for fire protection 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. Any amounts paid or contracted to be paid by ~~((the supervisor of))~~ the department ~~((of natural resources))~~ for protection of ~~((these))~~ forest lands from any funds at ~~((the supervisor's))~~ its disposal shall be a lien upon the property 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 the supervisor as adequate, shall be reported by the supervisor of)~~) as to its adequacy, the department (~~(of natural resources)~~) shall report the same to the assessor of the county in which the property is situated (~~(who)~~). The assessor shall extend the amounts upon the tax rolls covering the property, (~~(or the county assessor shall)~~) and upon authorization from the (~~(supervisor of the)~~) department (~~(of natural resources)~~) shall levy the forest protection 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 or her)~~) the 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 RCW 52.16.170.

~~((3))~~ (5) The amounts assessed shall be collected at the time, in the same manner, by the same procedure, and with the same penalties attached that general state and county taxes on the same property are collected, except that errors in assessments may be corrected at any time by the department certifying them to the treasurer of the county in which the land involved is situated. Assessments shall be known and designated as assessments of the year in which the amounts became reimbursable. Upon the collection of such assessments the county treasurer shall transmit them to the department. Collections shall be applied against expenses incurred in carrying out the provisions of this section, including necessary and reasonable administrative costs incurred by the department in the enforcement of these provisions. The department may also expend any sums collected from owners of forest lands or received from any other source for necessary administrative costs in connection with the enforcement of RCW 76.04.660.

~~((4))~~ (6) When land against which forest protection 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. The county treasurer, in case the proceeds of sale exceed the amount of the delinquent tax judgment, shall forthwith remit to the department the amount of the outstanding forest protection assessments.

~~((5))~~ (7) All nonfederal public bodies owning or administering forest land included in a forest protection zone shall pay the forest protection assessments provided in this section and the special forest fire suppression account assessments under RCW 76.04.630. The forest protection assessments and special forest fire suppression account assessments shall be payable by nonfederal 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 nonfederal publicly owned land but shall constitute a debt by the nonfederal public body to the department and shall be subject to interest charges at the legal rate.

~~((6))~~ (8) A public body, having failed to previously pay the forest protection 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.

~~((7) 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:~~

(8)) (9) The department may adopt rules to implement this section, including, but not limited to, rules on levying and collecting forest protection assessments.

Sec. 2. Section 37, chapter 100, Laws of 1986 and RCW 76.04.630 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 state treasury. ~~((This account shall be for the purpose of paying emergency fire costs incurred or approved by the department in the suppression of forest fires:))~~ Moneys in the account may be spent only as provided in this section. Disbursements from the account shall be on authorization of the commissioner of public lands or the commissioner's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

The department may expend from this account such amounts as may be available and as it considers appropriate for the payment of emergency fire costs resulting from a participating landowner fire. The department may, when moneys are available from the landowner contingency forest fire suppression account, expend moneys for summarily abating, isolating, or reducing an extreme fire hazard under RCW 76.04.660. All moneys recovered as a result of the department's actions, from the owner or person responsible, under RCW 76.04.660 shall be deposited in the landowner contingency forest fire suppression account.

When a determination is made that the fire was started by other than a 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 the 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 landowners at a rate((s)) to be established by the department, but not to exceed ~~((ten))~~ fifteen cents per acre per year for such period of years as may be necessary to establish and thereafter reestablish a balance in the account of ~~((two))~~ three million dollars(~~(-PROVIDED, That))~~. The department may establish a minimum assessment for ownership parcels ((containing less than thirty acres)) identified in RCW 76.04.610 as paying the minimum assessment. The maximum assessment for these parcels shall not exceed the fees levied on a thirty-acre parcel. There shall be no assessment on each parcel of privately owned lands of less than two acres ~~((or on each parcel of tax exempt lands of less than ten acres))~~. 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 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 ~~((fire))~~ protection assessments. This account shall be held by the state treasurer, who is authorized to invest so much of the account as is not necessary to meet current needs. Any interest earned on moneys from the 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 76.04.495 or other laws.

When the department determines that a forest fire was started in the course of or as a result of a landowner operation, it shall notify the forest fire advisory board of the determination. The determination shall be final, unless, within ninety days of the notification, the forest fire advisory board or any interested party((;)) serves a request for a hearing before the department. The hearing shall constitute ~~((a contested case))~~ an adjudicative proceeding under chapter ~~((34.04))~~ 34.05 RCW, the Administrative Procedure Act, and any appeal ~~((therefrom))~~ shall be ~~((to the superior court of Thurston county))~~ in accordance with RCW 34.05.510 through 34.05.598.

NEW SECTION. Sec. 3. A new section is added to chapter 43.88 RCW to read as follows:

Based on schedules submitted by the director of financial management, the state treasurer shall transfer from the general fund—state, or such other funds as the state treasurer deems appropriate, to the Clarke-McNary fund such amounts as are necessary to meet unbudgeted forest fire fighting expenses. All amounts borrowed under the authority of this section

shall be repaid to the appropriate fund, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed.

Passed the House April 20, 1989.

Passed the Senate April 14, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

## CHAPTER 363

[House Bill No. 1618]

### PUBLIC HOUSING AUTHORITIES—REVISED PROVISIONS

AN ACT Relating to public housing authorities; amending RCW 35.82.020, 35.82.070, 35.82.080, 35.82.090, and 39.04.010; and adding a new section to chapter 35.82 RCW.

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

Sec. 1. Section 35.82.020, chapter 7, Laws of 1965 as last amended by section 1, chapter 225, Laws of 1983 and RCW 35.82.020 are each amended to read as follows:

The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Authority" or "Housing authority" shall mean any of the public corporations created by RCW 35.82.030.

(2) "City" shall mean any city, town, or code city. "County" shall mean any county in the state. "The city" shall mean the particular city for which a particular housing authority is created. "The county" shall mean the particular county for which a particular housing authority is created.

(3) "Governing body" shall mean, in the case of a city, the city council or the commission and in the case of a county, the county legislative authority.

(4) "Mayor" shall mean the mayor of the city or the officer thereof charged with the duties customarily imposed on the mayor or executive head of the city.

(5) "Clerk" shall mean the clerk of the city or the clerk of the county legislative authority, as the case may be, or the officer charged with the duties customarily imposed on such clerk.

(6) "Area of operation": (a) in the case of a housing authority of a city, shall include such city and the area within five miles from the territorial boundaries thereof: PROVIDED, That the area of operation of a housing authority of any city shall not include any area which lies within the territorial boundaries of some other city, as herein defined; (b) in the case of a housing authority of a county, shall include all of the county except that

portion which lies within the territorial boundaries of any city as herein defined.

(7) "Federal government" shall include the United States of America, the United States housing authority or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(8) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(9) "Housing project" shall mean any work or undertaking: (a) to demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes; or (b) to provide decent, safe and sanitary urban or rural dwellings, apartments, mobile home parks, or other living accommodations for persons of low income; such work or undertaking may include the rehabilitation of dwellings owned by persons of low income, and also may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or (c) without limitation by implication, to provide decent, safe, and sanitary urban and rural dwellings, apartments, mobile home parks, or other living accommodations for senior citizens; such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare, or other purposes; or (d) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

(10) "Persons of low income" shall mean persons or families who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(11) "Bonds" shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by the authority pursuant to this chapter.

(12) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.



(13) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, or lessor demising to the authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

(14) "Mortgage loan" shall mean an interest bearing obligation secured by a mortgage.

(15) "Mortgage" shall mean a mortgage deed, deed of trust or other instrument securing a mortgage loan and constituting a lien on real property held in fee simple, or on a leasehold under a lease having a remaining term at the time the mortgage is acquired of not less than the term for repayment of the mortgage loan secured by the mortgage, improved or to be improved by a housing project.

(16) "Senior citizen" means a person age sixty-two or older who is determined by the authority to be poor or infirm but who is otherwise in some manner able to provide the authority with revenue which (together with all other available moneys, revenues, income, and receipts of the authority, from whatever sources derived) will be sufficient: (a) To pay, as the same become due, the principal and interest on bonds of the authority; (b) to meet the cost of, and to provide for, maintaining and operating projects (including the cost of insurance) and administrative expenses of the authority; and (c) to create (by not less than the six years immediately succeeding the issuance of any bonds) a reserve sufficient to meet the principal and interest payments which will be due on the bonds in any one year thereafter and to maintain such reserve.

(17) "Commercial space" shall mean space which, because of its proximity to public streets, sidewalks, or other thoroughfares, is well suited for commercial or office use. Commercial space includes but is not limited to office as well as retail space.

Sec. 2. Section 35.82.070, chapter 7, Laws of 1965 as last amended by section 1, chapter 386, Laws of 1985 and RCW 35.82.070 are each amended to read as follows:

An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments, including but not limited to partnership agreements and joint venture agreements, necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority.

(2) Within its area of operation: to prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof; to agree to rent or sell dwellings forming part of the projects to or for persons of low income. Where an agreement or option is made to sell a dwelling to a person of low income, the authority may convey the dwelling to the person upon fulfillment of the agreement irrespective of whether the person is at the time of the conveyance a person of low income. Leases, options, agreements, or conveyances may include such covenants as the authority deems appropriate to assure the achievement of the objectives of this chapter.

(3) To acquire, lease, rent, sell, or otherwise dispose of any commercial space located in buildings or structures containing a housing project or projects.

(4) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this chapter or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

(5) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this chapter) to establish and revise the rents or charges therefor; to own or manage buildings containing a housing project or projects as well as commercial space or other dwelling units (~~(which)~~) that do not constitute a housing project as that term is defined in this chapter: PROVIDED, That notwithstanding the provisions under subsection (1) of this section, dwelling units (~~(which)~~) that constitute a housing project shall occupy at least thirty percent of the interior space of any individual building in the project other than a detached single-family or duplex residential building, and at least fifty percent of the interior space in the total project; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise including financial assistance and other aid from the state or any public body, person or corporation, any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein; to sell, lease, exchange, transfer, or dispose of any real or personal property or interest therein at less than fair market value to a governmental entity for any purpose when such action assists the housing authority in carrying out its powers and

purposes under this chapter, to a low-income person or family for the purpose of providing housing for that person or family, or to a nonprofit corporation provided the nonprofit corporation agrees to use the property for the provision of housing for persons of low income for at least twenty years; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance.

(6) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.

(7) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(8) Acting through one or more commissioners or other person or persons designated by the authority: to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(9) To exercise all or any part or combination of powers herein granted.

No provisions of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(10) To agree (notwithstanding the limitation contained in RCW 35-.82.210) to make such payments in lieu of taxes as the authority finds consistent with the achievement of the purposes of this chapter.

(11) To exercise the powers granted in this chapter within the boundaries of any city, town, or county not included in the area in which such housing authority is originally authorized to function: PROVIDED, HOWEVER, The governing or legislative body of such city, town, or county, as the case may be, adopts a resolution declaring that there is a need for the authority to function in such territory.

(12) To administer contracts for assistance payments to persons of low income in accordance with section 8 of the United States Housing Act of 1937, as amended by Title II, section 201 of the Housing and Community Development Act of 1974, P.L. 93-383.

(13) To sell at public or private sale, with or without public bidding, for fair market value, any mortgage or other obligation held by the authority.

(14) To the extent permitted under its contract with the holders of bonds, notes, and other obligations of the authority, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party.

(15) To make loans to persons of low income to enable them to rehabilitate their dwellings or purchase a dwelling, and to take such security therefor as is deemed necessary and prudent by the authority.

~~(16) ((Within its area of operation, to invest in, purchase, participate in the purchase of, make commitments to purchase and take assignments from mortgage lenders of mortgage loans made by others to or for persons of low income, to make loans to mortgage lenders for the purpose of such mortgage lenders making mortgage loans to or for persons of low income; all of said loans to be used for the construction, reconstruction, rehabilitation, improvement, purchase, leasing or refinancing of housing projects:~~

~~(17) To invest in, purchase, participate in the purchase of, and make commitments to purchase, take assignments from mortgage lenders or make loans to owners of property for the purpose of constructing, rehabilitating or making improvements on that property, in exchange for such borrower's agreement to rent the subject property to persons of low income for a qualified project period: PROVIDED, HOWEVER, That an authority shall not use proceeds of bonds issued by it to finance construction of new facilities unless: (a) Public funds provided by the local, state, or federal government are to be invested in the property or improvements on the property; or (b) the authority will, upon completion, own at least a twenty-five percent interest in the property or in lieu thereof, at least twenty-five percent of the housing units located on such property. For purposes of this subsection, the~~

term "qualified project period" means a period beginning on the later of the first day on which at least ten percent of the units in the rental property or rehabilitated rental property are first occupied or the date of issue of any bonds issued to finance such loans and ending on the later of the date: (i) Which is ten years after the date on which at least fifty percent of the units in the rental property or rehabilitated rental property are first occupied; (ii) which is a qualified number of days after the date on which any of the units in the rental property or rehabilitated rental property is first occupied; or (iii) on which any assistance provided with respect to the project under section 8 of the United States housing act of 1937 terminates. For purposes of this subsection, the term "qualified number of days" means fifty percent of the total number of days comprising the term of the bond with the longest maturity in the bond issue used to finance the loans. In the case of a refunding of such a bond issue, the longest maturity is equal to the sum of the period the prior issue was outstanding and the longest term of any refunding bonds.

(18)) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans for the acquisition, construction, reconstruction, rehabilitation, improvement, leasing, or refinancing of buildings or developments containing housing for persons of low income. However, an authority shall not finance the acquisition or construction of new buildings or developments under this subsection unless: (a) All of the housing within the building or development will be made available to persons of low income; (b) a federal, state, or local government loan, grant, or investment is provided with respect to the building or development; or (c) a housing authority owns at least a twenty-five percent interest in the completed building or development or at least twenty-five percent of the number of housing units therein.

Any building or development financed under this subsection shall be subject to a covenant that the dwelling units that constitute a housing project occupy at least thirty percent of the interior space of any individual building in the project other than a detached single-family or duplex residential building and at least fifty percent of the interior space in the total project; and be made available to persons of low income for at least twenty years. For purposes of this subsection, dwelling units that constitute a housing project in any building or development owned by other than a nonprofit corporation and are made available for rent shall: Not be rented to persons whose incomes exceed fifty percent of the area median income; and not have rents that exceed fifteen percent of the area median income.

Any building or development financed under this subsection which exceeds four stories in height shall not contain more than twenty percent of the interior area in commercial space. Before financing any building or development under this subsection the authority shall make a written finding

that financing is: Important for project feasibility; or necessary to enable the authority to carry out its powers and purposes under this chapter.

(17) To contract with a public authority or corporation, created by a county, city, or town under RCW 35.21.730 through 35.21.755, to act as the developer for new housing projects or improvement of existing housing projects.

Sec. 3. Section 35.82.080, chapter 7, Laws of 1965 as last amended by section 3, chapter 225, Laws of 1983 and RCW 35.82.080 are each amended to read as follows:

It is hereby declared to be the policy of this state that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for low-income dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city or the county. To this end, an authority shall fix the rentals for rental units for persons of low income in projects owned or leased by the authority at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived) will be sufficient (1) to pay, as the same become due, the principal and interest on the bonds or other obligations of the authority issued or incurred to finance the projects; (2) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority; and (3) to create (during not less than the six years immediately succeeding its issuance of any such bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve. Nothing contained in this section shall be construed to limit ((the authorities')) an authority's power to rent commercial space located in buildings containing housing projects or non low-income units owned, acquired, financed, or constructed under RCW 35.82.070(5), (16), or (17) at profitable rates and to use any profit realized from such rentals in carrying into effect the powers and purposes provided to housing authorities under this chapter.

Sec. 4. Section 35.82.090, chapter 7, Laws of 1965 as last amended by section 3, chapter 187, Laws of 1979 ex. sess. and RCW 35.82.090 are each amended to read as follows:

In the operation and management of rental units which are rented to persons of low income ((and/or senior citizens)) in any housing project an authority shall at all times observe the following duties with respect to rentals and tenant selection: (1) it may rent or lease the dwelling accommodations therein to ((senior citizens or)) persons of low income and at rentals within the financial reach of such ((senior citizens or)) persons of

low income; (2) it may rent or lease to a low-income tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding; and (3) it shall not accept any person as a low income tenant in any housing project designated for persons of low income if the person or persons who would occupy the dwelling accommodations have an annual net income in excess of five times the annual rental of the quarters to be furnished such person or persons, except that in the case of families with three or more minor dependents, such ratio shall not exceed six to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to occupants of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental. This income limitation does not apply to housing projects designated for senior citizens.

Nothing contained in this section or RCW 35.82.080 shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this section or RCW 35.82.080.

Sec. 5. Section 1, chapter 183, Laws of 1923 as last amended by section 1, chapter 282, Laws of 1986 and RCW 39.04.010 are each amended to read as follows:

The term state shall include the state of Washington and all departments, supervisors, commissioners and agencies thereof.

The term municipality shall include every city, county, town, district or other public agency thereof which is authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

The term public work shall include all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein, but nothing herein shall apply to the construction, alteration, repair, or improvement of any municipal street railway system. All public works, including maintenance when performed by contract shall comply with the provisions of RCW 39.12.020.

The term contract shall mean a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid. However, a contract which is awarded from a small works roster under the authority of RCW 39.04.150, 35.22.620, 28B.10.355, section 6 of this act, and 57.08.050 need not be advertised.

**NEW SECTION.** Sec. 6. A new section is added to chapter 35.82 RCW to read as follows:

(1) In addition to any other powers authorized in RCW 35.82.070, an authority may establish a small works roster consisting of all qualified contractors who have requested to be included on the roster and are, where required by law, properly licensed or registered to perform such work in the state of Washington.

(2) The small works roster may make distinctions between contractors based on the nature of the work the contractor is qualified to perform. At least once every year, the authority shall advertise in a newspaper of general circulation, in the authority's area of operation, the existence of the small works roster and shall add to the roster those contractors who request to be included on the roster.

(3) The commissioners of the authority shall establish uniform procedures to prequalify contractors for inclusion on the small works roster and a procedure for securing telephone or written quotations from contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder.

(4) Construction, repair, or alteration projects estimated to cost less than forty thousand dollars are exempt from the requirement that contracts be awarded after advertisement and competitive bid as defined in RCW 39.04.010. In lieu of advertisement and competitive bid, the authority shall solicit at least five quotations, confirmed in writing, from contractors in a manner that will equitably distribute opportunities among contractors on the small works roster for the category of job type involved. Whenever possible, the authority shall invite at least one proposal from a minority or woman contractor, or from a contractor that employs, or commits to employ, residents of housing owned or managed by the authority, who shall otherwise qualify under this section. Such solicitations shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(5) Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone request.

(6) The breaking-down of any public work or improvement into units, or accomplishing any public work or improvement by phases, for the purpose of avoiding the minimum dollar amount for bidding, is contrary to public policy and is prohibited.



(7) No authority under chapter 42.17 RCW shall be required to make financial information required to be provided by the prequalification procedure for inclusion on the small works roster available for public inspection or copying.

Passed the House March 13, 1989.

Passed the Senate April 12, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 364

[Substitute House Bill No. 1414]

### JUDICIAL INFORMATION SYSTEM FUND

AN ACT Relating to the judicial information system fund; and adding a new chapter to Title 2 RCW.

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

**NEW SECTION.** Sec. 1. The judicial information system committee, as established by court rule, shall determine all matters pertaining to the delivery of services available from the judicial information system. The committee may establish a fee schedule for the provision of information services and may enter into contracts with any person, public or private, including the state, its departments, subdivisions, institutions, and agencies. However, no fee may be charged to county or city governmental agencies within the state of Washington using the judicial information system for the business of the courts.

**NEW SECTION.** Sec. 2. There is created an account in the custody of the state treasurer to be known as the judicial information system account. The office of the administrator for the courts shall maintain and administer the account, in which shall be deposited all moneys received from in-state noncourt users and any out-of-state users of the judicial information system. The legislature shall appropriate the funds in the account for the purposes of the judicial information system. The account shall be credited with all receipts from the rental, sale, or distribution of supplies, equipment, computer software, products, and services rendered to in-state noncourt users and all out-of-state users and licensees of the judicial information system.

**NEW SECTION.** Sec. 3. The judicial information system committee shall develop a schedule of user fees for in-state noncourt users and all out-of-state users of the judicial information computer system and charges for judicial information system products and licenses for the purpose of distributing and apportioning the full cost of operation and continued development of the system among the users. The schedule shall generate sufficient revenue to cover the costs relating to (1) the payment of salaries, wages, other

costs including, but not limited to the acquisition, operation, and administration of acquired information services, supplies, and equipment; and (2) the development of judicial information system products and services. As used in this section, the term "supplies" shall not be interpreted to delegate or abrogate the state purchasing and material control director's responsibilities and authority to purchase supplies as provided in chapter 43.19 RCW.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act shall constitute a new chapter in Title 2 RCW.

Passed the House April 17, 1989.

Passed the Senate April 4, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

CHAPTER 365

[Substitute House Bill No. 1426]

HOUND STAMP REQUIREMENT—EXCEPTIONS

AN ACT Relating to the hound stamp; and amending RCW 77.32.350.

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

Sec. 1. Section 105, chapter 506, Laws of 1987 and RCW 77.32.350 are each amended to read as follows:

(1) A hound stamp is required to hunt wild animals, except rabbits and hares, with a dog. The fee for this stamp is ten dollars.

(2) An upland game bird stamp is required to hunt for quail, partridge, and pheasant in areas designated by rule of the commission. The fee for this stamp is eight dollars.

(3) A falconry license is required to possess or hunt with a falcon, including seasons established exclusively for hunting in that manner. The fee for this license is thirty dollars.

(4) To be valid, stamps required under this section shall be permanently affixed to the licensee's appropriate hunting or fishing license.

(5) A migratory waterfowl stamp is required for all persons sixteen years of age or older to hunt migratory waterfowl. The fee for the stamp is five dollars.

(6) The migratory waterfowl stamp shall be validated by the signature of the licensee written across the face of the stamp.

(7) Stamps required by this section expire on March 31st following the date of issuance except for hound stamps, which expire December 31st following the date of issuance.

Passed the House March 8, 1989.

Passed the Senate April 11, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

## CHAPTER 366

[Second Substitute Senate Bill No. 5073]

## BIGOTRY AND BIAS—COLLECTION OF DATA ON CRIMES MOTIVATED BY

AN ACT Relating to crimes motivated by bigotry and bias; adding a new section to chapter 36.28A RCW; and creating a new section.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 36.28A RCW to read as follows:

(1) The Washington association of sheriffs and police chiefs shall establish and maintain a central repository for the collection and classification of information regarding crimes which are motivated by bigotry and bias. Upon establishing such a repository, the association shall develop a procedure to monitor, record, and classify information relating to incidents apparently directed against racial, religious, or ethnic groups. The procedure may be established within the association's incident-based reporting program, and the procedure shall be submitted to the senate law and justice committee and the house of representatives judiciary committee for approval.

(2) All local law enforcement agencies shall report monthly to the association concerning all violations of RCW 9A.36.080 in such form and in such manner as prescribed by rules adopted by the association. Agency participation in the incident-based reporting program, with regard to the specific data requirements associated with violations of RCW 9A.36.080, shall be deemed to meet agency reporting requirements. The association must summarize the information received and file an annual report with the governor and the senate law and justice committee and the house of representatives judiciary committee.

(3) Any information, records, and statistics collected in accordance with this section shall be available for use by any local enforcement agency, unit of local government, or state agency, to the extent that such information is reasonably necessary or useful to such agency in carrying out the duties imposed upon it by law. Dissemination of such information shall be subject to all confidentiality requirements otherwise imposed by law.

(4) The criminal justice training commission shall provide training for law enforcement officers in identifying, responding to, and reporting all violations of RCW 9A.36.080.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill number, is not provided by June 30, 1989, in the omnibus appropriations act, this act shall be null and void.

Passed the Senate March 14, 1989.

Passed the House April 23, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

CHAPTER 367

[Substitute Senate Bill No. 5186]

COMMISSION ON JUDICIAL CONDUCT

AN ACT Relating to the commission on judicial conduct; amending RCW 2.64.010, 2.64.020, and 2.64.050; adding new sections to chapter 2.64 RCW; repealing RCW 2.64.091 and 2.64.110; and providing a contingent effective date.

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

Sec. 1. Section 2, chapter 268, Laws of 1981 as amended by section 1, chapter 186, Laws of 1987 and RCW 2.64.010 are each amended to read as follows:

~~((For purposes of this chapter,))~~ Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Admonishment" means a written disposition of an advisory nature that cautions a judge or justice not to engage in certain proscribed behavior. An admonishment may include a requirement that the judge or justice follow a specified corrective course of action.

(2) "Censure" means a written action of the commission that requires a judge or justice to appear personally before the commission, and that finds that conduct of the judge or justice violates a rule of judicial conduct, detrimentally affects the integrity of the judiciary, undermines public confidence in the administration of justice, and may or may not require a recommendation to the supreme court that the judge or justice be suspended or removed. A censure shall include a requirement that the judge or justice follow a specified corrective course of action.

(3) "Commission" means the commission on judicial conduct provided for in Article IV, section 31 of the state Constitution, which is authorized to recommend to the supreme court, after notice and hearing, the ~~((censure,))~~ suspension or removal of a judge or justice for violating a rule of judicial conduct, or the retirement of a judge or justice for disability ~~((which is permanent, or likely to become permanent, and which seriously interferes with the performance of judicial duties. For purposes of this chapter, the term))~~.

(4) "Judge or justice" includes justices of the supreme court, judges of the court of appeals, judges of the superior courts, judges of any court organized under Titles 3 or 35 RCW, judges pro tempore, court commissioners, and magistrates.

(5) "Removal" means a written recommendation by the commission and a finding by the supreme court that the conduct of a judge or justice is a violation of a rule of judicial conduct and seriously impairs the integrity of the judiciary and substantially undermines the public confidence in the administration of justice to such a degree that the judge or justice should be relieved of all duties of his or her office.

(6) "Reprimand" means a written action of the commission that requires a judge or justice to appear personally before the commission, and that finds that the conduct of the judge or justice is a minor violation of the code of judicial conduct and does not require censure or a formal recommendation to the supreme court that the judge or justice be suspended or removed. A reprimand shall include a requirement that the judge or justice follow a specified corrective course of action.

(7) "Retirement" means a written recommendation by the commission and a finding by the supreme court that a judge or justice has a disability which is permanent, or likely to become permanent, and that seriously interferes with the performance of judicial duties.

(8) "Suspension" means a written recommendation by the commission and a finding by the supreme court that the conduct of a judge or justice is a violation of a rule of judicial conduct and seriously impairs the integrity of the judiciary and substantially undermines the public confidence in the administration of justice to such a degree that the judge or justice should be relieved of the duties of his or her office by the court for a specified period of time, as determined by the court.

This chapter shall apply to any judge or justice, regardless of whether the judge or justice serves full time or part time, and regardless of whether the judge or justice is admitted to practice law in this state.

Sec. 2. Section 3, chapter 268, Laws of 1981 as amended by section 2, chapter 186, Laws of 1987 and RCW 2.64.020 are each amended to read as follows:

The commission shall consist of ~~((nine))~~ eleven members. One member shall be a judge selected by and from the court of appeals judges; one member shall be a judge selected by and from the superior court judges; one member shall be a judge selected by and from the district court judges; two members shall be selected by the state bar association and be admitted to the practice of law in this state; and ~~((four))~~ six members shall be nonlawyers appointed by the governor ~~((and confirmed by the senate))~~. The term of each member of the commission shall be four years.

Sec. 3. Section 6, chapter 268, Laws of 1981 and RCW 2.64.050 are each amended to read as follows:

The commission may employ (~~any~~) personnel, including (~~lawyers~~) attorneys, and make any other expenditures necessary for the effective performance of its duties and the exercise of its powers. The commission may hire attorneys or others by personal service contract to conduct initial proceedings regarding a complaint against a judge or justice. Commission employees shall be exempt from the civil service law, chapter 41.06 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 2.64 RCW to read as follows:

The commission is authorized to impose the following disciplinary actions, in increasing order of severity: (a) Admonishment; (b) reprimand; or (c) censure. If the conduct of the judge or justice warrants more severe disciplinary action, the commission may recommend to the supreme court the suspension or removal of the judge or justice.

NEW SECTION. Sec. 5. A new section is added to chapter 2.64 RCW to read as follows:

The commission is authorized to investigate and consider for probative value any conduct that may have occurred prior to, on, or after December 4, 1980, by a person who was, or is now, a judge or justice when such conduct relates to a complaint filed with the commission against the same judge or justice.

NEW SECTION. Sec. 6. A new section is added to chapter 2.64 RCW to read as follows:

All pleadings, papers, evidence records, and files of the commission, including complaints and the identity of complainants, compiled or obtained during the course of an investigation or initial proceeding involving the discipline or retirement of a judge or justice, are exempt from the public disclosure requirements of chapter 42.17 RCW during such investigation or initial proceeding. As of the date of a public hearing, all those records of the initial proceeding that were the basis of a finding of probable cause are subject to the public disclosure requirements of chapter 42.17 RCW.

NEW SECTION. Sec. 7. A new section is added to chapter 2.64 RCW to read as follows:

The adjudicative proceedings, judicial review, and civil enforcement provisions of chapter 34.05 RCW, the administrative procedure act, do not apply to any investigations, initial proceedings, public hearings, or executive sessions involving the discipline or retirement of a judge or justice.

NEW SECTION. Sec. 8. A new section is added to chapter 2.64 RCW to read as follows:

The commission is subject to the open public meetings act, chapter 42.30 RCW. However, investigations, initial proceedings, public hearings, and executive sessions involving the discipline or retirement of a judge or justice are governed by this chapter and Article IV, section 31 of the state Constitution and are exempt from the provisions of chapter 42.30 RCW.

**NEW SECTION.** Sec. 9. A new section is added to chapter 2.64 RCW to read as follows:

The commission shall provide by rule for confidentiality of its investigations and initial proceedings in accordance with Article IV, section 31 of the state Constitution.

Any person violating a rule on confidentiality is subject to a proceeding for contempt in superior court.

**NEW SECTION.** Sec. 10. A new section is added to chapter 2.64 RCW to read as follows:

Whenever the commission determines that there is probable cause to believe that a judge or justice has violated a rule of judicial conduct or that the judge or justice suffers from a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties, the commission shall disclose to the judge or justice any material or information within the commission's knowledge which tends to negate the determination of the commission, except as otherwise provided by a protective order.

**NEW SECTION.** Sec. 11. The following acts or parts of act are each repealed:

(1) Section 4, chapter 186, Laws of 1987 and RCW 2.64.091; and

(2) Section 12, chapter 268, Laws of 1981, section 5, chapter 186, Laws of 1987 and RCW 2.64.110.

**NEW SECTION.** Sec. 12. This act shall take effect upon the effective date of an amendment to Article IV, section 31 of the state Constitution making changes to the commission on judicial conduct. If such amendment is not validly submitted to and approved and ratified by the voters at a general election held in November 1989, this act shall be null and void in its entirety.

Passed the Senate April 23, 1989.

Passed the House April 22, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 368

[House Bill No. 1518]

### WORKERS' COMPENSATION—INTERSTATE COMMON AND CONTRACT CARRIERS—COVERAGE FOR WASHINGTON EMPLOYEES

AN ACT Relating to industrial insurance coverage; amending RCW 51.12.095; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 2, chapter 170, Laws of 1983 and RCW 51.12.095 are each amended to read as follows:

(1) Common or contract carriers (~~((domiciled))~~) doing business in this state that are engaged exclusively in interstate or foreign commerce, or any combination thereof, (~~((may elect))~~) shall provide coverage under this title (~~((in the manner provided by RCW 51.12.110))~~) for their Washington employees, unless the employer has furnished workers' compensation insurance coverage under the laws of another state for the coverage of employees in this state: PROVIDED, That any common or contract carrier or its successor that formerly had coverage under this title and by virtue of being exclusively engaged in interstate or foreign commerce, or any combination thereof, withdrew its acceptance of liability under this title by filing written notice with the director of the withdrawal of its acceptance prior to January 2, 1987, shall be governed by the provisions of this section that were in effect as of that date.

(2) A person who is domiciled in this state and who owns and operates a truck engaged in intrastate, interstate, or foreign commerce, or any combination thereof, may elect coverage under this title in the manner provided by RCW 51.32.030, whether or not the truck is leased to a common or contract carrier.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the House April 19, 1989.

Passed the Senate April 14, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 369

[Substitute House Bill No. 1558]

### STEROIDS

AN ACT Relating to legend drugs; amending RCW 69.41.070; adding new sections to chapter 69.41 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 69.41 RCW to read as follows:

For the purposes of this act, "steroids" shall include the following:

(1) "Anabolic steroids" means synthetic derivatives of testosterone or any isomer, ester, salt, or derivative that act in the same manner on the human body;

(2) "Androgens" means testosterone in one of its forms or a derivative, isomer, ester, or salt, that act in the same manner on the human body; and



(3) "Human growth hormones" means growth hormones, or a derivative, isomer, ester, or salt that act in the same manner on the human body.

**NEW SECTION.** Sec. 2. A new section is added to chapter 69.41 RCW to read as follows:

The state board of pharmacy shall specify by rule drugs to be classified as steroids as defined in section 1 of this act.

On or before December 1 of each year, the board shall inform the appropriate legislative committees of reference of the drugs that the board has added to the steroids in section 1 of this act. The board shall submit a statement of rationale for the changes.

**NEW SECTION.** Sec. 3. A new section is added to chapter 69.41 RCW to read as follows:

(1) A practitioner shall not prescribe, administer, or dispense steroids, as defined in section 1 of this act, or any form of autotransfusion for the purpose of manipulating hormones to increase muscle mass, strength, or weight, or for the purpose of enhancing athletic ability, without a medical necessity to do so.

(2) A practitioner shall complete and maintain patient medical records which accurately reflect the prescribing, administering, or dispensing of any substance or drug described in this section or any form of autotransfusion. Patient medical records shall indicate the diagnosis and purpose for which the substance, drug, or autotransfusion is prescribed, administered, or dispensed and any additional information upon which the diagnosis is based.

Sec. 4. Section 7, chapter 186, Laws of 1973 1st ex. sess. as amended by section 4, chapter 4, Laws of 1983 1st ex. sess. and RCW 69.41.070 are each amended to read as follows:

Whoever violates any provision of this chapter shall, upon conviction, be fined and imprisoned as herein provided:

(1) For a violation of RCW 69.41.020, the offender shall be guilty of a felony.

(2) For a violation of RCW 69.41.030 involving the sale, delivery, or possession with intent to sell or deliver, the offender shall be guilty of a felony.

(3) For a violation of RCW 69.41.030 involving possession, the offender shall be guilty of a misdemeanor.

(4) For a violation of RCW 69.41.040, the offender shall be guilty of a felony.

(5) For a violation of RCW 69.41.050, the offender shall be guilty of a misdemeanor.

(6) Any offense which is a violation of chapter 69.50 RCW other than RCW 69.50.401(c) shall not be charged under this chapter.

(7) For a violation of section 3(1) of this act, the offender shall be guilty of a gross misdemeanor and subject to disciplinary action under RCW 18.130.180.

(8)(a) A person who violates the provisions of this chapter by possessing under two hundred tablets or eight 2cc bottles of steroid without a valid prescription is guilty of a gross misdemeanor.

(b) A person who violates the provisions of this chapter by possessing over two hundred tablets or eight 2cc bottles of steroid without a valid prescription is guilty of a class C felony and shall be punished according to RCW 9A.20.010(1)(c).

NEW SECTION. Sec. 5. A new section is added to chapter 69.41 RCW to read as follows:

The superintendent of public instruction shall develop and distribute to all school districts signs of appropriate design and dimensions advising students of the health risks that steroids present when used solely to enhance athletic ability, and of the penalties for their unlawful possession provided by this act.

School districts shall post or cause the signs to be posted in a prominent place for ease of viewing on the premises of school athletic departments.

NEW SECTION. Sec. 6. A new section is added to chapter 69.41 RCW to read as follows:

The superintendent of public instruction, in consultation with the Washington interscholastic activity association, shall promulgate rules by January 1, 1990, regarding loss of eligibility to participate in school-sponsored athletic events for any student athlete found to have violated this chapter. The regents or trustees of each institution of higher education shall promulgate rules by January 1, 1990, regarding loss of eligibility to participate in school-sponsored athletic events for any student athlete found to have violated this chapter.

Passed the House April 20, 1989.

Passed the Senate April 20, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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CHAPTER 370

[Substitute House Bill No. 1759]

EDUCATIONAL PARAPROFESSIONAL TRAINING PROGRAM

AN ACT Relating to educational staff; and adding a new section to chapter 28A.04 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 28A.04 RCW to read as follows:

(1) The state board of education and the state board for community college education, in consultation with the superintendent of public instruction, the higher education coordinating board, the state apprenticeship training council, and community colleges, shall work cooperatively to develop by September 1, 1992, a ninety unit educational paraprofessional associate of arts degree.

(2) As used in this section, an "educational paraprofessional" is an individual who has completed an associate of arts degree for an educational paraprofessional. The educational paraprofessional may be hired by a school district to assist certificated instructional staff in the direct instruction of children in small and large groups, individualized instruction, testing of children, recordkeeping, and preparation of materials. The educational paraprofessional shall work under the direction of instructional certificated staff.

(3) The training program for an educational paraprofessional associate of arts degree shall include, but is not limited to, the general requirements for receipt of an associate of arts degree and training in the areas of introduction to childhood education, orientation to handicapped children, fundamentals of childhood education, creative activities for children, instructional materials for children, fine art experiences for children, the psychology of learning, introduction to education, child health and safety, child development and guidance, first aid, and a practicum in a school setting.

(4) In developing the program, consideration shall be given to transferability of credit earned in this program to teacher preparation programs at colleges and universities.

(5) The agencies identified under subsection (1) of this section shall adopt rules as necessary under chapter 34.05 RCW to implement this section.

Passed the House April 19, 1989.

Passed the Senate April 11, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 371

[House Bill No. 1841]

### INSTRUCTIONAL MATERIALS COMMITTEES—MEMBERSHIP—PARENTS

AN ACT Relating to instructional materials; and amending RCW 28A.58.103.

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

Sec. 1. Section 28A.58.103, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 134, Laws of 1979 ex. sess. and RCW 28A.58.103 are each amended to read as follows:

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

(1) Prepare, negotiate, set forth in writing and adopt, policy relative to the selection or deletion of instructional materials. Such policy shall:

(a) State the school district's goals and principles relative to instructional materials;

(b) Delegate responsibility for the preparation and recommendation of teachers' reading lists and specify the procedures to be followed in the selection of all instructional materials including text books;

(c) Establish an instructional materials committee to be appointed, with the approval of the school board, by the school district's chief administrative officer. This committee shall consist of representative members of the district's professional staff, including representation from the district's curriculum development committees, and, in the case of districts which operate elementary school(s) only, the educational service district superintendent, one of whose responsibilities shall be to assure the correlation of those elementary district adoptions with those of the high school district(s) which serve their children. The committee may include parents at the school board's discretion: PROVIDED, That parent members shall make up less than one-half of the total membership of the committee;

(d) Provide for reasonable notice to parents of the opportunity to serve on the committee and for terms of office for members of the instructional materials committee;

(e) Provide a system for receiving, considering and acting upon written complaints regarding instructional materials used by the school district;

(f) Provide free text books, supplies and other instructional materials to be loaned to the pupils of the school, when, in its judgment, the best interests of the district will be subserved thereby and prescribe rules and regulations to preserve such books, supplies and other instructional materials from unnecessary damage.

Recommendation of instructional materials shall be by the district's instructional materials committee in accordance with district policy. Approval or disapproval shall be by the local school district's board of directors.

Districts may pay the necessary travel and subsistence expenses for expert counsel from outside the district. In addition, the committee's expenses incidental to visits to observe other districts' selection procedures may be reimbursed by the school district.

Districts may, within limitations stated in board policy, use and experiment with instructional materials for a period of time before general adoption is formalized.

Within the limitations of board policy, a school district's chief administrator may purchase instructional materials to meet deviant needs or rapidly changing circumstances.

(2) Establish a depreciation scale for determining the value of texts which students wish to purchase.

Passed the House April 19, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 372

[Substitute House Bill No. 1864]

### NURSING HOMES—QUALITY OF CARE IMPROVEMENT

AN ACT Relating to quality of care in nursing homes; amending RCW 18.51.050, 74.46.410, 18.51.430, 18.51.500, 74.42.240, 74.42.380, 18.51.054, 18.51.060, 18.51.065, 18.51.410, 18.51.440, 18.51.460, 74.42.580, 74.09.120, 74.46.440, and 74.46.020; reenacting and amending RCW 74.46.360; creating a new section; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 6, chapter 117, Laws of 1951 as last amended by section 4, chapter 284, Laws of 1985 and RCW 18.51.050 are each amended to read as follows:

Upon receipt of an application for license, the department shall issue a license if the applicant and the nursing home facilities meet the requirements established under this chapter, except that the department shall issue a temporary license to a court-appointed receiver for a period not to exceed six months from the date of appointment. Prior to the issuance or renewal of the license, the licensee shall pay a license fee as established by the department. No fee shall be required of government operated institutions or court-appointed receivers. All licenses issued under the provisions of this chapter shall expire on a date to be set by the department, but no license issued pursuant to this chapter shall exceed thirty-six months in duration. When a change of ownership occurs, the entity becoming the licensed operating entity of the facility shall pay a fee established by the department at the time of application for the license. The previously determined date of license expiration shall not change. The department shall conduct, without charge to the nursing homes, one annual licensing and certification survey per calendar year and one postsurvey visit.

For all additional surveys required beyond the first postsurvey visit, nursing homes shall pay an inspection fee of twelve dollars per bed to the department. The inspection fee shall be due within thirty days of the completion date of the postsurvey.

All applications and fees for renewal of the license shall be submitted to the department not later than thirty days prior to the date of expiration of the license. All applications and fees for change of ownership licenses shall be submitted to the department not later than sixty days before the date of the proposed change of ownership. Each license shall be issued only to the operating entity and those persons named in the license application. The license is valid only for the operation of the facility at the location specified in the license application. Licenses are not transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises.

Sec. 2. Section 41, chapter 177, Laws of 1980 as last amended by section 3, chapter 175, Laws of 1986 and RCW 74.46.410 are each amended to read as follows:

(1) Costs will be unallowable if they are not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medical care program. Costs of such items or services will be unallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items provided to recipients which are covered by the department's medical care program but not included in care services established by the department under this chapter;

(c) Costs associated with a capital expenditure subject to section 1122 approval (part 100, Title 42 C.F.R.) if the department found it was not consistent with applicable standards, criteria, or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be unallowable up to the date they are determined to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained;

(e) Interest costs other than those provided by RCW 74.46.290 on and after the effective date of RCW 74.46.530;

(f) Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care;

(g) Costs in excess of limits or in violation of principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the cost-related reimbursement system set forth in this chapter;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX recipients are allowable if the debt is related to covered services, it arises from the recipient's required contribution toward the cost of care, the provider can establish that reasonable collection efforts were made, the debt was actually uncollectible when claimed as worthless, and sound business judgment established that there was no likelihood of recovery at any time in the future;

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs;

(r) Fund-raising expenses, except those directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;

(u) Federal, state, and other income taxes;

(v) Costs of special care services except where authorized by the department;

(w) Expenses of key-man insurance and other insurance or retirement plans not made available to all employees;

(x) Expenses of profit-sharing plans;

(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;

(z) Personal expenses and allowances of owners or relatives;

(aa) All expenses of maintaining professional licenses or membership in professional organizations;

(bb) Costs related to agreements not to compete;

(cc) Amortization of goodwill;

(dd) Expenses related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;

(ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands;

(ff) Legal and consultant fees of a contractor or contractors in connection with a lawsuit against the department;

(gg) Lease acquisition costs and other intangibles not related to patient care;

(hh) All rental or lease costs other than those provided in RCW 74.46.300 on and after the effective date of RCW 74.46.510 and 74.46.530;

(ii) Postsurvey charges incurred by the facility as a result of subsequent inspections under RCW 18.51.050 which occur beyond the first postsurvey visit during the certification survey calendar year;

(jj) Costs and fees otherwise allowable for legal services, whether purchased, allocated by a home office, regional office or management company, or performed by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs reported by all contractors for the most recent cost report period: PROVIDED, That this limit shall not apply if a contractor has not exceeded this percentile in any of the preceding three annual cost report periods;

(kk) Costs and fees otherwise allowable for accounting and bookkeeping services, whether purchased, allocated by a home office, regional office or management company, or performed by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs reported by all contractors for the most recent cost report period: PROVIDED, That this limit shall not apply if a contractor has not exceeded this percentile in any of the preceding three annual cost report periods.

Sec. 3. Section 12, chapter 476, Laws of 1987 and RCW 18.51.430 are each amended to read as follows:

A petition for receivership shall include the name of the candidate for receiver. The department shall maintain a list of qualified persons to act as receivers, however, no person may be considered to be qualified to be a receiver who:

(1) Is the owner, licensee, or administrator of the facility;

(2) Is affiliated with the facility;

(3) Has a financial interest in the facility at the time the receiver is appointed; or

(4) Has owned or operated a nursing home that has been ordered into receivership.

If a receiver is appointed, he or she may be drawn from the list but need not be, but an appointee shall have experience in providing long-term



health care and a history of satisfactory operation of a nursing home. Preference may be granted to persons expressing an interest in permanent operation of the facility.

Sec. 4. Section 19, chapter 476, Laws of 1987 and RCW 18.51.500 are each amended to read as follows:

Upon order of the court, the department shall provide emergency or transitional financial assistance to a receiver not to exceed thirty thousand dollars. The receiver shall file with the court an accounting for any money expended. Any emergency or transitional expenditure made by the department on behalf of a nursing home not certified to participate in the Medicaid Title XIX program shall be recovered from revenue generated by the facility which revenue is not obligated to the operation of the facility. (~~If such funds are not fully recovered at the termination of the receivership,;~~) An action to recover such sums may be filed by the department against the former licensee or owner at the time the expenditure is made, regardless of whether the facility is certified to participate in the Medicaid Title XIX program or not.

In lieu of filing an action, the department may file a lien on the facility or on the proceeds of the sale of the facility. Such a lien shall take priority over all other liens except for liens for wages to employees. The owner of the facility shall be entitled to the proceeds of the facility or the sale of the facility to the extent that these exceed the liabilities of the facility, including liabilities to the state, receiver, employees, and contractors, at the termination of the receivership.

Revenues relating to services provided by the current or former licensee, operator, or owner and available operating funds belonging to such licensee, operator, or owner shall be under the control of the receiver. The receiver shall consult the court in cases of extraordinary or questionable debts incurred prior to his or her appointment and shall not have the power to close the home or sell any assets of the home without prior court approval.

Priority shall be given to debts and expenditures directly related to providing care and meeting the needs of patients. Any payment made to the receiver shall discharge the obligation of the payor to the owner of the facility.

Sec. 5. Section 24, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.240 are each amended to read as follows:

(1) No staff member may administer any medication to a resident unless the staff member is licensed to administer medication: PROVIDED, That nothing herein shall be construed as prohibiting graduate nurses or student nurses from administering medications when permitted to do so under chapter 18.88 or 18.78 RCW and rules adopted thereunder.

(2) The facility may only allow a resident to give himself or herself medication with the attending physician's permission.

(3) Medication shall only be administered to or used by the resident for whom it is ordered.

Sec. 6. Section 38, chapter 211, Laws of 1979 ex. sess. as amended by section 2, chapter 284, Laws of 1985 and RCW 74.42.380 are each amended to read as follows:

(1) The facility shall have a director of nursing services. The director of nursing services shall be a registered nurse.

(2) The director of nursing services is responsible for:

(a) Coordinating the plan of care for each resident;

(b) Permitting only licensed personnel to administer medications: PROVIDED, That nothing herein shall be construed as prohibiting graduate nurses (~~(; and student nurses under the supervision of their clinical instructor;)~~) or student nurses from administering medications when permitted to do so under chapter 18.88 or 18.78 RCW and rules promulgated pursuant thereto: PROVIDED FURTHER, That nothing herein shall be construed as prohibiting persons certified under chapter 18.135 RCW from practicing pursuant to the delegation and supervision requirements of chapter 18.135 RCW and rules promulgated pursuant thereto; and

(c) Insuring that the licensed practical nurses comply with chapter 18.78 RCW, the registered nurses comply with chapter 18.88 RCW, and persons certified under chapter 18.135 RCW comply with the provisions of that chapter and rules promulgated pursuant thereto.

Sec. 7. Section 1, chapter 284, Laws of 1985 and RCW 18.51.054 are each amended to read as follows:

The department may deny a license to any applicant (~~(who)~~) if the department finds that the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the applicant:

(1) Operated a nursing home without a license or under a revoked or suspended license; or

(2) Knowingly or with reason to know made a false statement of a material fact (a) in an application for license or any data attached thereto, or (b) in any matter under investigation by the department; or

(3) Refused to allow representatives or agents of the department to inspect (a) all books, records, and files required to be maintained or (b) any portion of the premises of the nursing home; or

(4) Willfully prevented, interfered with, or attempted to impede in any way (a) the work of any authorized representative of the department or (b) the lawful enforcement of any provision of this chapter or chapter 74.42 RCW; or

(5) Has a history of significant noncompliance with federal or state regulations in providing nursing home care. In deciding whether to deny a license under this section, the factors the department considers shall include the gravity and frequency of the noncompliance.

Sec. 8. Section 7, chapter 117, Laws of 1951 as last amended by section 23, chapter 476, Laws of 1987 and RCW 18.51.060 are each amended to read as follows:

(1) ~~((The department is authorized to deny, suspend, or revoke a license or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed three thousand dollars per violation))~~ In any case in which ~~((it))~~ the department finds that ~~((the applicant, or))~~ a licensee, or any partner, officer, director, owner of five percent or more of the assets of the nursing home, or managing employee~~((:~~

~~((a)))~~ failed or refused to comply with the requirements of this chapter or of chapter 74.42 RCW, or the standards, rules and regulations established under them~~((:))~~ or, in the case of a Medicaid contractor, failed or refused to comply with the Medicaid requirements of Title XIX of the social security act, as amended, and regulations promulgated thereunder, the department may take any or all of the following actions:

(a) Suspend, revoke, or refuse to renew a license;

(b) Order stop placement;

(c) Assess monetary penalties of a civil nature;

(d) Deny payment to a nursing home for any Medicaid resident admitted after notice to deny payment. Residents who are Medicaid recipients shall not be responsible for payment when the department takes action under this subsection;

(e) Appoint temporary management as provided in subsection (7) of this section.

(2) The department may suspend, revoke, or refuse to renew a license, assess monetary penalties of a civil nature, or both, in any case in which it finds that the licensee, or any partner, officer, director, owner of five percent or more of the assets of the nursing home, or managing employee:

~~((b)))~~ (a) Operated a nursing home without a license or under a revoked or suspended license; or

~~((c) Has))~~ (b) 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; or

~~((d)))~~ (c) Refused to allow representatives or agents of the department to inspect all books, records, and files required to be maintained or any portion of the premises of the nursing home; or

~~((e)))~~ (d) Willfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter or of chapter 74.42 RCW; or

~~((f)))~~ (e) Willfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or of chapter 74.42 RCW or the standards, rules, and regulations adopted under them; or

~~((g))~~ (f) Failed to report patient abuse or neglect in violation of chapter 70.124 RCW; or

~~((h))~~ (g) Fails to pay any civil monetary penalty assessed by the department pursuant to this chapter within ten days after such assessment becomes final ~~(: PROVIDED, That in no event shall the department assess a civil monetary penalty authorized pursuant to this section or post the said premises as provided in RCW 18.51.260 or include in the report required pursuant to RCW 18.51.270 during any period in which it has not reasonably implemented and funded its cost-related reimbursement system for public patients:~~

~~(2) A contractor subject to civil penalty under subsection (1)(a) of this section shall have a reasonable opportunity, not to exceed sixty days from notification of the violation, to correct the violation before being assessed a civil monetary penalty under this section. However, if the department determines that the violation resulted in serious harm to or death of a patient, constitutes a serious threat to patient life, health, or safety, or substantially limits the nursing home's capacity to render adequate care, the violator shall be so notified and a penalty may be assessed without prior opportunity to correct. Each day the violation continues may constitute a separate violation subject to assessment of a separate penalty.~~

The correction of a standard or condition level deficiency, as defined by the authority of Title XVIII of the social security act and 42 C.F.R. 405.110 subpart K, shall be maintained for a period of at least one year. Failure to maintain such correction shall constitute a separate violation for each day the deficiency is not corrected and may be subject to the assessment of a separate penalty not to exceed three thousand dollars without a prior opportunity to correct the violation.

~~(3) A person subject to civil penalty under subsection (1)(b) through (h) of this section shall not have a prior opportunity to correct the violation before being assessed a civil monetary penalty under this section.~~

Following the notification of a violation of subsection (1)(b) through (h) of this section, each day upon which the same or a substantially similar action occurs shall constitute a separate violation subject to the assessment of a separate penalty.

~~(4) Any civil penalty assessed under this section or chapter 74.46 RCW shall bear a reasonable rate of interest from the date of notification of the violation. The department may administer civil fines under this section or chapter 74.46 RCW by:~~

~~(a) Requiring payment in full; or~~

~~(b) Permitting installment payments; or~~

~~(c) Requiring that the full amount or a portion of the assessed civil penalty be expended to ameliorate the violation or to improve nonadministrative services within the facility; or~~

~~(d) Defer the penalty or a portion thereof until one year after corrective action has been completed to assure maintenance of such action. PROVIDED, That the penalty may be reduced all or in part at the end of such year. PROVIDED FURTHER, That the penalty may be trebled if such corrective action is not maintained for one year).~~

~~((5))~~ (3) The department shall deny payment to a nursing home having a Medicaid contract with respect to any Medicaid-eligible individual admitted to the nursing home when:

(a) The department finds the nursing home not in compliance with the requirements of Title XIX of the social security act, as amended, and regulations promulgated thereunder, and the facility has not complied with such requirements within three months; in such case, the department shall deny payment until correction has been achieved; or

(b) The department finds on three consecutive standard surveys that the nursing home provided substandard quality of care; in such case, the department shall deny payment for new admissions until the facility has demonstrated to the satisfaction of the department that it is in compliance with Medicaid requirements and that it will remain in compliance with such requirements.

(4) (a) Civil penalties collected under this section or under chapter 74.42 RCW shall be deposited into a special fund administered by the department to be applied to the protection of the health or property of residents of nursing homes found to be deficient, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

(b) Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day a nursing home is or was out of compliance. Civil monetary penalties shall not exceed three thousand dollars per violation. Each day upon which the same or a substantially similar action occurs is a separate violation subject to the assessment of a separate penalty.

(c) Any civil penalty assessed under this section or chapter 74.46 RCW shall be a nonreimbursable item under chapter 74.46 RCW.

(5)(a) The department shall order stop placement on a nursing home, effective upon oral or written notice, when the department determines:

(i) The nursing home no longer substantially meets the requirements of chapter 18.51 or 74.42 RCW, or in the case of medicaid contractors, the requirements of Title XIX of the social security act, as amended, and any regulations promulgated under such statutes; and

(ii) The deficiency or deficiencies in the nursing home:

(A) Jeopardize the health and safety of the residents, or

(B) Seriously limit the nursing home's capacity to provide adequate care.

(b) When the department has ordered a stop placement, the department may approve a readmission to the nursing home from a hospital when the department determines the readmission would be in the best interest of the individual seeking readmission.

(c) The department shall terminate the stop placement when:

(i) The provider states in writing that the deficiencies necessitating the stop placement action have been corrected; and

(ii) The department staff confirms in a timely fashion not to exceed fifteen working days that:

(A) The deficiencies necessitating stop placement action have been corrected, and

(B) The provider exhibits the capacity to maintain adequate care and service.

(d) A nursing home provider shall have the right to an informal review to present written evidence to refute the deficiencies cited as the basis for the stop placement. A request for an informal review must be made in writing within ten days of the effective date of the stop placement.

(e) A stop placement shall not be delayed or suspended because the nursing home requests a hearing pursuant to chapter 34.05 RCW or an informal review. The stop placement shall remain in effect until:

(i) The department terminates the stop placement; or

(ii) The stop placement is terminated by a final agency order, after a hearing, pursuant to chapter 34.05 RCW.

(6) If the department determines that an emergency exists as a result of a nursing home's failure or refusal to comply with requirements of this chapter or, in the case of a Medicaid contractor, its failure or refusal to comply with Medicaid requirements of Title XIX of the social security act, as amended, and rules adopted thereunder, the department may suspend the nursing home's license and order the immediate closure of the nursing home, the immediate transfer of residents, or both.

(7) If the department determines that the health or safety of residents is immediately jeopardized as a result of a nursing home's failure or refusal to comply with requirements of this chapter or, in the case of a Medicaid contractor, its failure or refusal to comply with Medicaid requirements of Title XIX of the social security act, as amended, and rules adopted thereunder, the department may appoint temporary management to:

(a) Oversee the operation of the facility; and

(b) Ensure the health and safety of the facilities residents while:

(i) Orderly closure of the facility occurs; or

(ii) The deficiencies necessitating temporary management are corrected.

(8) The department shall by rule specify criteria as to when and how the sanctions specified in this section shall be applied. Such criteria shall

provide for the imposition of incrementally more severe penalties for deficiencies that are repeated, uncorrected, pervasive, or present a threat to the health, safety, or welfare of the residents.

Sec. 9. Section 16, chapter 99, Laws of 1975 1st ex. sess. as amended by section 19, chapter 2, Laws of 1981 1st ex. sess. and RCW 18.51.065 are each amended to read as follows:

(1) All orders of the department denying, suspending, or revoking the license or assessing a monetary penalty shall become final twenty days after the same has been served upon the applicant or licensee unless a hearing is requested. All orders of the department imposing stop placement, temporary management, emergency closure, emergency transfer, or license suspension, shall be effective immediately upon notice. Orders of the department imposing denial of payment shall become final twenty days after the same has been served, unless a hearing is requested, except that such orders shall be effective immediately upon notice and pending any hearing when the department determines the deficiencies jeopardize the health and safety of the residents or seriously limit the nursing home's capacity to provide adequate care. All hearings hereunder and judicial review of such determinations shall be in accordance with the administrative procedure act, chapter ((34.04)) 34.05 RCW, except that all orders of the department imposing stop placement, temporary management, emergency closure, emergency transfer, or license suspension shall be effective pending any hearing, and except that chapter 34.05 RCW shall have no application to receivership, which is instituted by direct petition to superior court as provided for in RCW 18.51.410 through 18.51.520.

Sec. 10. Section 10, chapter 476, Laws of 1987 and RCW 18.51.410 are each amended to read as follows:

A petition to establish a receivership shall allege that one or more of the following conditions exist and that the current operator has demonstrated an inability or unwillingness to take actions necessary to immediately correct the conditions alleged:

- (1) The facility is operating without a license;
- (2) The facility has not given the department prior written notice of its intent to close and has not made arrangements within thirty days before closure for the orderly transfer of its residents: PROVIDED, That if the facility has given the department prior written notice but the department has not acted with all deliberate speed to transfer the facility's residents, this shall bar the filing of a petition under this ((section)) subsection;
- (3) ~~((An emergency exists that specifically demonstrates an immediate and serious threat of harm to))~~ The health, ((security)) safety, or welfare of the facility's residents((, including, but not limited to, abandonment of the facility by the owner)) is immediately jeopardized;

~~(4) ((A condition exists in the facility in violation of a licensing statute or regulation that specifically demonstrates an immediate and serious threat of harm to the health, safety, or welfare of the residents of the facility;~~

~~(5)) The facility demonstrates a pattern and practice of violating chapter 18.51 or 74.42 RCW ((, or other statutes or regulations adopted by the department designed to safeguard the health, security, or welfare of residents)) and rules adopted thereunder such that the facility has demonstrated a repeated inability to maintain minimum patient care standards; or~~

~~((6)) (5) The facility demonstrates a pattern or practice of violating a condition level as defined by the federal government under the authority of Title XIX of the social security act.~~

The department may file a petition in the superior court in the county in which the nursing home is located or in the superior court of Thurston county. The current or former operator or licensee and the owner of the nursing home, if different than the operator or licensee, shall be made a party to the action. The court shall grant the petition if it finds, by a preponderance of the evidence, that one or more of the conditions listed in subsections (1) through ~~((6))~~ (5) of this section exists and, subject to RCW 18.51.420, that the current operator is unable or unwilling to take actions necessary to immediately correct the conditions.

Sec. 11. Section 13, chapter 476, Laws of 1987 and RCW 18.51.440 are each amended to read as follows:

Upon receipt of a petition for receivership, the court shall hear the matter within fourteen days. Temporary relief may be obtained under chapter 7.40 RCW and other applicable laws. In all actions arising under RCW 18.51.410 through 18.51.530, the posting of a certified copy of the summons and petition in a conspicuous place in the nursing home shall constitute service of those documents upon the respondent.

~~((In considering the petition, the court shall consider the following factors, among others:~~

~~(1) The history of the provider, including any prior history of deficiencies and corrective action taken; and~~

~~(2) Whether the circumstances alleged in the petition occurred for reasons that were beyond the control of the facility's current or former operator, licensee, or owner.))~~

Sec. 12. Section 15, chapter 476, Laws of 1987 and RCW 18.51.460 are each amended to read as follows:

(1) The receivership shall terminate:

~~((1) At the end of the appointed term;~~

~~(2)) (a) When all deficiencies have been eliminated and the court determines that the facility has the management capability to ensure continued compliance with all requirements; or~~

(b) When all residents have been transferred and the facility closed((;



~~(3) When all deficiencies have been eliminated and the facility has been sold or returned to its former owner: PROVIDED, That when a rehabilitated facility is returned to its former owner, the court may impose conditions to assure the continued compliance with chapters 18.51 and 74.42 RCW, and other applicable laws and regulations; or~~

~~(4) Upon possession and control of the nursing home by a licensed replacement operator)).~~

(2) Upon the termination of a receivership, the court may impose conditions to assure the continued compliance with chapters 18.51 and 74.42 RCW, and, in the case of medicaid contractors, continued compliance with Title XIX of the social security act, as amended, and regulations promulgated thereunder.

Sec. 13. Section 58, chapter 211, Laws of 1979 ex. sess. as last amended by section 27, chapter 476, Laws of 1987 and RCW 74.42.580 are each amended to read as follows:

The department may deny, suspend, ~~((or))~~ revoke, or refuse to renew a license or provisional license ~~((or, in lieu thereof or in addition thereto)),~~ assess monetary penalties of a civil nature, deny payment, seek receivership, order stop placement, appoint temporary management, order emergency closure, or order emergency transfer as provided in RCW 18.51.054 and 18.51.060 for violations of requirements of this chapter or, in the case of medicaid contractors, the requirements of Title XIX of the social security act, as amended, or rules adopted thereunder. Chapter ~~((34.04))~~ 34.05 RCW shall apply to any such actions, except for receivership, and except that stop placement, appointment of temporary management, emergency closure, emergency transfer, and summary license suspension shall be effective pending any hearing, and except that denial of payment shall be effective pending any hearing when the department determines deficiencies jeopardize the health and safety of the residents or seriously limit the nursing home's capacity to provide adequate care.

Sec. 14. Section 36, chapter 177, Laws of 1980 as last amended by section 1, chapter 208, Laws of 1988 and by section 1, chapter 221, Laws of 1988 and RCW 74.46.360 are each reenacted and amended to read as follows:

(1) The depreciation base shall be the historical cost of the contractor or lessor, when the assets are leased by the contractor, in acquiring the asset in an arm's-length transaction and preparing it for use, less goodwill, and less accumulated depreciation which has been incurred during periods that the assets have been used in or as a facility by any contractor, such accumulated depreciation to be measured in accordance with subsections (2), (3), and (4) of this section and RCW ~~74.46.350 and 74.46.370~~. If the department challenges the historical cost of an asset, or if the contractor cannot or will not provide the historical costs, the department will have the

department of general administration, through an appraisal procedure, determine the fair market value of the assets at the time of purchase. The depreciation base of the assets will not exceed such fair market value.

(2) The historical cost of donated assets, or of assets received through testate or intestate distribution, shall be the lesser of:

(a) Fair market value at the date of donation or death; or

(b) The historical cost base of the owner last contracting with the department, if any.

(3) Estimated salvage value of acquired, donated, or inherited assets shall be deducted from historical cost where the straight-line or sum-of-the-years' digits method of depreciation is used.

(4) (a) Where depreciable assets are acquired that were used in the medical care program subsequent to January 1, 1980, the depreciation base of the assets will not exceed the net book value which did exist or would have existed had the assets continued in use under the previous contract with the department; except that depreciation shall not be assumed to accumulate during periods when the assets were not in use in or as a facility.

(b) The provisions of (a) of this subsection shall not apply to the most recent arm's-length acquisition if it occurs at least ten years after the ownership of the assets has been previously transferred in an arm's-length transaction nor to the first arm's-length acquisition that occurs after January 1, 1980, for facilities participating in the medical care program prior to January 1, 1980. The new depreciation base for such acquisitions shall not exceed the fair market value of the assets as determined by the department of general administration through an appraisal procedure. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such determination is shown to be arbitrary and capricious. This subsection is inoperative for any transfer of ownership of any asset occurring on or after July 18, 1984, leaving (a) of this subsection to apply alone to such transfers: **PROVIDED, HOWEVER,** That this subsection shall apply to transfers of ownership of assets occurring prior to January 1, 1985, if the costs of such assets have never been reimbursed under medicaid cost reimbursement on an owner-operated basis or as a related-party lease: **PROVIDED FURTHER,** That for any contractor that can document in writing an enforceable agreement for the purchase of a nursing home dated prior to (~~August 1~~) July 18, 1984, and submitted to the department prior to January 1, 1988, the depreciation base of the nursing home, for rates established after July 18, 1984, shall not exceed the fair market value of the assets at the date of purchase as determined by the department of general administration through an appraisal procedure. For medicaid cost reimbursement purposes, an agreement to purchase a nursing home dated prior to July 18, 1984, is enforceable, even though such agreement contains no legal description of the real property involved, notwithstanding the statute of frauds or any other provision of law.

(c) In the case of assets leased by the same contractor since January 1, 1980, in an arm's-length lease, and purchased by the lessee/contractor, the lessee/contractor shall have the option:

(i) To have the provisions of subsection (b) of this section apply to the purchase; or

(ii) To have the reimbursement for property and return on investment continue to be calculated pursuant to the provisions contained in RCW 74.46.530(~~((f))~~)(1) (e) and (f) based upon the provisions of the lease in existence on the date of the purchase, but only if the purchase date meets one of the following criteria:

(A) The purchase date is after the lessor has declared bankruptcy or has defaulted in any loan or mortgage held against the leased property;

(B) The purchase date is within one year of the lease expiration or renewal date contained in the lease;

(C) The purchase date is after a rate setting for the facility in which the reimbursement rate set pursuant to this chapter no longer is equal to or greater than the actual cost of the lease; or

(D) The purchase date is within one year of any purchase option in existence on January 1, 1988.

(d) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

(e) Where the depreciable asset is a donation or distribution between related organizations, the base shall be the lesser of (i) fair market value, less salvage value, or (ii) the depreciation base the related organization had or would have had for the asset under a contract with the department.

Sec. 15. Section 74.09.120, chapter 26, Laws of 1959 as last amended by section 44, chapter 67, Laws of 1983 1st ex. sess. and RCW 74.09.120 are each amended to read as follows:

The department shall purchase necessary physician and dentist services by contract or "fee for service." The department shall purchase hospital care by contract or by all inclusive day rate, or at a reasonable cost based on a ratio of charges to cost. Any hospital when requested by the department shall supply such information as necessary to justify its rate, charges or costs. All additional services provided by the hospital shall be purchased at rates established by the department after consultation with the hospital. The department shall purchase nursing home care by contract. The department shall establish regulations for reasonable nursing home accounting and reimbursement systems which shall provide that no payment shall be made to a nursing home which does not permit inspection by the department of social and health services of every part of its premises and an examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods

of supply, and any other records the department deems relevant to the establishment of such a system.

All other services and supplies provided under the program shall be secured by contract.

The department may purchase care in institutions for the mentally retarded, also known as intermediate care facilities for the mentally retarded. The department shall establish rules for reasonable accounting and reimbursement systems for such care. Institutions for the mentally retarded include licensed nursing homes, public institutions, licensed boarding homes with fifteen beds or less, and hospital facilities certified as intermediate care facilities for the mentally retarded under the federal medicaid program to provide health, habilitative, or rehabilitative services and twenty-four hour supervision for mentally retarded individuals or persons with related conditions and includes in the program "active treatment" as federally defined.

The department may purchase care in institutions for mental diseases by contract. The department shall establish rules for reasonable accounting and reimbursement systems for such care. Institutions for mental diseases are certified under the federal medicaid program and primarily engaged in providing diagnosis, treatment, or care to persons with mental diseases, including medical attention, nursing care, and related services.

Sec. 16. Section 44, chapter 177, Laws of 1980 and RCW 74.46.440 are each amended to read as follows:

Only those services which are authorized for a facility pursuant to the medical care program shall be reimbursed under this chapter. Services provided by institutions for mental diseases shall not be reimbursed under this chapter.

Sec. 17. Section 2, chapter 177, Laws of 1980 as last amended by section 6, chapter 476, Laws of 1987 and RCW 74.46.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(2) "Ancillary care" means those services required by the individual, comprehensive plan of care provided by qualified therapists.

(3) "Appraisal" means the process of estimating the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by a professionally designated real estate appraiser with no pecuniary interest in the property to be appraised. It includes a systematic, analytic determination and the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(4) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who are not related organizations and have adverse positions in the market place. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(5) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

(6) "Bad debts" means amounts considered to be uncollectable from accounts and notes receivable.

(7) "Beds" means the number of set-up beds in the facility, not to exceed the number of licensed beds.

(8) "Beneficial owner" means:

(a) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest;

(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;

(c) Any person who, subject to subparagraph (b) of this subsection, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

except that, any person who acquires an ownership interest or power specified in subparagraphs (i), (ii), or (iii) of this subparagraph (c) with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the

beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power;

(d) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; except that:

(i) The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subparagraph (b) of this subsection; and

(ii) The pledgee agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

(9) "Capitalization" means the recording of an expenditure as an asset.

(10) "Contractor" means an entity which contracts with the department to provide services to medical care recipients in a facility and which entity is responsible for operational decisions.

(11) "Department" means the department of social and health services (DSHS) and its employees.

(12) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

(13) "Direct care supplies" means medical, pharmaceutical, and other supplies required for the direct nursing and ancillary care of medical care recipients.

(14) "Entity" means an individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(15) "Equity" means the net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

(16) "Facility" means a nursing home licensed in accordance with chapter 18.51 RCW, excepting nursing homes certified as institutions for mental diseases, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(17) "Fair market value" means the replacement cost of an asset less observed physical depreciation on the date for which the market value is being determined.

(18) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

(19) "Generally accepted accounting principles" means accounting principles approved by the financial accounting standards board (FASB).

(20) "Generally accepted auditing standards" means auditing standards approved by the American institute of certified public accountants (AICPA).

(21) "Goodwill" means the excess of the price paid for a business over the fair market value of all other identifiable, tangible, and intangible assets acquired.

(22) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

(23) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

(24) "Joint facility costs" means any costs which represent resources which benefit more than one facility, or one facility and any other entity.

(25) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination (due to any cause other than death or divorce) or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee, shall not be considered modification of a lease term.

(26) "Medical care program" means medical assistance provided under RCW 74.09.500 or authorized state medical care services.

(27) "Medical care recipient" or "recipient" means an individual determined eligible by the department for the services provided in chapter 74.09 RCW.

(28) "Net book value" means the historical cost of an asset less accumulated depreciation.

(29) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care

program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles, plus an allowance for working capital which shall be five percent of the allowable costs of each contractor for the previous calendar year.

(30) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(31) "Owner" means a sole proprietor, general or limited partners, and beneficial interest holders of five percent or more of a corporation's outstanding stock.

(32) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

(33) "Patient day" or "client day" means a calendar day of care which will include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist.

(34) "Professionally designated real estate appraiser" means an individual who is regularly engaged in the business of providing real estate valuation services for a fee, and who is deemed qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the writing of real estate valuation reports as well as the passing of written examinations on valuation practice and theory, and who by virtue of membership in such organization is required to subscribe and adhere to certain standards of professional practice as such organization prescribes.

(35) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience as specified by the department;

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience;

(c) A mental health professional as defined by chapter 71.05 RCW;

(d) A mental retardation professional who is either a qualified therapist or a therapist approved by the department who has had specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

(e) A social worker who is a graduate of a school of social work;

(f) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has the equivalent education and clinical experience;

(g) A physical therapist as defined by chapter 18.74 RCW; and

(h) An occupational therapist who is a graduate of a program in occupational therapy, or who has the equivalent of such education or training.



(36) "Questioned costs" means those costs which have been determined in accordance with generally accepted accounting principles but which may constitute disallowed costs or departures from the provisions of this chapter or rules and regulations adopted by the department.

(37) "Records" means those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, and transaction documentation, however such data are maintained.

(38) "Related organization" means an entity which is under common ownership and/or control with, or has control of, or is controlled by, the contractor.

(a) "Common ownership" exists when an entity is the beneficial owner of five percent or more ownership interest in the contractor and any other entity.

(b) "Control" exists where an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable or exercised.

(39) "Restricted fund" means those funds the principal and/or income of which is limited by agreement with or direction of the donor to a specific purpose.

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

(41) "Title XIX" or "Medicaid" means the 1965 amendments to the social security act, P.L. 89-07, as amended.

(42) "Physical plant capital improvement" means a capitalized improvement that is limited to an improvement to the building or the related physical plant.

***\*NEW SECTION. Sec. 18. The department, in cooperation with the state's area agencies on aging, shall prepare printed information regarding the availability of long-term care services in the state. The department shall distribute the information to the state's nursing homes and work with professional organizations representing physicians to encourage distribution of the information to patients in need of long-term care services. Nursing homes shall make the information available prior to accepting new residents for admission.***

***The information shall include current long-term care services options, including community based and residential services, in an easily understandable manner explaining the nature of the services and other information necessary to allow individuals to assess what services might be appropriate given***

*their functional limitations. The information shall also contain phone numbers and addresses of private and public resources available to assist individuals and their families in assessing the service needs of the individual so that they may make informed decisions about choosing long-term care services.*

\*Sec. 18 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 19. Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the House April 22, 1989.

Passed the Senate April 21, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to section 18, Engrossed Substitute House Bill No. 1864 entitled:

"AN ACT Relating to quality of care in nursing homes."

Section 18 requires that the Department of Social and Health Services, in cooperation with the state's area agencies on aging, prepare and distribute printed information regarding the availability of long-term care services in the state. In addition, nursing homes are required to make the information available prior to accepting new residents for admission. While there is value in the information required under this section, there is no budget appropriation for the development, printing and distribution of this material.

With the exception of section 18, Engrossed Substitute House Bill No. 1864 is approved."

## CHAPTER 373

[Substitute House Bill No. 1983]

### CONTEMPT OF COURT

AN ACT Relating to contempt of court; amending RCW 5.56.061, 7.43.110, 7.43.120, 7.48.080, 7.80.160, 10.01.180, 10.14.120, 11.64.022, 13.32A.250, 13.34.165, 18.72.190, 18.130.070, 18.130.190, 26.09.160, 26.18.050, 26.44.067, 41.56.490, 47.64.140, 79.01.704, and 82.32.110; adding a new chapter to Title 7 RCW; repealing RCW 7.20.010, 7.20.020, 7.20.030, 7.20.040, 7.20.050, 7.20.060, 7.20.070, 7.20.080, 7.20.090, 7.20.100, 7.20.110, 7.20.120, 7.20.130, 7.20.140, and 9.23.010; and prescribing penalties.

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

NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter:

(1) "Contempt of court" means intentional:

(a) Disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to impair its authority, or to interrupt the due course of a trial or other judicial proceedings;

(b) Disobedience of any lawful judgment, decree, order, or process of the court;

(c) Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or

(d) Refusal, without lawful authority, to produce a record, document, or other object.

(2) "Punitive sanction" means a sanction imposed to punish a past contempt of court for the purpose of upholding the authority of the court.

(3) "Remedial sanction" means a sanction imposed for the purpose of coercing performance when the contempt consists of the omission or refusal to perform an act that is yet in the person's power to perform.

**NEW SECTION.** Sec. 2. A judge or commissioner of the supreme court, the court of appeals, or the superior court, and a judge of a court of limited jurisdiction may impose a sanction for contempt of court under this chapter.

**NEW SECTION.** Sec. 3. (1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in section 5 of this act, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in section 1(1)(b) through (d) of this act. The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

**NEW SECTION.** Sec. 4. (1) Except as otherwise provided in section 5 of this act, a punitive sanction for contempt of court may be imposed only pursuant to this section.

(2)(a) An action to impose a punitive sanction for contempt of court shall be commenced by a complaint or information filed by the prosecuting attorney or city attorney charging a person with contempt of court and reciting the punitive sanction sought to be imposed.

(b) If there is probable cause to believe that a contempt has been committed, the prosecuting attorney or city attorney may file the information or complaint on his or her own initiative or at the request of a person aggrieved by the contempt.

(c) A request that the prosecuting attorney or the city attorney commence an action under this section may be made by a judge presiding in an action or proceeding to which a contempt relates. If required for the administration of justice, the judge making the request may appoint a special counsel to prosecute an action to impose a punitive sanction for contempt of court.

A judge making a request pursuant to this subsection shall be disqualified from presiding at the trial.

(d) If the alleged contempt involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial of the contempt unless the person charged consents to the judge presiding at the trial.

(3) The court may hold a hearing on a motion for a remedial sanction jointly with a trial on an information or complaint seeking a punitive sanction.

(4) A punitive sanction may be imposed for past conduct that was a contempt of court even though similar present conduct is a continuing contempt of court.

(5) If the defendant is found guilty of contempt of court under this section, the court may impose for each separate contempt of court a fine of not more than five thousand dollars or imprisonment in the county jail for not more than one year, or both.

**NEW SECTION.** Sec. 5. (1) The judge presiding in an action or proceeding may summarily impose either a remedial or punitive sanction authorized by this chapter upon a person who commits a contempt of court within the courtroom if the judge certifies that he or she saw or heard the contempt. The judge shall impose the sanctions immediately after the contempt of court or at the end of the proceeding and only for the purpose of preserving order in the court and protecting the authority and dignity of the court. The person committing the contempt of court shall be given an opportunity to speak in mitigation of the contempt unless compelling circumstances demand otherwise. The order of contempt shall recite the facts, state the sanctions imposed, and be signed by the judge and entered on the record.

(2) A court, after a finding of contempt of court in a proceeding under subsection (1) of this section may impose for each separate contempt of court a punitive sanction of a fine of not more than five hundred dollars or

imprisonment in the county jail for not more than thirty days, or both, or a remedial sanction set forth in section 3(2) of this act. A forfeiture imposed as a remedial sanction under this subsection may not exceed more than five hundred dollars for each day the contempt continues.

NEW SECTION. Sec. 6. A state administrative agency conducting an action or proceeding or a party to the action or proceeding may petition the superior court in the county in which the action or proceeding is being conducted for a remedial sanction specified in section 3 of this act for conduct specified in section 1 of this act in the action or proceeding.

NEW SECTION. Sec. 7. A party in a proceeding or action under this chapter may seek appellate review under applicable court rules. Appellate review does not stay the proceedings in any other action, suit, or proceeding, or any judgment, decree, or order in the action, suit, or proceeding to which the contempt relates.

Sec. 8. Section 301, page 188, Laws of 1854 as last amended by section 399, Code of 1881 and RCW 5.56.061 are each amended to read as follows:

~~((Such))~~ A failure to attend as required by the subpoena, shall also be considered a contempt ~~((, and upon due proof, the witness may be punished by a fine not exceeding fifty dollars, and stand committed until said fine and costs are paid or until discharged by due course of law))~~ of court as provided in chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 9. Section 14, chapter 141, Laws of 1988 and RCW 7.43.110 are each amended to read as follows:

An intentional violation of a restraining order, preliminary injunction, or order of abatement under this chapter is ~~((punishable as))~~ a contempt of court ~~((by a fine of not more than ten thousand dollars which may not be waived, or by imprisonment for not more than one year, or by both))~~ as provided in chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 10. Section 15, chapter 141, Laws of 1988 and RCW 7.43.120 are each amended to read as follows:

Whenever the owner of a building or unit within a building upon which the act or acts constituting the contempt have been committed, or the owner of any interest in the building or unit has been ~~((guilty of a))~~ found in contempt of court, and fined in any proceedings under this chapter, the fine is a lien upon the building or unit within a building to the extent of the owner's interest. The lien is enforceable and collectible by execution issued by order of the court.

Sec. 11. Section 4, chapter 127, Laws of 1913 as amended by section 16, chapter 1, Laws of 1979 and RCW 7.48.080 are each amended to read as follows:

~~((In case of the))~~ A violation of any injunction granted under ~~((the provisions of))~~ RCW 7.48.050 through 7.48.100 ~~((as now or hereafter amended, the court or judge may summarily try and punish the offender.~~

The proceedings shall be commenced by filing with the clerk of the court an information under oath, setting out the alleged facts constituting such violation, upon which the court or judge shall cause an attachment to issue, under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. A party found guilty of contempt under the provisions of this section shall be punished by a fine of not less than two hundred nor more than one thousand dollars, or by imprisonment in the county jail not less than three nor more than six months, or by both fine and imprisonment)) is a contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 12. Section 24, chapter 456, Laws of 1987 and RCW 7.80.160 are each amended to read as follows:

(1) A person who fails to sign a notice of civil infraction is guilty of a misdemeanor.

(2) Any person willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction(~~(- PROVIDED, That)).~~ A written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by an appearance by counsel.

(3) A person who willfully fails to pay a monetary penalty or to perform community service as required by a court under this chapter may be found in ~~((civil))~~ contempt of court ~~((after notice and hearing))~~ as provided in chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 13. Section 3, chapter 96, Laws of 1975-'76 2nd ex. sess. and RCW 10.01.180 are each amended to read as follows:

(1) ~~((When))~~ A defendant sentenced to pay a fine or costs who defaults in the payment thereof or of any installment(~~(- the court on motion of the prosecuting attorney or upon its own motion may require him to show cause why his default should not be treated as))~~ is in contempt of court(~~(; and))~~ as provided in chapter 7.— RCW (sections 1 through 7 of this act). The court may issue a ~~((show cause citation or a))~~ warrant of arrest for his appearance.

(2) ~~((Unless the defendant shows that his default was not attributable to an intentional refusal to obey the order of the court or to a failure on his part to make a good faith effort to make the payment, the court may find that his default constitutes contempt and may order him committed until the fine or costs, or a specified part thereof, is paid:~~

~~((3)))~~ When a fine or assessment of costs is imposed on a corporation or unincorporated association, it is the duty of the person authorized to make disbursement from the assets of the corporation or association to pay the fine or costs from those assets, and his failure to do so may be held to be

contempt (~~(unless he makes the showing required in subsection (2) of this section)~~)).

~~((4) The)~~ (3) If a term of imprisonment for contempt for nonpayment of a fine or costs is ordered, the term of imprisonment shall be set forth in the commitment order, and shall not exceed one day for each twenty-five dollars of the fine or costs, thirty days if the fine or assessment of costs was imposed upon conviction of a violation or misdemeanor, or one year in any other case, whichever is the shorter period. A person committed for nonpayment of a fine or costs shall be given credit toward payment for each day of imprisonment at the rate specified in the commitment order.

~~((5))~~ (4) If it appears to the satisfaction of the court that the default in the payment of a fine or costs is not contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment or revoking the fine or costs or the unpaid portion thereof in whole or in part.

~~((6))~~ (5) A default in the payment of a fine or costs or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution for the collection of a fine or costs shall not discharge a defendant committed to imprisonment for contempt until the amount of the fine or costs has actually been collected.

Sec. 14. Section 12, chapter 280, Laws of 1987 and RCW 10.14.120 are each amended to read as follows:

Any willful disobedience by the respondent of any temporary anti-harassment protection order or civil antiharassment protection order issued under this chapter (~~(shall)~~) subjects the respondent to criminal penalties under this chapter. Any respondent who willfully disobeys the terms of any order issued under this chapter may also, in the court's discretion, be found in contempt of court and subject to penalties under chapter ~~((7-20))~~ 7.— RCW (sections 1 through 7 of this act).

Sec. 15. Section 11.64.022, chapter 145, Laws of 1965 as amended by section 16, chapter 234, Laws of 1977 ex. sess. and RCW 11.64.022 are each amended to read as follows:

If the surviving partner or partners fail or refuse to furnish an inventory or list of liabilities, to permit an appraisal, or to account to the personal representative, or to furnish a bond when required pursuant to RCW 11.64.016, ~~((said))~~ the court shall order a citation to issue requiring the surviving partner or partners to appear and show cause why they have not furnished an inventory list of liabilities, or permitted an appraisal or why they should not account to the personal representative or file a bond. The citation shall be served not less than ten days before the return day designated therein, or such shorter period as the court upon a showing of good cause deems appropriate. If the surviving partner or partners neglect or refuse to file an inventory or list of liabilities, or to permit an appraisal, or fail to account to the court or to file a bond, after they have been directed to

do so, they may be punished for a contempt (~~(or the court may commit them to jail until they comply with the order of the))~~ of court as provided in chapter 7.— RCW (sections 1 through 7 of this act). Where the surviving partner or partners fail to file a bond after being ordered to do so by the court, the court may also appoint a receiver of the partnership estate with like powers and duties of receivers in equity, and order the costs and expenses of the proceedings to be paid out of the partnership estate or out of the estate of the decedent, or by the surviving partner or partners personally, or partly by each of the parties.

Sec. 16. Section 14, chapter 298, Laws of 1981 and RCW 13.32A.250 are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is ~~((punishable as))~~ a contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act), subject to the limitations of subsection (2) of this section.

(2) ~~((Contempt under this section is punishable by))~~ The court may impose a fine of up to one hundred dollars and imprisonment for up to seven days, or both for contempt of court under this section.

(3) A child ~~((found in))~~ imprisoned for contempt under this section shall be imprisoned only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(4) ~~((The procedure in a contempt proceeding held under this section is governed by RCW 7.20.040 through 7.20.080, as now law or hereafter amended:~~

~~(5))~~ A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

Sec. 17. Section 1, chapter 257, Laws of 1985 and RCW 13.34.165 are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is ~~((punishable as))~~ contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act).

(2) The maximum term of imprisonment that may be imposed as a punitive sanction for contempt of court under this section is ~~((punishable by))~~ confinement for up to seven days.

(3) A child ~~((found in))~~ imprisoned for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(4) ~~((The procedure in a contempt proceeding under this section is governed by RCW 7.20.040 through 7.20.080:~~

~~(5))~~ A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.



Sec. 18. Section 19, chapter 202, Laws of 1955 and RCW 18.72.190 are each amended to read as follows:

Subpoenas issued by the board to compel the attendance of witnesses at any investigation or hearing shall be served in accordance with the provisions of chapter 5.56 RCW, governing the service of subpoenas in court actions. The board shall issue subpoenas at the request and on the behalf of the accused. In case any person contumaciously refuses to obey a subpoena issued by the board or to answer any proper question put to him during the hearing or proceeding, the superior court of any county in which the proceeding is carried on or in which the person guilty of refusal to obey the subpoena or to answer the question resides or is found shall have jurisdiction, upon application by the board, to issue to such person an order requiring him to appear before the board or its hearing committee, there to produce evidence if so ordered, or there to give testimony concerning the matter under investigation or question. Any failure to obey such order of the court (~~((may be punished by the court as a civil))~~) is a contempt ((may be punished)) of court under chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 19. Section 7, chapter 279, Laws of 1984 as amended by section 4, chapter 259, Laws of 1986 and RCW 18.130.070 are each amended to read as follows:

(1) The disciplining authority may adopt rules requiring any person, including, but not limited to, licensees, corporations, organizations, health care facilities, and state or local governmental agencies, to report to the disciplining authority any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct, or to report information which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition. To facilitate meeting the intent of this section, the cooperation of agencies of the federal government is requested by reporting any conviction, determination, or finding that a federal employee or contractor regulated by the disciplinary authorities enumerated in this chapter has committed an act which constituted unprofessional conduct and reporting any information which indicates that a federal employee or contractor regulated by the disciplinary authorities enumerated in this chapter may not be able to practice his or her profession with reasonable skill and safety as a result of a mental or physical condition.

(2) If a person fails to furnish a required report, the disciplining authority may petition the superior court of the county in which the person resides or is found, and the court shall issue to the person an order to furnish the required report. A failure to obey the order (~~((shall be punished by the court as civil))~~) is a contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act).

(3) A person is immune from civil liability, whether direct or derivative, for providing information to the disciplining authority pursuant to the rules adopted under subsection (1) of this section.

(4) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority any conviction, determination, or finding that the licensee has committed unprofessional conduct or is unable to practice with reasonable skill or safety. Failure to report within thirty days of notice of the conviction, determination, or finding constitutes grounds for disciplinary action.

Sec. 20. Section 19, chapter 279, Laws of 1984 as last amended by section 7, chapter 150, Laws of 1987 and RCW 18.130.190 are each amended to read as follows:

(1) The director shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. In the investigation of the complaints, the director shall have the same authority as provided the director under RCW 18.130.050. The director shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated this subsection. If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. The cease and desist order shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced (~~(by civil contempt)~~) under section 6 of this act.

(2) The attorney general, a county prosecuting attorney, the director, a board, or any person may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by the chapters specified in RCW 18.130.040 without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) Unlicensed practice of a profession or operating a business for which a license is required by the chapters specified in RCW 18.130.040, unless otherwise exempted by law, constitutes a gross misdemeanor. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the health professions account.

**\*Sec. 21. Section 16, chapter 157, Laws of 1973 1st ex. sess. as amended by section 12, chapter 460, Laws of 1987 and RCW 26.09.160 are each amended to read as follows:**

***The performance of parental functions and the duty to provide child support are distinct responsibilities in the care of a child. If a party fails to comply with a provision of a decree or temporary order of injunction, the obligation of the other party to make payments for support or maintenance or to permit contact with children is not suspended. An attempt by a parent, in either the negotiation or the performance of a parenting plan, to condition one aspect of the parenting plan upon another may be deemed to be in bad faith. If the court finds that a parent acted in bad faith in an attempt to condition parental functions, in a refusal to perform the duties provided in the parenting plan, or in the hindrance of performance by the other parent, the court has broad discretion to punish the conduct by a punitive award or other remedies, including ~~((civil or criminal))~~ contempt of court, and may consider the conduct in awarding attorneys' fees.***

**\*Sec. 21 was vetoed, see message at end of chapter.**

Sec. 22. Section 5, chapter 260, Laws of 1984 and RCW 26.18.050 are each amended to read as follows:

(1) If an obligor fails to comply with a support order, a petition or motion may be filed without notice under RCW 26.18.040 to initiate a contempt action ((if an obligor fails to comply with a support order)) as provided in chapter 7.— RCW (sections 1 through 7 of this act). If the court finds there is reasonable cause to believe the obligor has failed to comply with a support order, the court may issue an order to show cause requiring the obligor to appear at a certain time and place for a hearing, at which time the obligor may appear to show cause why the relief requested should not be granted. A copy of the petition or motion shall be served on the obligor along with the order to show cause.

(2) Service of the order to show cause shall be by personal service, or in the manner provided in the civil rules of superior court or applicable statute.

(3) If the order to show cause served upon the obligor included a warning that an arrest warrant could be issued for failure to appear, the court may issue a bench warrant for the arrest of the obligor if the obligor fails to appear on the return date provided in the order.

(4) ~~((If the court finds, after hearing, that the obligor failed to comply with the support order previously entered and that the obligor has not established that he or she was unable to comply with the order, the court shall find the obligor in contempt of court. Contempt under this section is punishable by imprisonment in the county jail for a term of up to one hundred eighty days. The court may suspend all or a part of the sentence upon terms that are reasonably likely to result in compliance with the support order.~~

(5)) If the obligor contends at the hearing that he or she lacked the means to comply with the support order, the obligor shall establish that he or she exercised due diligence in seeking employment, in conserving assets, or otherwise in rendering himself or herself able to comply with the court's order.

Sec. 23. Section 2, chapter 35, Laws of 1985 and RCW 26.44.067 are each amended to read as follows:

(1) Any person having had actual notice of the existence of a restraining order issued by a court of competent jurisdiction pursuant to RCW 26.44.063 who refuses to comply with the provisions of such order when requested by any peace officer of the state shall be guilty of a misdemeanor.

(2) The notice requirements of subsection (1) of this section may be satisfied by the peace officer giving oral or written evidence to the person subject to the order by reading from or handing to that person a copy certified by a notary public or the clerk of the court to be an accurate copy of the original court order which is on file. The copy may be supplied by the court or any party.

(3) The remedies provided in this section shall not apply unless restraining orders subject to this section shall bear this legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO ((CIVIL)) CONTEMPT PROCEEDINGS.

(4) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule(~~(-PROVIDED, That))~~. No right of action shall accrue against any peace officer acting upon a properly certified copy of a court order lawful on its face if such officer employs otherwise lawful means to effect the arrest.

Sec. 24. Section 8, chapter 131, Laws of 1973 and RCW 41.56.490 are each amended to read as follows:

The right of uniformed employees to engage in any strike, work slowdown, or stoppage is not granted. (~~Where~~) An organization(;) recognized as the bargaining representative of uniformed employees subject to this chapter(, as amended by this 1973 amendatory act;) that willfully disobeys a lawful order of enforcement by a superior court pursuant to RCW 41.56.480 and 41.56.490, or willfully offers resistance to such order, whether by strike or otherwise, ((the punishment for each day that such contempt persists, may be a fine fixed in the discretion of the court in an amount not to exceed two hundred fifty dollars per day. Where)) is in contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act). An employer that willfully disobeys a lawful order of enforcement by a superior court pursuant to RCW 41.56.480 or willfully offers resistance to such order(, the punishment for each day that such contempt persists may be a fine, fixed at the discretion of the court in an amount not to exceed two hundred fifty dollars per day to be assessed against the employer))

is in contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 25. Section 5, chapter 15, Laws of 1983 and RCW 47.64.140 are each amended to read as follows:

(1) It is unlawful for any ferry system employee or any employee organization, directly or indirectly, to induce, instigate, encourage, authorize, ratify, or participate in a strike or work stoppage against the ferry system.

(2) It is unlawful for ferry system management to authorize, consent to, or condone a strike or work stoppage; or to conduct a lockout; or to pay or agree to pay any ferry system employee for any day in which the employee participates in a strike or work stoppage; or to pay or agree to pay any increase in compensation or benefits to any ferry system employee in response to or as a result of any strike or work stoppage or any act that violates subsection (1) of this section. It is unlawful for any official, director, or representative of the ferry system to authorize, ratify, or participate in any violation of this subsection. Nothing in this subsection prevents new or renewed bargaining and agreement within the scope of negotiations as defined by this chapter, at any time. No collective bargaining agreement provision regarding suspension or modification of any court-ordered penalty provided in this section is binding on the courts.

(3) In the event of any violation or imminently threatened violation of subsection (1) or (2) of this section, any citizen domiciled within the jurisdictional boundaries of the state may petition the superior court for Thurston county for an injunction restraining the violation or imminently threatened violation. Rules of civil procedure regarding injunctions apply to the action. However, the court shall grant a temporary injunction if it appears to the court that a violation has occurred or is imminently threatened; the plaintiff need not show that the violation or threatened violation would greatly or irreparably injure him or her; and no bond may be required of the plaintiff unless the court determines that a bond is necessary in the public interest. Failure to comply with any temporary or permanent injunction granted under this section ~~((constitutes))~~ is a ~~((punishable))~~ contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act). ~~The ((punishment shall not exceed))~~ court may impose a penalty of up to ten thousand dollars for an employee organization or the ferry system, for each day during which the failure to comply continues~~((, or imprisonment in a county jail for officials thereof not exceeding six months, or both such fine and imprisonment)).~~ ~~The ((punishment))~~ sanctions for a ferry employee found to be in contempt shall be as provided in chapter ~~((7.20))~~ 7.— RCW (sections 1 through 7 of this act). An individual or an employee organization which makes an active good faith effort to comply fully with the injunction shall not be deemed to be in contempt.

(4) The right of ferry system employees to engage in strike or work slowdown or stoppage is not granted and nothing in this chapter may be construed to grant such a right.

(5) Each of the remedies and penalties provided by this section is separate and several, and is in addition to any other legal or equitable remedy or penalty.

(6) In addition to the remedies and penalties provided by this section the successful litigant is entitled to recover reasonable attorney fees and costs incurred in the litigation.

(7) Notwithstanding the provisions of chapter 88.04 RCW and chapter 88.08 RCW, the department of transportation shall promulgate rules and regulations allowing vessels, as defined in RCW 88.04.300, as well as other watercraft, to engage in emergency passenger service on the waters of Puget Sound in the event ferry employees engage in a work slowdown or stoppage. Such emergency rules and regulations shall allow emergency passenger service on the waters of Puget Sound within seventy-two hours following a work slowdown or stoppage. Such rules and regulations that are promulgated shall give due consideration to the needs and the health, safety, and welfare of the people of the state of Washington.

Sec. 26. Section 186, chapter 255, Laws of 1927 as last amended by section 54, chapter 292, Laws of 1971 ex. sess. and RCW 79.01.704 are each amended to read as follows:

In all hearings pertaining to public lands of the state, as provided by this chapter, the board of natural resources, or the commissioner of public lands, as the case may be, shall, in its or his discretion have power to issue subpoenas and compel thereby the attendance of witnesses and the production of books and papers, at such time and place as may be fixed by the board, or the commissioner, to be stated in the subpoena and to conduct the examination thereof.

~~((Said))~~ The subpoena may be served by the sheriff of any county, or by any officer authorized by law to serve process, or by any person eighteen years of age or over, competent to be a witness, but who is not a party to the matter in which the subpoena is issued.

Each witness subpoenaed by the board, or commissioner, as a witness on behalf of the state, shall be allowed the same fees and mileage as provided by law to be paid witnesses in courts of record in this state, said fees and mileage to be paid by warrants on the general fund from the appropriation for the office of the commissioner of public lands.

Any person duly served with a subpoena ~~((, as herein provided, and))~~ who ~~((shall))~~ fails to obey the same, without legal excuse, shall be considered in contempt ~~((, and))~~. The board, or commissioner, shall certify the facts thereof to the superior court of the county in which such witness may reside ~~((, and upon legal proof thereof, such witness shall suffer the same penalties as are now provided in like cases))~~ for contempt of court ~~((and))~~

proceedings as provided in chapter 7.— RCW (sections 1 through 7 of this act). The certificate of the board, or commissioner, shall be considered by the court as prima facie evidence of the ~~((guilt of the party charged with))~~ contempt.

Sec. 27. Section 82.32.110, chapter 15, Laws of 1961 as amended by section 79, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.32.110 are each amended to read as follows:

The department of revenue or its duly authorized agent may examine any books, papers, records, or other data, or stock of merchandise bearing upon the amount of any tax payable or upon the correctness of any return, or for the purpose of making a return where none has been made, or in order to ascertain whether a return should be made; and may require the attendance of any person at a time and place fixed in a summons served by any sheriff in the same manner as a subpoena is served in a civil case, or served in like manner by an agent of the department of revenue.

The persons summoned may be required to testify and produce any books, papers, records, or data required by the department with respect to any tax, or the liability of any person therefor.

The director of the department of revenue, or any duly authorized agent thereof, shall have power to administer an oath to the person required to testify; and any person giving false testimony after the administration of such oath shall be guilty of perjury in the first degree.

If any person summoned as a witness before the department, or its authorized agent, fails or refuses to obey the summons, or refuses to testify or answer any material questions, or to produce any book, record, paper, or data when required to do so, ~~((he shall be guilty of))~~ the person is subject to proceedings for contempt, and the department shall thereupon institute contempt of court proceedings in the superior court of Thurston county(;-) or of the county in which such person resides(~~(, to punish him as for contempt of court)~~).

NEW SECTION. Sec. 28. The following acts or parts of acts are each repealed:

(1) Section 667, page 167, Laws of 1869, section 730, page 147, Laws of 1877, section 725, Code of 1881 and RCW 7.20.010;

(2) Section 668, page 168, Laws of 1869, section 731, page 148, Laws of 1877, section 726, Code of 1881 and RCW 7.20.020;

(3) Section 669, page 168, Laws of 1869, section 732, page 148, Laws of 1877, section 727, Code of 1881 and RCW 7.20.030;

(4) Section 670, page 169, Laws of 1869, section 733, page 148, Laws of 1877, section 728, Code of 1881 and RCW 7.20.040;

(5) Section 671, page 169, Laws of 1869, section 734, page 149, Laws of 1877, section 729, Code of 1881 and RCW 7.20.050;

(6) Section 672, page 169, Laws of 1869, section 735, page 149, Laws of 1877, section 730, Code of 1881 and RCW 7.20.060;

(7) Section 673, page 169, Laws of 1869, section 736, page 149, Laws of 1877, section 731, Code of 1881 and RCW 7.20.070;

(8) Section 674, page 169, Laws of 1869, section 737, page 149, Laws of 1877, section 732, Code of 1881 and RCW 7.20.080;

(9) Section 675, page 170, Laws of 1869, section 738, page 149, Laws of 1877, section 733, Code of 1881 and RCW 7.20.090;

(10) Section 676, page 170, Laws of 1869, section 739, page 149, Laws of 1877, section 734, Code of 1881 and RCW 7.20.100;

(11) Section 677, page 170, Laws of 1869, section 740, page 149, Laws of 1877, section 735, Code of 1881 and RCW 7.20.110;

(12) Section 678, page 170, Laws of 1869, section 741, page 150, Laws of 1877, section 736, Code of 1881, section 8, chapter 51, Laws of 1957 and RCW 7.20.120;

(13) Section 679, page 170, Laws of 1869, section 742, page 150, Laws of 1877, section 737, Code of 1881 and RCW 7.20.130;

(14) Section 680, page 171, Laws of 1869, section 743, page 150, Laws of 1877, section 738, Code of 1881, section 70, chapter 258, Laws of 1984, section 5, chapter 202, Laws of 1988 and RCW 7.20.140; and

(15) Section 667, page 167, Laws of 1869, section 725, Code of 1881, section 120, chapter 249, Laws of 1909 and RCW 9.23.010.

**NEW SECTION.** Sec. 29. Sections 1 through 7 of this act shall constitute a new chapter in Title 7 RCW.

**NEW SECTION.** Sec. 30. 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 19, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to section 21, Substitute House Bill No. 1983 entitled:

"AN ACT Relating to contempt of court."

Section 21 of this act amends RCW 26.09.160, which is also amended by section 1 of Substitute Senate Bill No. 6009. That measure substantially revises statutes relating to custodial interference and failure to adhere to the residential provisions of parenting agreements. In order to avoid confusion, I have vetoed section 21 of this act.

With the exception of section 21, Substitute House Bill No. 1983 is approved."



## CHAPTER 374

[Substitute House Bill No. 2024]

## REGULATORY FAIRNESS—SMALL BUSINESSES—ECONOMIC IMPACT

AN ACT Relating to regulatory fairness; amending RCW 19.85.020, 19.85.030, and 19.85.040; adding new sections to chapter 19.85 RCW; and adding new sections to chapter 34.05 RCW.

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

Sec. 1. Section 2, chapter 6, Laws of 1982 and RCW 19.85.020 are each amended to read as follows:

Unless the context clearly indicates otherwise, the definitions in this section apply through this chapter.

(1) "Small business" has the meaning given in RCW (~~(43.31.920)~~) 43.31.025(4).

(2) "Small business economic impact statement" means a statement meeting the requirements of RCW 19.85.040 prepared by a state agency pursuant to RCW 19.85.030.

(3) "Industry" means all of the businesses in this state in any one three-digit standard industrial classification as published by the United States department of commerce.

Sec. 2. Section 3, chapter 6, Laws of 1982 and RCW 19.85.030 are each amended to read as follows:

In the adoption of any rule pursuant to RCW (~~(34.04.025)~~) 34.05.320 which will have an economic impact on more than twenty percent of all industries, or more than ten percent of any one industry, the adopting agency:

(1) Shall reduce the economic impact of the rule on small business by doing one or more of the following when it is legal and feasible in meeting the stated objective of the statutes which are the basis of the proposed rule:

(a) Establish differing compliance or reporting requirements or timetables for small businesses;

(b) Clarify, consolidate, or simplify the compliance and reporting requirements under the rule for small businesses;

(c) Establish performance rather than design standards;

(d) Exempt small businesses from any or all requirements of the rule;

(2) Shall prepare a small business economic impact statement in accordance with RCW 19.85.040 and file such statement with the code reviser along with the notice required under RCW (~~(34.04.025)~~) 34.05.320;

(3) May request assistance from the (~~(office of small business available statistics which the agency can use)~~) business assistance center in the preparation of the small business economic impact statement.

Sec. 3. Section 4, chapter 6, Laws of 1982 and RCW 19.85.040 are each amended to read as follows:

A small business economic impact statement must include a brief description of the reporting, recordkeeping, and other compliance requirements of the rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements. A small business economic impact statement shall analyze, based on existing data, the costs of compliance for businesses required to comply with the provisions of a rule adopted pursuant to RCW ((34.04.025)) 34.05.320, including costs of equipment, supplies, labor, and increased administrative costs, and compare to the greatest extent possible the cost of compliance for small business with the cost of compliance for the ten percent of firms which are the largest businesses required to comply with the proposed new or amendatory rules. The small business economic impact statement shall use one or more of the following as a basis for comparing costs:

- (1) Cost per employee;
- (2) Cost per hour of labor;
- (3) Cost per one hundred dollars of sales;
- (4) Any combination of (1), (2), or (3).

***\*NEW SECTION. Sec. 4. A new section is added to chapter 19.85 RCW to read as follows:***

***When any rule is proposed for which a small business economic impact statement is required, the agency shall assure that small businesses have been given notice of the proposed rule through any of the following that may apply:***

- (1) Direct notification of known interested small businesses affected by the proposed rule;***
- (2) Notice to business or trade organizations;***
- (3) Publication of a general notice of the proposed rule making in publications likely to be obtained by small businesses of the types affected by the proposed rule; and***
- (4) The appointment of a committee, as provided in RCW 34.05.310, to comment on the subject of the possible rule making before the publication of notice of proposed rule adoption under RCW 34.05.320.***

***\*Sec. 4 was vetoed, see message at end of chapter.***

***NEW SECTION. Sec. 5. A new section is added to chapter 19.85 RCW to read as follows:***

***An agency is not required to prepare a small business economic impact statement if the agency files a statement that:***

- (1) The rule is being adopted solely for the purpose of conformity or compliance, or both, with federal law or regulations; or***
- (2) The rule will have a minor or negligible economic impact. The business assistance center shall develop guidelines for determining whether a proposed rule will have minor or negligible impacts. The business assistance center may review a proposed rule that indicates that there is only a minor or negligible economic impact to determine if the agency's finding is***

within the guidelines developed by the business assistance center. The business assistance center is authorized to advise the joint administrative rules review committee on disputes involving agency determinations under this section.

**\*NEW SECTION. Sec. 6.** *A new section is added to chapter 34.05 RCW to read as follows:*

*The joint administrative rules review committee may review any rule to determine whether an agency complied with the regulatory business requirements of chapter 19.85 RCW.*

\*Sec. 6 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 7.** *A new section is added to chapter 34.05 RCW to read as follows:*

*The joint administrative rules review committee shall provide notice, conduct its hearings and reviews, and provide notice of committee objections to small business economic impact statements required under chapter 19.85 RCW in the same manner as is provided for notice, hearings, reviews, and objections to rules under this chapter.*

\*Sec. 7 was vetoed, see message at end of chapter.

Passed the House March 13, 1989.

Passed the Senate April 21, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to sections 4, 6, and 7, Substitute House Bill No. 2024 entitled:

"AN ACT Relating to regulatory fairness."

Section 4 of Substitute House Bill No. 2024 imposes new notification requirements on state agencies when they are developing rules that affect small businesses. There are four separate notification procedures specified in the section. Because of the way the section is drafted, agencies could be subject to legal challenge if they did not notify by all sections which apply to a given business. The language is subject to two interpretations due to the fact the word "and" is used at the end of subsection 3, rather than "or."

These new procedures would be in addition to the expanded notification and public access requirements mandated by the new Administrative Procedure Act (APA) under RCW 34.05. That act will go into effect in July of this year. The new APA mandates advance notice of rule making through the state register, authorizes agency solicitation of comments from the public on proposed rules, encourages the creation of committees to discuss rules in advance of official notice, requires the creation of a rule-making docket in each agency, and requires agencies to send notices of proposed rule adoptions to any citizen who requests them.

The Legislature, state agencies, the Bar Association, the Attorney General's Office, and interest groups, including representatives of small business, spent four years perfecting the new APA, including its uniform rule-notice requirements. To create an entirely new set of requirements applicable only to a single special interest group before the APA becomes effective is not necessary. It would also have an unanticipated fiscal impact on many state agencies.

Sections 6 and 7 authorize the Joint Administrative Rules Review Committee to review executive agency compliance with the Regulatory Fairness Act and the sufficiency of small business economic impact statements. Currently, this committee reviews rules for conformance with underlying legislative intent and procedural correctness. To give the committee expanded authority to review the substance of detailed economic impact statements prepared by agencies is beyond the scope of the committee.

Concerns regarding agency compliance with the Regulatory Fairness Act can already be brought before the agency, the Business Assistance Center, and ultimately the courts. To add one more forum to this field is both unnecessary and duplicative.

With the exception of sections 4, 6, and 7, Substitute House Bill No. 2024 is approved."

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## CHAPTER 375

[House Bill No. 2155]

### PARENTING ACT—REVISED PROVISIONS

AN ACT Relating to technical corrections and clarifications to the parenting act of 1987 and related provisions; amending RCW 26.09.010, 26.09.015, 26.09.020, 26.09.070, 26.09.080, 26.09.090, 26.09.100, 26.09.181, 26.09.184, 26.09.187, 26.09.191, 26.09.220, 26.09.240, 26.09.260, 26.09.270, 26.09.285, 26.09.907, 26.09.909, 26.10.060, 26.10.070, 26.10.180, 26.12.080, 26.26.130, 26.10.190, 26.50.020, 26.09.050, 26.09.150, and 26.10.040; reenacting and amending RCW 26.09.120; adding a new section to chapter 26.26 RCW; adding a new section to chapter 26.50 RCW; adding a new section to chapter 26.10 RCW; and declaring an emergency.

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

Sec. 1. Section 1, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 460, Laws of 1987 and RCW 26.09.010 are each amended to read as follows:

(1) Except as otherwise specifically provided herein, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) A proceeding for dissolution of marriage, legal separation or a declaration concerning the validity of a marriage shall be entitled "In re the marriage of . . . . . and . . . . . ." Such proceeding may be filed in the superior court of the county where the petitioner resides.

(3) In cases where there has been no prior proceeding in this state involving the marital status of the parties or support obligations for a minor child, a separate parenting and support proceeding between the parents shall be entitled "In re the parenting and support of . . . . .."

(4) The initial pleading in all proceedings (~~for dissolution of marriage~~) under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

(5) In this chapter, "decree" includes "judgment".

(6) A decree of dissolution, of legal separation, or a declaration concerning the validity of a marriage shall not be awarded to one of the parties,

but shall provide that it affects the status previously existing between the parties in the manner decreed.

Sec. 2. Section 4, chapter 95, Laws of 1986 and RCW 26.09.015 are each amended to read as follows:

(1) In any proceeding under this chapter, the matter may be set for mediation of the contested issues before or concurrent with the setting of the matter for hearing. The purpose of the mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement assuring the child's close and continuing contact with both parents after the marriage is dissolved. The mediator shall use his or her best efforts to effect a settlement of the ~~((custody or visitation))~~ dispute.

(2) Each superior court may make available a mediator. The mediator may be a member of the professional staff of a family court or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court is not required to institute a family court.

(3) Mediation proceedings shall be held in private and shall be confidential. The mediator shall not testify as to any aspect of the mediation proceedings.

(4) The mediator shall assess the needs and interests of the child or children involved in the controversy and may interview the child or children if the mediator deems such interview appropriate or necessary.

(5) Any agreement reached by the parties as a result of mediation shall be reported to the court and to counsel for the parties by the mediator on the day set for mediation or any time thereafter designated by the court.

(6) This section shall not apply to postdecree mediation required pursuant to a parenting plan.

Sec. 3. Section 2, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 45, Laws of 1983 1st ex. sess. and RCW 26.09.020 are each amended to read as follows:

(1) A petition in a proceeding for dissolution of marriage, legal separation, or for a declaration concerning the validity of a marriage, shall allege the following:

(a) The last known residence of each party;

(b) The date and place of the marriage;

(c) If the parties are separated the date on which the separation occurred;

(d) The names, ages, and addresses of any child dependent upon either or both spouses and whether the wife is pregnant;

(e) Any arrangements as to the ~~((custody, visitation))~~ residential schedule of, decision making for, dispute resolution for, and support of the children and the maintenance of a spouse;

(f) A statement specifying whether there is community or separate property owned by the parties to be disposed of;

(g) The relief sought.

(2) Either or both parties to the marriage may initiate the proceeding.

(3) The petitioner shall complete and file with the petition a certificate under RCW 70.58.200 on the form provided by the department of social and health services.

Sec. 4. Section 7, chapter 157, Laws of 1973 1st ex. sess. as amended by section 6, chapter 460, Laws of 1987 and RCW 26.09.070 are each amended to read as follows:

(1) The parties to a marriage, in order to promote the amicable settlement of disputes attendant upon their separation or upon the filing of a petition for dissolution of their marriage, a decree of legal separation, or declaration of invalidity of their marriage, may enter into a written separation contract providing for the maintenance of either of them, the disposition of any property owned by both or either of them, the parenting plan and support for their children and for the release of each other from all obligation except that expressed in the contract.

(2) If the parties to such contract elect to live separate and apart without any court decree, they may record such contract and cause notice thereof to be published in a legal newspaper of the county wherein the parties resided prior to their separation. Recording such contract and publishing notice of the making thereof shall constitute notice to all persons of such separation and of the facts contained in the recorded document.

(3) If either or both of the parties to a separation contract shall at the time of the execution thereof, or at a subsequent time, petition the court for dissolution of their marriage, for a decree of legal separation, or for a declaration of invalidity of their marriage, the contract, except for those terms providing for a parenting plan for their children, shall be binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties on their own motion or on request of the court, that the separation contract was unfair at the time of its execution. Child support may be included in the separation contract and shall be reviewed in the subsequent proceeding for compliance with RCW 26.19.020.

(4) If the court in an action for dissolution of marriage, legal separation, or declaration of invalidity finds that the separation contract was unfair at the time of its execution, it may make orders for the maintenance of either party, the disposition of their property and the discharge of their obligations.

(5) Unless the separation contract provides to the contrary, the agreement shall be set forth in the decree of dissolution, legal separation, or declaration of invalidity, or filed in the action or made an exhibit and incorporated by reference, except that in all cases the terms of the parenting plan shall be set out in the decree, and the parties shall be ordered to comply with its terms.

(6) Terms of the contract set forth or incorporated by reference in the decree may be enforced by all remedies available for the enforcement of a judgment, including contempt, and are enforceable as contract terms.

(7) When the separation contract so provides, the decree may expressly preclude or limit modification of any provision for maintenance set forth in the decree. Terms of a separation contract pertaining to ~~((fa))~~ a parenting plan for the children and, in the absence of express provision to the contrary, terms providing for maintenance set forth or incorporated by reference in the decree are automatically modified by modification of the decree.

(8) If at any time the parties to the separation contract by mutual agreement elect to terminate the separation contract they may do so without formality unless the contract was recorded as in subsection (2) of this section, in which case a statement should be filed terminating the contract.

Sec. 5. Section 8, chapter 157, Laws of 1973 1st ex. sess. and RCW 26.09.080 are each amended to read as follows:

In a proceeding for dissolution of the marriage, legal separation, declaration of invalidity, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall, without regard to marital misconduct, make such disposition of the property and the liabilities of the parties, either community or separate, as shall appear just and equitable after considering all relevant factors including, but not limited to:

(1) The nature and extent of the community property;

(2) The nature and extent of the separate property;

(3) The duration of the marriage; and

(4) The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to a spouse ~~((having custody of any children))~~ with whom the children reside the majority of the time.

Sec. 6. Section 9, chapter 157, Laws of 1973 1st ex. sess. and RCW 26.09.090 are each amended to read as follows:

(1) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, or in a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse. The maintenance order shall be in such amounts and for such periods of time as the court deems just, without regard to marital misconduct, after considering all relevant factors including but not limited to:

(a) The financial resources of the party seeking maintenance, including separate or community property apportioned to him, and his ability to meet

his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party ((as custodian));

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find employment appropriate to his skill, interests, style of life, and other attendant circumstances;

(c) The standard of living established during the marriage;

(d) The duration of the marriage;

(e) The age, physical and emotional condition, and financial obligations of the spouse seeking maintenance; and

(f) The ability of the spouse from whom maintenance is sought to meet his needs and financial obligations while meeting those of the spouse seeking maintenance.

Sec. 7. Section 10, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 9, chapter 275, Laws of 1988 and RCW 26.09.100 are each amended to read as follows:

In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to marital misconduct, the court may order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount determined pursuant to the schedule adopted under RCW 26.19.040. The court may require ((annual)) periodic adjustments of support ((based upon changes in a party's income or the child's needs, or based upon changes in the child support schedule)).

Sec. 8. Section 7, chapter 460, Laws of 1987 and RCW 26.09.181 are each amended to read as follows:

(1) SUBMISSION OF PROPOSED PLANS. ((The petition and the response shall contain a proposed parenting plan where there are minor children of the parties. Where the petition or the response does not contain a proposed permanent parenting plan, the party who has filed a proposed permanent parenting plan may move for a default)) (a) In any proceeding under this chapter, except a modification, each party shall file and serve a proposed permanent parenting plan on or before the earliest date of:

(i) Thirty days after filing and service by either party of a notice for trial; or

(ii) One hundred eighty days after commencement of the action which one hundred eighty day period may be extended by stipulation of the parties.

(b) In proceedings for a modification of custody or a parenting plan, a proposed parenting plan shall be filed and served with the motion for modification and with the response to the motion for modification.



(c) No proposed permanent parenting plan shall be required after filing of an agreed permanent parenting plan, after entry of a final decree, or after dismissal of the cause of action.

(d) A party who files a proposed parenting plan in compliance with this section may move the court for an order of default adopting that party's parenting plan if the other party has failed to file a proposed parenting plan as required in this section.

(2) AMENDING PROPOSED PARENTING PLANS. Either party may file and serve an amended proposed permanent parenting plan according to the rules for amending pleadings.

(3) GOOD FAITH PROPOSAL. The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.

(4) AGREED PERMANENT PARENTING PLANS. The parents may make an agreed permanent parenting plan.

~~((4))~~ (5) MANDATORY SETTLEMENT CONFERENCE. Where mandatory settlement conferences are provided under court rule, the parents shall attend a mandatory settlement conference. The mandatory settlement conference shall be presided over by a judge or a court commissioner, who shall apply the criteria in RCW 26.09.187 and 26.09.191. The parents shall in good faith review the proposed terms of the parenting plans and any other issues relevant to the cause of action with the presiding judge or court commissioner. Facts and legal issues that are not then in dispute shall be entered as stipulations for purposes of final hearing or trial in the matter.

~~((5))~~ (6) TRIAL SETTING. Trial dates for actions involving minor children brought under this chapter shall receive priority.

(7) ENTRY OF FINAL ORDER. The final order or decree shall be entered not sooner than ninety days after filing and service.

(8) This section does not apply to decrees of legal separation.

Sec. 9. Section 8, chapter 460, Laws of 1987 and RCW 26.09.184 are each amended to read as follows:

(1) **OBJECTIVES.** The objectives of the permanent parenting plan are to:

- (a) Provide for the child's physical care;
- (b) Maintain the child's emotional stability;
- (c) Provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for future modifications to the permanent parenting plan;

(d) Set forth the authority and responsibilities of each parent with respect to the child, consistent with the criteria in RCW 26.09.187 and 26.09.191;

(e) Minimize the child's exposure to harmful parental conflict;

(f) Encourage the parents, where appropriate under RCW 26.09.187 and 26.09.191, to meet their responsibilities to their ~~((dependent))~~ minor

children through agreements in the permanent parenting plan, rather than by relying on judicial intervention; and

(g) To otherwise protect the best interests of the child consistent with RCW 26.09.002.

(2) CONTENTS OF THE PERMANENT PARENTING PLAN.

The permanent parenting plan shall contain provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the child (~~and financial support for the child consistent with the criteria in RCW 26.09.187 and 26.09.191~~).

(3) DISPUTE RESOLUTION. A process for resolving disputes, other than court action, shall be provided unless precluded or limited by RCW 26.09.187 or 26.09.191. A dispute resolution process may include counseling, mediation, or arbitration by a specified individual or agency, or court action. In ~~((setting forth a))~~ the dispute resolution process (~~(, the permanent parenting plan shall state that)~~):

(a) Preference shall be given to carrying out the parenting plan;

(b) The parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;

(c) A written record shall be prepared of any agreement reached in counseling or mediation and of each arbitration award and shall be provided to each party;

(d) If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court shall award attorneys' fees and financial sanctions to the prevailing parent; ~~((and~~

~~(d)))~~ (e) The parties have the right of review from the dispute resolution process to the superior court; and

(f) The provisions of (a) through (e) of this subsection shall be set forth in the decree.

(4) ALLOCATION OF DECISION-MAKING AUTHORITY.

(a) The plan shall allocate decision-making authority to one or both parties regarding the children's education, health care, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the child in these specified areas, or in other areas, into their plan, consistent with the criteria in RCW 26.09.187 and 26.09.191. Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

(b) ~~((The plan shall state that:~~

~~(i)))~~ Each parent may make decisions regarding the day-to-day care and control of the child while the child is residing with that parent ~~((:))~~.

~~((ii)))~~ (c) When mutual decision making is designated but cannot be achieved, the parties shall make a good-faith effort to resolve the issue through the dispute resolution process.

(5) RESIDENTIAL PROVISIONS FOR THE CHILD. The plan shall include a residential schedule which designates in which parent's home each ~~((dependent))~~ minor child shall reside on given days of the year, including provision for holidays, birthdays of family members, vacations, and other special occasions, consistent with the criteria in RCW 26.09.187 and 26.09.191.

~~(6) ((CHILD SUPPORT. Provision shall be made for the financial support of the child in accordance with RCW 26.09.100, 26.09.130, and 26.09.135. The provision shall state the identity of the child for whom support is paid, the amount of support to be paid and by whom, provision for medical and dental insurance consistent with RCW 26.09.105, notice regarding mandatory wage assignments as required by RCW 26.09.135, and the terms under which the support obligation terminates.~~

~~(7) The plan shall state that))~~ PARENTS' OBLIGATION UNAF- FECTED. If a parent fails to comply with a provision of a parenting plan, the other parent's obligations under the parenting plan are not affected.

(7) PROVISIONS TO BE SET FORTH IN PERMANENT PAR- ENTING PLAN. The permanent parenting plan shall set forth the provi- sions of subsections (3) (a) through (c), (4) (b) and (c), and (6) of this section.

Sec. 10. Section 9, chapter 460, Laws of 1987 and RCW 26.09.187 are each amended to read as follows:

(1) DISPUTE RESOLUTION PROCESS. The court shall not order a dispute resolution process, except court action, ~~((if))~~ when it finds that any limiting factor under RCW 26.09.191 applies, or ~~((if))~~ when it finds that either parent is unable to afford the cost of the proposed dispute resolution process. If a dispute resolution process is not precluded or limited, then in designating such a process the court shall consider all relevant factors, including:

(a) Differences between the parents that would substantially inhibit their effective participation in any designated process;

(b) The parents' wishes or agreements and, if the parents have entered into agreements, whether the agreements were made knowingly and voluntarily; and

(c) Differences in the parents' financial circumstances that may affect their ability to participate fully in a given dispute resolution process.

(2) ALLOCATION OF DECISION-MAKING AUTHORITY.

(a) AGREEMENTS BETWEEN THE PARTIES. The court shall approve agreements of the parties allocating decision-making authority, or specifying rules in the areas listed in RCW 26.09.184(4)(a), ~~((where))~~ when it finds that:

(i) The agreement is consistent with any limitations on a parent's deci- sion-making authority mandated by RCW 26.09.191; and

(ii) The agreement is knowing and voluntary.

(b) **SOLE DECISION-MAKING AUTHORITY.** The court shall order sole decision-making to one parent when it finds that:

(i) A limitation on the other parent's decision-making authority is mandated by RCW 26.09.191;

(ii) Both parents are opposed to mutual decision making;

(iii) One parent is opposed to mutual decision making, and such opposition is reasonable based on the criteria in (c) of this subsection;

(c) **MUTUAL DECISION-MAKING AUTHORITY.** Except as provided in (a) and (b) of this subsection, the court shall consider the following criteria in allocating decision-making authority:

(i) The existence of a limitation under RCW 26.09.191;

(ii) The history of participation of each parent in decision making in each of the areas in RCW 26.09.184(4)(a);

(iii) Whether the parents have a demonstrated ability and desire to cooperate with one another in decision making in each of the areas in RCW 26.09.184(4)(a); and

(iv) The parents' geographic proximity to one another, to the extent that it affects their ability to make timely mutual decisions.

(3) **RESIDENTIAL PROVISIONS.**

(a) The court shall make residential provisions for each child which encourage each parent to maintain a loving, stable, and nurturing relationship with the child, consistent with the child's developmental level and the family's social and economic circumstances. The child's residential schedule shall be consistent with RCW 26.09.191. Where the limitations of RCW 26.09.191 are not dispositive of the child's residential schedule, the court shall consider the following factors:

(i) The relative strength, nature, and stability of the child's relationship with each parent, including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child;

(ii) The agreements of the parties, provided they were entered into knowingly and voluntarily;

(iii) Each parent's past and potential for future performance of parenting functions;

(iv) The emotional needs and developmental level of the child;

(v) The child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities; ~~((and))~~

(vi) The wishes of the parents and the wishes of a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule; and

(vii) Each parent's employment schedule, and shall make accommodations consistent with those schedules.

Factor (i) shall be given the greatest weight.

(b) The court may order that a child frequently alternate his or her residence between the households of the parents for brief and substantially equal intervals of time only if the court finds the following:

(i) No limitation exists under RCW 26.09.191;

(ii) (A) The parties have agreed to such provisions and the agreement was knowingly and voluntarily entered into; or

(B) The parties have a satisfactory history of cooperation and shared performance of parenting functions; the parties are available to each other, especially in geographic proximity, to the extent necessary to ensure their ability to share performance of the parenting functions; and

(iii) The provisions are in the best interests of the child.

~~((c) One household shall be designated the child's residence solely for purposes of jurisdiction, venue, and child support.))~~

Sec. 11. Section 10, chapter 460, Laws of 1987 and RCW 26.09.191 are each amended to read as follows:

(1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct:

(a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW 26.50.010(1) ~~((or an act of domestic violence which rises to the level of a felony))~~ or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(2) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW 26.50.010(1) ~~((or an act of domestic violence which rises to the level of a felony))~~ or an assault or sexual assault which causes grievous bodily harm or the fear of such harm, unless the court expressly finds that the probability that the conduct will recur is so remote that it would not be in the child's best interests to apply the limitation or unless it is shown not to have had an impact on the child. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court.

(3) A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist:

(a) A parent's neglect or substantial nonperformance of parenting functions;

(b) A long-term emotional or physical impairment which interferes with the parent's performance of parenting functions as defined in RCW 26.09.004;

(c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;

(d) The absence or substantial impairment of emotional ties between the parent and the child;

(e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development;

(f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or

(g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(4) In entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of the temporary parenting plan.

(5) In determining whether any of the conduct described in this section has occurred, the court shall apply the civil rules of evidence, proof, and procedure.

Sec. 12. Section 22, chapter 157, Laws of 1973 1st ex. sess. as amended by section 16, chapter 460, Laws of 1987 and RCW 26.09.220 are each amended to read as follows:

(1) ~~((In contested custody proceedings, and in other proceedings if a party so requests;))~~ The court may order an investigation and report concerning parenting arrangements for the child ~~((in an action for dissolution of marriage, legal separation, or declaration of invalidity))~~. The investigation and report may be made by the staff of the juvenile court or other professional social service organization experienced in counseling children and families.

(2) In preparing his report concerning a child, the investigator may consult any person who may have information about the child and the potential parenting or custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if he has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (3) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts

of diagnostic reports made to the investigator pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom he has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing.

Sec. 13. Section 24, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 18, chapter 460, Laws of 1987 and RCW 26.09.240 are each amended to read as follows:

The court may order visitation rights for ~~((any))~~ a person other than a parent when visitation may serve the best interest of the child whether or not there has been any change of circumstances.

~~((Any))~~ A person other than a parent may petition the court for visitation rights at any time.

The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child.

Sec. 14. Section 26, chapter 157, Laws of 1973 1st ex. sess. as amended by section 19, chapter 460, Laws of 1987 and RCW 26.09.260 are each amended to read as follows:

(1) The court shall not modify a prior custody decree or a parenting plan unless it finds, upon the basis of facts that have arisen since the prior decree or plan or that were unknown to the court at the time of the prior decree or plan, that a substantial change has occurred in the circumstances of the child or the ~~((parents))~~ nonmoving party and that the modification is in the best interest of the child and is necessary to serve the best interests of the child. In applying these standards, the court shall retain the residential schedule established by the decree or parenting plan unless:

(a) The parents agree to the modification;

(b) The child has been integrated into the family of the petitioner with the consent of the other parent in substantial deviation from the parenting plan; or

(c) The child's present environment is detrimental to the child's physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

(2) If the court finds that a motion to modify a prior decree or parenting plan has been brought in bad faith, the court shall assess the attorney's fees and court costs of the nonmoving parent against the moving party.

Sec. 15. Section 27, chapter 157, Laws of 1973 1st ex. sess. and RCW 26.09.270 are each amended to read as follows:

A party seeking a temporary custody order or a temporary parenting plan or modification of a custody decree or parenting plan shall submit together with his motion, an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of his affidavit, to other parties to the proceedings, who may file opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted.

Sec. 16. Section 21, chapter 460, Laws of 1987 and RCW 26.09.285 are each amended to read as follows:

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, ~~((the court))~~ a parenting plan shall designate ~~((in a parenting plan one parent))~~ the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child ~~((resides))~~ is scheduled to reside the majority of the time shall be deemed to be the custodian of the child for the purposes of such federal and state statutes.

Sec. 17. Section 23, chapter 460, Laws of 1987 and RCW 26.09.907 are each amended to read as follows:

Notwithstanding the repeals of prior laws, actions which were properly and validly pending in the superior courts of this state as of January 1, 1988, shall not be governed ~~((and may be pursued to conclusion under the provisions of law applicable thereto at the time of commencement of such action and all decrees and orders heretofore or hereafter in all other respects regularly entered in such proceedings are declared valid))~~ by chapter 460, Laws of 1987 but shall be governed by the provisions of law in effect on December 31, 1987.

Sec. 18. Section 24, chapter 460, Laws of 1987 and RCW 26.09.909 are each amended to read as follows:

(1) Decrees under this chapter involving child custody, visitation, or child support entered in actions commenced prior to January 1, 1988, shall be deemed to be parenting plans for purposes of this chapter.

(2) The enactment of the 1987 revisions to this chapter does not constitute substantially changed circumstances for the purposes of modifying decrees entered under this chapter in actions commenced prior to January 1, 1988, involving child custody, visitation, or child support. An action to modify any decree involving child custody, visitation, child support, or a parenting plan which was commenced after December 31, 1987, shall be governed by the 1987 revisions to this chapter.



(3) Actions brought for clarification or interpretation of decrees entered under this chapter in actions commenced prior to January 1, 1988, shall be determined under the law in effect immediately prior to January 1, 1988.

Sec. 19. Section 30, chapter 460, Laws of 1987 and RCW 26.10.060 are each amended to read as follows:

In entering or modifying a custody order under this chapter, the court shall require either or both parents to maintain or provide health insurance coverage for any dependent child if the following conditions are met:

(1) Health insurance that can be extended to cover the child is available to that parent through an employer or other organization; and

(2) The employer or other organization offering health insurance will contribute all or a part of the premium for coverage of the child.

A parent who is required to extend insurance coverage to a child under this section is liable for any covered health care costs for which the parent receives direct payment from an insurer.

This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses, medical costs, or insurance premiums which are in addition to and not inconsistent with this section. "Health insurance" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

Sec. 20. Section 31, chapter 460, Laws of 1987 and RCW 26.10.070 are each amended to read as follows:

The court may appoint an attorney to represent the interests of a minor or dependent child with respect to custody, support, and visitation. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against ~~((either or both parents))~~ any or all parties, except that, if ~~((both))~~ all parties are indigent, the costs, fees, and disbursements shall be borne by the county.

Sec. 21. Section 46, chapter 460, Laws of 1987 and RCW 26.10.180 are each amended to read as follows:

A relative, as defined in RCW 9A.40.010, may bring civil action against any other relative who, with intent to deny access to a child by another relative of the child who has a right to physical custody of or visitation with the child, takes, entices, or conceals the child from that relative. The plaintiff may be awarded, in addition to any damages awarded by the court, the reasonable expenses incurred by the plaintiff in locating the child, including, but not limited to, investigative services and reasonable attorneys' fees.

Sec. 22. Section 8, chapter 50, Laws of 1949 and RCW 26.12.080 are each amended to read as follows:

Whenever ~~((any judge))~~ the court before whom any matter arising under this chapter is pending, deems publication of any matter before the

court contrary to public policy or injurious to the interests of children or to the public morals, ~~((he))~~ the court may by order close the files or any part thereof in the matter and make such other orders to protect the privacy of the parties as is necessary.

Sec. 23. Section 14, chapter 42, Laws of 1975-'76 2nd ex. sess. as last amended by section 56, chapter 460, Laws of 1987 and RCW 26.26.130 are each amended to read as follows:

(1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, ~~((the custody and guardianship of the child, visitation privileges with the child;))~~ the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(4) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the father's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just: PROVIDED HOWEVER, That the court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(5) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, the court shall consider all relevant facts, including, but not limited to:

- (a) The needs of the child;
- (b) The standard of living and circumstances of the parents;
- (c) The relative financial means of the parents;
- (d) The earning ability of the parents;
- (e) The need and capacity of the child for education, including higher education;
- (f) The age of the child;
- (g) The responsibility of the parents for the support of others; and
- (h) The value of services contributed by the custodial parent.

(6) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party.

(7) In any dispute between the natural parents of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the natural parent or parents, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

Sec. 24. Section 47, chapter 460, Laws of 1987 and RCW 26.10.190 are each amended to read as follows:

(1) The court shall not modify a prior custody ~~((order))~~ decree unless it finds, upon the basis of facts that have arisen since the prior ~~((order))~~ decree or that were unknown to the court at the time of the prior ~~((order))~~ decree, that a change has occurred in the circumstances of the child or the custodian and that the modification is necessary to serve the best interests of the child. In applying these standards, the court shall retain the custodian established by the prior ~~((order))~~ decree unless:

(a) The custodian agrees to the modification;

(b) The child has been integrated into the family of the petitioner with the consent of the custodian; or

(c) The child's present environment is detrimental to his or her physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

(2) If the court finds that a motion to modify a prior custody ~~((order))~~ decree has been brought in bad faith, the court shall assess the attorney's fees and court costs of the custodian against the petitioner.

NEW SECTION. Sec. 25. A new section is added to chapter 26.26 RCW to read as follows:

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time shall be deemed to be the custodian of the child for the purposes of such federal and state statutes.

**NEW SECTION.** Sec. 26. A new section is added to chapter 26.50 RCW to read as follows:

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time shall be deemed to be the custodian of the child for the purposes of such federal and state statutes.

*\*Sec. 27. Section 12, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 5, chapter 363, Laws of 1987 and by section 15, chapter 435, Laws of 1987 and RCW 26.09.120 are each reenacted and amended to read as follows:*

*(1) The court shall order support ((and-maintenance)) payments, and order spousal maintenance payments if child support is ordered, to be made to the Washington state support registry, or the person entitled to receive the payments under an alternate payment plan approved by the court as provided in RCW 26.23.050.*

*(2) Maintenance payments, when ordered in an action where there is no dependent child, may be ordered to be paid to the person entitled to receive the payments, or the clerk of the court as trustee for remittance to the persons entitled to receive the payments.*

*(3) If support payments, under orders entered prior to January 1, 1988, or if maintenance payments, as provided in subsection (2) of this section, are made to the clerk of court, the clerk:*

*(a) Shall maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order(:*

*(~~3~~);*

*(b) May by local court rule accept only certified funds or cash as payment((~~-In all cases, the clerk~~); and*

*(c) Shall accept only certified funds or cash for five years in all cases after one check has been returned for nonsufficient funds or account closure.*

*(4) The parties affected by the order shall inform the registry through which the payments are ordered to be paid of any change of address or of other conditions that may affect the administration of the order.*

*\*Sec. 27 was vetoed, see message at end of chapter.*

Sec. 28. Section 3, chapter 263, Laws of 1984 as last amended by section 1, chapter 71, Laws of 1987 and RCW 26.50.020 are each amended to read as follows:

(1) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on

behalf of himself or herself and on behalf of minor family or household members.

(2) The courts defined in RCW 26.50.010(3) have jurisdiction over proceedings under this chapter. The jurisdiction of district and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents (~~(a child custody or visitation issue)~~) issues of residential schedule of and contact with children of the parties; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

(3) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

(4) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

Sec. 29. Section 5, chapter 157, Laws of 1973 1st ex. sess. as amended by section 5, chapter 460, Laws of 1987 and RCW 26.09.050 are each amended to read as follows:

In entering a decree of dissolution of marriage, legal separation, or declaration of invalidity, the court shall determine the marital status of the parties, make provision for a parenting plan for any minor child of the marriage, make provision for the support of any child of the marriage entitled to support, consider or approve provision for the maintenance of either spouse, make provision for the disposition of property and liabilities of the parties, make provision for the allocation of the children as federal tax exemptions, make provision for any necessary continuing restraining orders, and make provision for the change of name of any party (~~(entitled to such a change)~~).

Sec. 30. Section 15, chapter 157, Laws of 1973 1st ex. sess. and RCW 26.09.150 are each amended to read as follows:

A decree of dissolution of marriage, legal separation, or declaration of invalidity is final when entered, subject to the right of appeal. An appeal

which does not challenge the finding that the marriage is irretrievably broken or was invalid, does not delay the finality of the dissolution or declaration of invalidity and either party may remarry pending such an appeal.

No earlier than six months after entry of a decree of legal separation, on motion of either party, the court shall convert the decree of legal separation to a decree of dissolution of marriage. The clerk of court shall complete the certificate as provided for in RCW 70.58.200 on the form provided by the department of social and health services. On or before the tenth day of each month, the clerk of the court shall forward to the state registrar of vital statistics the certificate of each decree of divorce, dissolution of marriage, annulment, or separate maintenance granted during the preceding month.

~~((Upon request by a wife whose marriage is dissolved or declared invalid, the court shall order a former name restored and may, on motion of either party, for just and reasonable cause, order the wife to assume a name other than that of the husband))~~ Upon request of a party whose marriage is dissolved or declared invalid, the court shall order a former name restored or the court may, in its discretion, order a change to another name.

Sec. 31. Section 28, chapter 460, Laws of 1987 and RCW 26.10.040 are each amended to read as follows:

In entering an order under this chapter, the court shall consider, approve, or make provision for:

- (1) Child custody, visitation, and the support of any child entitled to support;
- (2) The allocation of the children as a federal tax exemption; and
- (3) Any necessary continuing restraining orders.

NEW SECTION. Sec. 32. A new section is added to chapter 26.10 RCW to read as follows:

(1) In a proceeding under this chapter either party may file a motion for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amount requested.

(2) In a proceeding under this chapter either party may file a motion for a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Molesting or disturbing the peace of the other party or of any child and, upon a showing by clear and convincing evidence that the party so restrained or enjoined has used or displayed or threatened to use a deadly weapon as defined in RCW 9A.04.110 in an act of violence or has previously committed acts of domestic violence and is likely to use or display or threaten to use a deadly weapon in an act of domestic violence, requiring the party to surrender any deadly weapon in his immediate possession or control or subject to his immediate possession or control to the sheriff of the county having jurisdiction of the proceeding or to the restrained or enjoined

party's counsel or to any person designated by the court. The court may order temporary surrender of deadly weapons without notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for response has elapsed;

(b) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(c) Removing a child from the jurisdiction of the court.

(3) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(4) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances.

(5) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from entering a party's home shall bear the legend: **VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.10 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.**

(6) The court may order that any temporary restraining order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(7) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the motion is dismissed;

(d) May be entered in a proceeding for the modification of an existing order.

(8) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given

notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding.

**NEW SECTION.** Sec. 33. 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. 34. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 22, 1989.

Passed the Senate April 21, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to section 27, Engrossed House Bill No. 2155 entitled:

"AN ACT Relating to technical corrections and clarifications to the parenting act of 1987 and related provisions."

Section 27 of this bill amends RCW 26.09.120, which is also amended in an incompatible manner by section 11 of SHB 1635.

With the exception of section 27, Engrossed House Bill No. 2155 is approved."

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## CHAPTER 376

[House Bill No. 2168]

### DANGEROUS WASTE HANDLING FACILITIES—SERVICE CHARGES

AN ACT Relating to the imposition of services charges at facilities handling wastes composed of both radioactive and hazardous components; amending RCW 70.105.010; adding a new section to chapter 70.105 RCW; making an appropriation; and declaring an emergency.

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

Sec. 1. Section 1, chapter 101, Laws of 1975-'76 2nd ex. sess. as last amended by section 1, chapter 488, Laws of 1987 and RCW 70.105.010 are each amended to read as follows:



The words and phrases defined in this section shall have the meanings indicated when used in this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology or ~~his~~ the director's designee.

(3) "Disposal site" means a geographical site in or upon which hazardous wastes are disposed of in accordance with the provisions of this chapter.

(4) "Dispose or disposal" means the discarding or abandoning of hazardous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned.

(5) "Dangerous wastes" means any discarded, useless, unwanted, or abandoned substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:

(a) Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or

(b) Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.

(6) "Extremely hazardous waste" means any dangerous waste which

(a) will persist in a hazardous form for several years or more at a disposal site and which in its persistent form

(i) presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of man or wildlife, and

(ii) is highly toxic to man or wildlife

(b) if disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment.

(7) "Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

(8) "Pesticide" shall have the meaning of the term as defined in RCW 15.58.030 as now or hereafter amended.

(9) "Solid waste advisory committee" means the same advisory committee as per RCW 70.95.040 through 70.95.070.

(10) "Designated zone facility" means any facility that requires an interim or final status permit under rules adopted under this chapter and that is not a preempted facility as defined in this section.

(11) "Facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for recycling, storing, treating, incinerating, or disposing of hazardous waste.

(12) "Preempted facility" means any facility that includes as a significant part of its activities any of the following operations: (a) Landfill, (b) incineration, (c) land treatment, (d) surface impoundment to be closed as a landfill, or (e) waste pile to be closed as a landfill.

(13) "Hazardous household substances" means those substances identified by the department as hazardous household substances in the guidelines developed under RCW 70.105.220.

(14) "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as described in rules adopted under this chapter.

(15) "Hazardous waste" means and includes all dangerous and extremely hazardous waste, including substances composed of both radioactive and hazardous components.

(16) "Local government" means a city, town, or county.

(17) "Moderate-risk waste" means (a) any waste that exhibits any of the properties of hazardous waste but is exempt from regulation under this chapter solely because the waste is generated in quantities below the threshold for regulation, and (b) any household wastes which are generated from the disposal of substances identified by the department as hazardous household substances.

(18) "Service charge" means an assessment imposed under section 2 of this 1989 act against those facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that contains both a nonradioactive hazardous component and a radioactive component. Service charges shall also apply to facilities undergoing closure under this chapter in those instances where closure entails the physical characterization of remaining wastes which contain both a nonradioactive hazardous component and a radioactive component or the management of such wastes through treatment or removal, except any commercial low-level radioactive waste facility.

**NEW SECTION.** Sec. 2. A new section is added to chapter 70.105 RCW to read as follows:

(1) The department may assess reasonable service charges against those facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that contains both a nonradioactive hazardous component and a radioactive component or which are undergoing closure under this chapter in those instances where closure entails the physical characterization of remaining wastes which contain both a nonradioactive hazardous component and a radioactive component or the management of such wastes through treatment or removal, except any commercial low-level radioactive waste facility. Service charges may not exceed the costs to the department in carrying out the duties of this section.

(2) Program elements or activities for which service charges may be assessed include:

(a) Office, staff, and staff support for the purposes of facility or unit permit development, review, and issuance; and

(b) Actions taken to determine and ensure compliance with the state's hazardous waste management act.

(3) Moneys collected through the imposition of such service charges shall be deposited in the state toxics control account.

(4) The department shall adopt rules necessary to implement this section. Facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that contains both a nonradioactive hazardous component and a radioactive component shall not be subject to service charges prior to such rule making. Facilities undergoing closure under this chapter in those instances where closure entails the physical characterization of remaining wastes which contain both a nonradioactive hazardous component and a radioactive component or the management of such wastes through treatment or removal shall not be subject to service charges prior to such rule making.

NEW SECTION. Sec. 3. The sum of two million six hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the state toxics control account to the department of ecology to carry out the purposes of this act.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 18, 1989.

Passed the Senate April 10, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 377

[Senate Bill No. 5492]

### MINORS—MEDICAL CARE—CONSENT OF ONE PARENT—IMMUNITY FOR HEALTH CARE PROVIDER

AN ACT Relating to parenting; and adding a new section to chapter 26.09 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 26.09 RCW to read as follows:

No health care provider or facility, or their agent, shall be liable for damages in any civil action brought by a parent or guardian based only on a lack of the parent or guardian's consent for medical care of a minor child, if consent to the care has been given by a parent or guardian of the minor. The immunity provided by this section shall apply regardless of whether:

(1) The parents are married, unmarried, or separated at the time of consent or treatment;

(2) The consenting parent is, or is not, a custodial parent of the minor;

(3) The giving of consent by a parent is, or is not, full performance of any agreement between the parents, or of any order or decree in any action entered pursuant to chapter 26.09 RCW;

(4) The action or suit is brought by or on behalf of the nonconsenting parent, the minor child, or any other person.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

## CHAPTER 378

[Substitute Senate Bill No. 5866]

### TAXES—VALUATION, ASSESSMENT, AND ADMINISTRATION

AN ACT Relating to revenue and taxation; amending RCW 39.88.060, 58.08.040, 79.94-.210, 82.03.130, 82.03.190, 84.08.130, 84.09.035, 84.34.030, 84.34.065, 84.36.470, 84.36.850, 84.48.065, 84.52.018, 84.52.080, 84.69.020, 84.69.060, 82.32.050, 82.32.060, 82.32.100, 82.32-.160, 82.32.180, 82.36.040, 82.48.090, 82.50.170, 84.24.070, 84.68.030, 84.68.050, 84.68.070, 84.68.140, 84.69.030, 84.69.120, 84.69.140, 84.34.108, 84.52.043, 84.64.050, and 36.32.120; reenacting and amending RCW 84.09.030; adding a new section to chapter 84.04 RCW; adding a new section to chapter 84.56 RCW; repealing RCW 84.09.080, 84.36.475, and 84.52.015; and providing an effective date.

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

Sec. 1. Section 7, chapter 42, Laws of 1982 1st ex. sess. and RCW 39-.88.060 are each amended to read as follows:

(1) Any taxing district that objects to the apportionment district, the duration of the apportionment, the manner of apportionment, or the propriety of cost items established by the public improvement ordinance of the sponsor may, within thirty days after ~~((receipt))~~ mailing of the ordinance, petition for review thereof by the state board of tax appeals. The state board of tax appeals shall meet within a reasonable time, hear all the evidence presented by the parties on matters in dispute, and determine the issues upon the evidence as may be presented to it at the hearing. The board may approve or deny the public improvement ordinance as enacted or may

grant approval conditioned upon modification of the ordinance by the sponsor. The decision by the state board of tax appeals shall be final and conclusive but shall not preclude modification or discontinuation of the public improvement.

(2) If the sponsor modifies the public improvement ordinance as directed by the board, the public improvement ordinance shall be effective without further hearings or findings and shall not be subject to any further appeal. If the sponsor modifies the public improvement ordinance in a manner other than as directed by the board, the public improvement ordinance shall be subject to the procedures established pursuant to RCW 39.88.040 and 39.88.050.

Sec. 2. Section 2, chapter 129, Laws of 1893 as last amended by section 74, chapter 195, Laws of 1973 1st ex. sess. and RCW 58.08.040 are each amended to read as follows:

Any person filing a plat, replat, altered plat, binding site plan, or condominium plan subsequent to May 31st in any year and prior to the date of the collection of taxes, shall deposit with the county treasurer a sum equal to the product of the county assessor's latest valuation on the unimproved property in such subdivision multiplied by the current year's dollar rate increased by twenty-five percent on the property platted. The treasurer's receipt for said amount shall be taken by the auditor as evidence of the payment of the tax. The treasurer shall appropriate so much of said deposit as will pay the taxes on the said property when the tax rolls are placed in his hands for collection, and in case the sum deposited is in excess of the amount necessary for the payment of the said taxes, the treasurer shall return, to the party depositing, the amount of said excess, taking his receipt therefor, which receipt shall be accepted for its face value on the treasurer's quarterly settlement with the county auditor.

Sec. 3. Section 106, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.94.210 are each amended to read as follows:

(1) The legislature finds that maintaining public lands in public ownership is often in the public interest. However, when second class shorelands on navigable lakes have minimal public value, the sale of those shorelands to the abutting upland owner may not be contrary to the public interest: PROVIDED, That the purpose of this section is to remove the prohibition contained in RCW 79.94.150 regarding the sale of second class shorelands to abutting owners, whose uplands front on the shorelands. Nothing contained in this section shall be construed to otherwise affect the rights of interested parties relating to public or private ownership of shorelands within the state.

(2) Notwithstanding the provisions of RCW 79.94.150, the department of natural resources may sell second class shorelands on navigable lakes to abutting owners whose uplands front upon the shorelands in cases where the board of natural resources has determined that these sales would not be

contrary to the public interest. These shorelands shall be sold at fair market value, but not less than five percent of the fair market value of the abutting upland, less improvements, to a maximum depth of one hundred and fifty feet landward from the line of ordinary high water.

(3) Review of the decision of the department regarding the sale price established for a shoreland to be sold pursuant to this section may be obtained by the upland owner by filing a petition with the board of tax appeals created in accordance with chapter 82.03 RCW within thirty days ~~((of the date the department notified))~~ after the mailing of notification by the department to the owner regarding the price. The board of tax appeals shall review such cases in ~~((a "contested case"))~~ an adjudicative proceeding as described in chapter ~~((34.04))~~ 34.05 RCW, the administrative procedure act, and the board's review shall be de novo. Decisions of the board of tax appeals regarding fair market values determined pursuant to this section shall be final unless appealed to the superior court pursuant to RCW ~~((34.04.130))~~ 34.05.510 through 34.05.598.

Sec. 4. Section 42, chapter 26, Laws of 1967 ex. sess. as last amended by section 6, chapter 46, Laws of 1982 1st ex. sess. and RCW 82.03.130 are each amended to read as follows:

The board shall have jurisdiction to decide the following types of appeals:

- (1) Appeals taken pursuant to RCW 82.03.190.
- (2) Appeals from a county board of equalization pursuant to RCW 84.08.130.
- (3) Appeals by an assessor or landowner from an order of the director of revenue made pursuant to RCW 84.08.010 and 84.08.060, if filed with the board of tax appeals within thirty days after the mailing of the order, the right to such an appeal being hereby established.
- (4) Appeals by an assessor or owner of an intercounty public utility or private car company from determinations by the director of revenue of equalized assessed valuation of property and the apportionment thereof to a county made pursuant to chapter 84.12 RCW and 84.16 RCW, if filed with the board of tax appeals within thirty days after mailing of the determination, the right to such appeal being hereby established.
- (5) Appeals by an assessor, landowner, or owner of an intercounty public utility or private car company from a determination of any county indicated ratio for such county compiled by the department of revenue pursuant to RCW 84.48.075: PROVIDED, That

(a) Said appeal be filed after review of the ratio under RCW 84.48.075(3) and not later than fifteen days after the ~~((date of))~~ mailing of the certification ((as required by RCW 84.48.075)); and

(b) The hearing before the board shall be expeditiously held in accordance with rules prescribed by the board and shall take precedence over all matters of the same character.

(6) Appeals from the decisions of sale price of second class shorelands on navigable lakes by the department of natural resources pursuant to RCW 79.94.210.

(7) Appeals from urban redevelopment property tax apportionment district proposals established by governmental ordinances pursuant to RCW 39.88.060.

(8) Appeals from interest rates as determined by the department of revenue for use in valuing farmland under current use assessment pursuant to RCW 84.34.065.

(9) Appeals from revisions to stumpage value tables used to determine value by the department of revenue pursuant to RCW 84.33.091.

(10) Appeals from denial of tax exemption application by the department of revenue pursuant to RCW 84.36.850.

Sec. 5. Section 48, chapter 26, Laws of 1967 ex. sess. as last amended by section 211, chapter 3, Laws of 1983 and RCW 82.03.190 are each amended to read as follows:

Any person having received notice of a denial of a petition or a notice of determination made under RCW 82.32.160 ~~((or))~~, 82.32.170, 82.34.110, or 82.49.060 may appeal, within thirty days ~~((from the date))~~ after the mailing of the notice of such denial or determination, to the board of tax appeals. In the notice of appeal the taxpayer shall set forth the amount of the tax which ~~((he))~~ the taxpayer contends should be reduced or refunded and the reasons for such reduction or refund, in accordance with rules of practice and procedure prescribed by the board. ~~((The appeal shall be perfected by serving))~~ A copy of the notice of appeal ~~((upon))~~ shall be provided to the department ~~((of revenue))~~ within the time specified ~~((herein and by filing the original thereof with proof of service with the clerk of the board: PROVIDED, HOWEVER, That))~~ in the rules of practice and procedure prescribed by the board. However, if the notice of appeal relates to an application made to the department ~~((of revenue))~~ under chapter 82.34 RCW, the taxpayer shall set forth the amount to which the taxpayer claims the credit or exemption should apply, and the grounds for such contention, in accordance with rules of practice and procedure prescribed by the board. If the taxpayer intends that the hearing before the board be held pursuant to the administrative procedure act (chapter ~~((34.04))~~ 34.05 RCW), the notice of appeal shall also so state. In the event that the notice of appeal does not so state, the department may, within ~~((ten))~~ thirty days from the date of its receipt of the notice of appeal, file with ~~((the clerk of))~~ the board notice of its intention that the hearing be held pursuant to the administrative procedure act.

NEW SECTION. Sec. 6. A new section is added to chapter 84.04 RCW to read as follows:

"Legal description" shall be given its commonly accepted meaning, but for property tax purposes, the parcel number is sufficient for the legal description.

Sec. 7. Section 84.08.130, chapter 15, Laws of 1961 as last amended by section 8, chapter 222, Laws of 1988 and RCW 84.08.130 are each amended to read as follows:

Any taxpayer or taxing unit feeling aggrieved by the action of any county board of equalization may appeal to the board of tax appeals by filing with the county auditor a notice of appeal in duplicate within thirty days after the mailing of the decision of such board of equalization, which notice shall specify the actions complained of, and said auditor shall forthwith transmit one of said notices to the board of tax appeals; and in like manner any county assessor may appeal to the board of tax appeals from any action of any county board of equalization. There shall be no fee charged for the filing of an appeal. The petitioner shall provide a copy of the notice of appeal to all named parties within the time period provided in the rules of practice and procedure of the board of tax appeals. Appeals which are not filed as provided in this section shall be continued or dismissed. The board of tax appeals shall require the board appealed from to file a true and correct copy of its decision in such action and all evidence taken in connection therewith, and may receive further evidence, and shall make such order as in its judgment is just and proper.

Sec. 8. Section 84.09.030, chapter 15, Laws of 1961 as last amended by section 1, chapter 82, Laws of 1987 and by section 1, chapter 358, Laws of 1987 and RCW 84.09.030 are each reenacted and 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. Boundaries for port districts newly formed by election, with boundaries coterminous with other taxing district boundaries established prior to the first day of March, shall be the established official boundaries existing on the first day of October following formation. However, the boundaries of a taxing district shall be established on the first day of June of the year in which the property tax levy is made whenever the taxing district has incorporated that year and has boundaries coterminous with the boundaries of another taxing district, as they existed on the first day of March of that year, or the boundaries of a taxing district have been altered that year by removing or adding territory with boundaries coterminous with the boundaries of another taxing district to the taxing district as they existed on the first day of March of that year. 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.

Sec. 9. Section 5, chapter 138, Laws of 1987 and RCW 84.09.035 are each amended to read as follows:

Notwithstanding the provisions of RCW 84.09.030, the boundaries of a library district, metropolitan park district, fire protection district, or public hospital district that withdraws an area from its boundaries pursuant to RCW 27.12.355, 35.61.360, 52.04.056, or 70.44.235, which area has boundaries that are coterminous with the boundaries of a ~~((taxing district))~~ tax code area, shall be established as of the first day of October in the year in which the area is withdrawn.

Sec. 10. Section 3, chapter 87, Laws of 1970 ex. sess. as amended by section 3, chapter 212, Laws of 1973 1st ex. sess. and RCW 84.34.030 are each amended to read as follows:

An owner of agricultural land desiring current use classification under subsection (2) of RCW 84.34.020 shall make application to the county assessor upon forms prepared by the state department of revenue and supplied by the county assessor. An owner of open space or timber land desiring current use classification under subsections (1) and (3) of RCW 84.34.020 shall make application to the county legislative authority upon forms prepared by the state department of revenue and supplied by the county assessor. The application shall be accompanied by a reasonable processing fee if such processing fee is established by the city or county legislative authority ~~((but that such fee may not exceed thirty dollars for each application: PROVIDED, That if the application is not approved, then the application fee shall be returned to the applicant))~~. Said application shall require only such information reasonably necessary to properly classify an area of land under this ~~((1973 amendatory act))~~ chapter with a notarized verification of the truth thereof and shall include a statement that the applicant is aware of the potential tax liability involved when such land ceases to be designated as open space, farm and agricultural or timber land. Applications must be made during the calendar year preceding that in which such classification is to begin. The assessor shall make necessary information, including copies of this chapter and applicable regulations, readily available to interested parties, and shall render reasonable assistance to such parties upon request.

Sec. 11. Section 10, chapter 212, Laws of 1973 1st ex. sess. and RCW 84.34.065 are each amended to read as follows:

The true and fair value of farm and agricultural land shall be determined by consideration of the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less

than five years, capitalized at indicative rates. The earning or productive capacity of farm and agricultural lands shall be the "net cash rental", capitalized at a "rate of interest" charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes.

For the purposes of the above computation:

(1) The term "net cash rental" shall mean the average rental paid on an annual basis, in cash or its equivalent, for the land being appraised and other farm and agricultural land of similar quality and similarly situated that is available for lease for a period of at least three years to any reliable person without unreasonable restrictions on its use for production of agricultural crops. There shall be allowed as a deduction from the rental received or computed any costs of crop production charged against the landlord if the costs are such as are customarily paid by a landlord. If "net cash rental" data is not available, the earning or productive capacity of farm and agricultural lands shall be determined by the cash value of typical or usual crops grown on land of similar quality and similarly situated averaged over not less than five years. Standard costs of production shall be allowed as a deduction from the cash value of the crops.

The current "net cash rental" or "earning capacity" shall be determined by the assessor with the advice of the advisory committee as provided in RCW 84.34.145, and through a continuing study within his office, assisted by studies of the department of revenue. This net cash rental figure as it applies to any farm and agricultural land may be challenged before the same boards or authorities as would be the case with regard to assessed values on general property.

(2) The term "rate of interest" shall mean the rate of interest charged by the farm credit administration and other large financial institutions regularly making loans secured by farm and agricultural lands through mortgages or similar legal instruments, averaged over the immediate past five years.

The "rate of interest" shall be determined annually by adoption of a rule by the revenue department of the state of Washington, and such ((determination)) rule shall be published in the state register not later than January 1 of each year for use in that assessment year. The determination of the revenue department may be appealed to the state board of tax appeals within thirty days after the date of publication by any owner of farm or agricultural land or the assessor of any county containing farm and agricultural land.

(3) The "component for property taxes" shall be a percentage equal to the estimated millage rate times the legal assessment ratio.

Sec. 12. Section 8, chapter 169, Laws of 1974 ex. sess. as amended by section 17, chapter 291, Laws of 1975 1st ex. sess. and RCW 84.36.470 are each amended to read as follows:

The following property shall be exempt from taxation: Any agricultural or horticultural produce or crop, including any animal, bird, or insect, or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom grown or produced for sale by any person upon his own lands or upon lands in which he has a present right of possession who is exempted from payment of business and occupation tax pursuant to RCW 82.04.330 ((as now or hereafter amended shall be assessed for the purposes of ad valorem taxes according to the following schedule:

~~Commencing with assessment as of January 1, 1975, for taxes due in 1976 the assessment level shall be seventy-five percent of true and fair value:~~

~~Commencing with assessment as of January 1, 1976, for taxes due in 1977 the assessment level shall be seventy percent of true and fair value:~~

~~Commencing with assessment as of January 1, 1977, for taxes due in 1978 the assessment level shall be sixty percent of true and fair value:~~

~~Commencing with assessment as of January 1, 1978, for taxes due in 1979 the assessment level shall be fifty percent of true and fair value:~~

~~Commencing with assessment as of January 1, 1979, for taxes due in 1980 the assessment level shall be forty percent of true and fair value:~~

~~Commencing with assessment as of January 1, 1980, for taxes due in 1981 the assessment level shall be thirty percent of true and fair value:~~

~~Commencing with assessment as of January 1, 1981, for taxes due in 1982 the assessment level shall be twenty percent of true and fair value:~~

~~Commencing with assessment as of January 1, 1982, for taxes due in 1983 the assessment level shall be ten percent of true and fair value:~~

~~Commencing with assessment as of January 1, 1983, for taxes due in 1984 such inventories shall be fully exempt under chapter 84.36 RCW:~~

~~Commencing with January 1, 1983, assessments for taxes due in 1984;)). Taxpayers shall not be required to report, or assessors to list, the inventories covered by this ((phase-out)) exemption.~~

Nothing in this section shall be construed to remove or otherwise affect any exemption from assessment granted by RCW 84.44.060.

Sec. 13. Section 16, chapter 40, Laws of 1973 2nd ex. sess. and RCW 84.36.850 are each amended to read as follows:

Any applicant aggrieved by the department of revenue's denial of an exemption application may petition the state board of tax appeals to review an application for either real or personal property tax exemption and the board shall consider any appeals to determine (1) if the property is entitled to an exemption, and (2) the amount or portion thereof.

A county assessor of the county in which the exempted property is located shall be empowered to appeal to the state board of tax appeals to review any real or personal property tax exemption approved by the department of revenue which he feels is not warranted.

Appeals from a department of revenue decision must be made within thirty days (~~(of the notification)~~) after the mailing of the approval or denial.

Sec. 14. Section 25, chapter 222, Laws of 1988 and RCW 84.48.065 are each amended to read as follows:

The county assessor or treasurer may cancel or correct assessments on the assessment or tax rolls which are erroneous due to manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of the property which do not involve a revaluation of property, such as the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family. When the county assessor cancels or corrects an assessment, the assessor shall send a notice to the taxpayer advising the taxpayer that the action of the county assessor is not final and shall be considered by the county board of equalization, and that such notice shall constitute legal notice of such fact. When the county assessor or treasurer cancels or corrects an assessment, a record of such action shall be prepared and filed with the county board of equalization, setting forth therein the facts relating to the error. The record shall also set forth by legal description all property belonging exclusively to the state, any county, or any municipal corporation whose property is exempt from taxation, upon which there remains, according to the tax roll, any unpaid taxes.

The county board of equalization shall consider only such matters as appear in the record filed with it by the county assessor or treasurer and shall correct only such matters as are set forth in the record, but it shall have no power to change or alter the assessment of any person, or change the aggregate value of the taxable property of the county, except insofar as it is necessary to correct the errors mentioned in this section. If the county board of equalization finds that the action of the assessor was not correct, it shall issue a supplementary roll including such corrections as are necessary, and the assessment and levy shall have the same force and effect as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the supplementary roll. The board shall make findings of the facts upon which it bases its decision on all matters submitted to it, and when so made the assessment and levy shall have the same force as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the rolls as modified.

The county board of equalization shall convene on a day fixed by the board for the purpose of considering such matters as appear in the record filed by the county assessor or treasurer.

Sec. 15. Section 1, chapter 156, Laws of 1987 and RCW 84.52.018 are each amended to read as follows:

Whenever any property value or claim for exemption or cancellation of a property assessment is appealed to the state board of tax appeals or court of competent jurisdiction and the dollar difference between the total value

asserted by the taxpayer and the total value asserted by the opposing party exceeds one-fourth of one percent of the total assessed value of property in the county, the assessor shall use only that portion of the total value which is not in controversy for purposes of computing the levy rates and extending the tax on the tax roll in accordance with this chapter, unless the state board of tax appeals has issued its determination at the time of extending the tax.

When the state board of tax appeals or court of competent jurisdiction makes its final determination, the proper amount of tax shall be extended and collected for each taxing district if this has not already been done. The amount of tax collected and extended shall include interest at the rate of nine percent per year on the amount of the board's final determination minus the amount not in controversy. The interest shall accrue from the date the amount not in controversy was first due and payable. Any amount extended in excess of that permitted by chapter 84.55 RCW shall be held in abeyance and used to reduce the levy rates of the next succeeding levy.

Sec. 16. Section 84.52.080, chapter 15, Laws of 1961 as last amended by section 29, chapter 222, Laws of 1988 and RCW 84.52.080 are each amended to read as follows:

(1) The county assessor shall extend the taxes upon the tax rolls in the form herein prescribed. The rate percent necessary to raise the amounts of taxes levied for state and county purposes, and for purposes of taxing districts coextensive with the county, shall be computed upon the assessed value of the property of the county; the rate percent necessary to raise the amount of taxes levied for any taxing district within the county shall be computed upon the assessed value of the property of the district; all taxes assessed against any property shall be added together and extended on the rolls in a column headed consolidated or total tax. In extending any tax, whenever it amounts to a fractional part of a cent greater than five mills it shall be made one cent, and whenever it amounts to five mills or less than five mills it shall be dropped. The amount of all taxes shall be entered in the proper columns, as shown by entering the rate percent necessary to raise the consolidated or total tax and the total tax assessed against the property.

(2) For the purpose of computing the rate necessary to raise the amount of any excess levy in a taxing district which has classified or designated forest land under chapter 84.33 RCW, other than the state, the county assessor shall add the district's timber assessed value, as defined in RCW 84.33.035, to the assessed value of the property: PROVIDED, That for school districts maintenance and operations levies only one-half of the district's timber assessed value or eighty percent of the timber roll of such district in calendar year 1983 as determined under chapter 84.33 RCW, whichever is greater, shall be added.

(3) Upon the completion of such tax extension, it shall be the duty of the county assessor to make in each assessment book, tax roll or list a certificate in the following form:

I, . . . . ., assessor of . . . . . county, state of Washington, do hereby certify that the foregoing is a correct list of taxes levied on the real and personal property in the county of . . . . . for the year one thousand nine hundred and . . . . .

Witness my hand this . . . . . day of . . . . ., 19 . . .

. . . . ., County Assessor

(4) The county assessor shall deliver said tax rolls to the county treasurer, on or before the fifteenth day of January, taking receipt therefor, and at the same time the county assessor shall provide the county auditor with an abstract of the tax rolls showing the total amount of taxes collectible in each of the taxing districts.

Sec. 17. Section 84.69.020, chapter 15, Laws of 1961 as last amended by section 1, chapter 228, Laws of 1981 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; or

(13) Paid on property acquired under RCW 84.60.050, and canceled under RCW 84.60.050(2).

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), (11), and (12).

The county treasurer of each county shall, by the first Monday in January of each year, report to the county legislative authority a list of all refunds made under this section during the previous year. The list is to include the name of the person receiving the refund, the amount of the refund, and the reason for the refund.

Sec. 18. Section 84.69.060, chapter 15, Laws of 1961 as last amended by section 32, chapter 222, Laws of 1988 and RCW 84.69.060 are each amended to read as follows:

Refunds ordered under this chapter with respect to county, state, and taxing district taxes shall be paid by checks drawn upon the appropriate fund by the county treasurer: PROVIDED, That in making refunds on a levy code or tax code basis, the county treasurer may make an adjustment on the next property tax payment due for the amount of the refund unless the taxpayer requests immediate refund.

Sec. 19. Section 82.32.050, chapter 15, Laws of 1961 as last amended by section 16, chapter 299, Laws of 1971 ex. sess. and RCW 82.32.050 are each amended to read as follows:

If upon examination of any returns or from other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due and (~~as to assessments made on and after May 1, 1965, including assessments for additional tax or penalties due~~

~~prior to that date~~) shall add thereto interest at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until date of payment. The department shall notify the taxpayer by mail of the additional amount and the same shall become due and shall be paid within ~~((ten))~~ thirty days from the date of the notice, or within such further time as the department may provide. If payment is not received by the department by the due date specified in the notice, or any extension thereof, the department shall add a penalty of ten percent of the amount of the additional tax found due. If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of fifty percent of the additional tax found to be due shall be added.

No assessment or correction of an assessment for additional taxes due may be made by the department more than four years after the close of the tax year, except (1) against a taxpayer who has not registered as required by this chapter, (2) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (3) where a taxpayer has executed a written waiver of such limitation.

Sec. 20. Section 82.32.060, chapter 15, Laws of 1961 as last amended by section 4, chapter 95, Laws of 1979 ex. sess. and RCW 82.32.060 are each amended to read as follows:

If, upon receipt of an application by a taxpayer for a refund or for an audit of ~~((his))~~ the taxpayer's records, or upon an examination of the returns or records of any taxpayer, it is determined by the department that within the statutory period for assessment of taxes prescribed by RCW 82.32.050 a tax has been paid in excess of that properly due, the excess amount paid within such period shall be credited to the taxpayer's account or shall be refunded to the taxpayer, at ~~((his))~~ the taxpayer's option. No refund or credit shall be made for taxes paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

Notwithstanding the foregoing limitations there shall be refunded or credited to taxpayers engaged in the performance of United States government contracts or subcontracts the amount of any tax paid, measured by that portion of the amounts received from the United States, which the taxpayer is required by contract or applicable federal statute to refund or credit to the United States, if claim for such refund is filed by the taxpayer with the department within one year of the date that the amount of the refund or credit due to the United States is finally determined and filed within four years of the date on which the tax was paid: PROVIDED, That no interest shall be allowed on such refund.

Any such refunds shall be made by means of vouchers approved by the department and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide.



Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, penalties, and interest which were paid by the taxpayer, and costs, in a suit by any taxpayer shall be paid in like manner, upon the filing with the department of a certified copy of the order or judgment of the court. Except as to the credits in computing tax authorized by RCW 82.04.435, interest at the rate of three percent per annum shall be allowed by the department and by any court on the amount of any refund or recovery allowed to a taxpayer for taxes, penalties, or interest paid by ~~((him after May 1, 1949, and interest at the same rate shall be allowed on any judgment recovered by a taxpayer for taxes, penalties, or interest paid after such date))~~ the taxpayer.

Sec. 21. Section 82.32.100, chapter 15, Laws of 1961 as last amended by section 20, chapter 299, Laws of 1971 ex. sess. and RCW 82.32.100 are each amended to read as follows:

If any person fails or refuses to make any return or to make available for examination the records required by this chapter, the department shall proceed, in such manner as it may deem best, to obtain facts and information on which to base its estimate of the tax; and to this end the department may examine the books, records, and papers of any such person and may take evidence, on oath, of any person, relating to the subject of inquiry.

As soon as the department procures such facts and information as it is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to make a return, it shall proceed to determine and assess against such person the tax and penalties due, but such action shall not deprive such person from appealing to the superior court as hereinafter provided. To the assessment the department shall add~~((:))~~ the penalties provided in RCW 82.32.090. The department shall notify the taxpayer by mail of the total amount of such tax, penalties, and interest, and the total amount shall become due and shall be paid within ~~((ten))~~ thirty days from the date of such notice.

No assessment or correction of an assessment may be made by the department more than four years after the close of the tax year, except (1) against a taxpayer who has not registered as required by this chapter, (2) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (3) where a taxpayer has executed a written waiver of such limitation.

Sec. 22. Section 82.32.160, chapter 15, Laws of 1961 as last amended by section 4, chapter 158, Laws of 1975 1st ex. sess. and RCW 82.32.160 are each amended to read as follows:

Any person having been issued a notice of additional taxes, delinquent taxes, interest, or penalties assessed by the department ~~((of revenue))~~, may within ~~((twenty))~~ thirty days after the issuance of the original notice of the amount thereof or within the period covered by any extension of the due date thereof granted by the department petition the department in writing

for a correction of the amount of the assessment, and a conference for examination and review of the assessment. The petition shall set forth the reasons why the correction should be granted and the amount of the tax, interest, or penalties, which the petitioner believes to be due. The department shall promptly consider the petition and may grant or deny it. If denied, the petitioner shall be notified by mail thereof forthwith. If a conference is granted, the department shall fix the time and place therefor and notify the petitioner thereof by mail. After the conference the department may make such determination as may appear to it to be just and lawful and shall mail a copy of its determination to the petitioner. If no such petition is filed within the (~~twenty-day~~) thirty-day period the assessment covered by the notice shall become final.

The procedures provided for herein shall apply also to a notice denying, in whole or in part, an application for a pollution control tax exemption and credit certificate, with such modifications to such procedures established by departmental rules and regulations as may be necessary to accommodate a claim for exemption or credit.

Sec. 23. Section 82.32.180, chapter 15, Laws of 1961 as last amended by section 67, chapter 202, Laws of 1988 and RCW 82.32.180 are each amended to read as follows:

Any person, except one who has failed to keep and preserve books, records, and invoices as required in this chapter and chapter 82.24 RCW, having paid any tax as required and feeling aggrieved by the amount of the tax may appeal to the superior court of Thurston county, within the time limitation for a refund provided in chapter 82.32 RCW or, if an application for refund has been made to the department within that time limitation, then within thirty days after rejection of the application, whichever time limitation is later. In the appeal the taxpayer shall set forth the amount of the tax imposed upon (~~him~~) the taxpayer which (~~he~~) the taxpayer concedes to be the correct tax and the reason why the tax should be reduced or abated. The appeal shall be perfected by serving a copy of the notice of appeal upon the department within the time herein specified and by filing the original thereof with proof of service with the clerk of the superior court of Thurston county. Within ten days after filing the notice of appeal, the taxpayer shall file with the clerk of the superior court a good and sufficient surety bond payable to the state in the sum of two hundred dollars, conditioned to diligently prosecute the appeal and pay the state all costs that may be awarded if the appeal of the taxpayer is not sustained.

The trial in the superior court on appeal shall be de novo and without the necessity of any pleadings other than the notice of appeal. The burden shall rest upon the taxpayer to prove that the tax as paid by (~~him~~) the taxpayer is incorrect, either in whole or in part, and to establish the correct amount of the tax. In such proceeding the taxpayer shall be deemed the plaintiff, and the state, the defendant; and both parties shall be entitled to

subpoena the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant, and material to determine the correct amount of the tax that should be paid by the taxpayer. Either party may seek appellate review in the same manner as other civil actions are appealed to ~~((those))~~ the appellate courts.

It shall not be necessary for the taxpayer to protest against the payment of any tax or to make any demand to have the same refunded or to petition the director for a hearing in order to appeal to the superior court, but no court action or proceeding of any kind shall be maintained by the taxpayer to recover any tax paid, or any part thereof, except as herein provided.

The provisions of this section shall not apply to any tax payment which has been the subject of an appeal to the board of tax appeals with respect to which appeal a formal hearing has been elected.

Sec. 24. Section 82.36.040, chapter 15, Laws of 1961 as last amended by section 4, chapter 174, Laws of 1987 and RCW 82.36.040 are each amended to read as follows:

If payment of any tax due is not received by the due date, there shall be assessed a penalty of two percent of the amount of the tax. If any distributor establishes by a fair preponderance of evidence that ~~((his or her))~~ the distributor's failure to pay the amount of tax due by the due date was attributable to reasonable cause and was not intentional or willful, the department may waive the penalty imposed by this section.

Any motor vehicle fuel tax, penalties, and interest payable under the provisions of this chapter shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the close of the monthly period for which the amount or any portion thereof should have been paid until the date of payment. The department may waive the interest when the department determines that the cost of processing the collection of the interest exceeds the amount of interest due.

In any suit brought to enforce the rights of the state under this chapter, the certificate of the director showing the amount of taxes, penalties, interest and cost unpaid by any distributor and that the same are due and unpaid to the state shall be prima facie evidence of the facts as shown.

Sec. 25. Section 82.48.090, chapter 15, Laws of 1961 as last amended by section 9, chapter 220, Laws of 1987 and RCW 82.48.090 are each amended to read as follows:

In case a claim is made by any person that ~~((he))~~ the person has paid an erroneously excessive amount of excise tax under this chapter, ~~((he))~~ the person may apply to the department of transportation for a refund of the claimed excessive amount. The department of transportation shall review such application, and if it determines that an excess amount of tax has actually been paid by the taxpayer, such excess amount shall be refunded to

the taxpayer by means of a voucher approved by the department of transportation and by the issuance of a state warrant drawn upon and payable from such funds as the legislature may provide for that purpose. No refund shall be allowed, however, unless application for the refund is filed with the department of transportation within ninety days after the claimed excessive excise tax was paid and the amount of the overpayment exceeds five dollars.

Sec. 26. Section 16, chapter 260, Laws of 1981 and RCW 82.50.170 are each amended to read as follows:

In case a claim is made by any person that ~~((he))~~ the person has erroneously paid the tax or a part thereof or any charge hereunder, ~~((he))~~ the person may apply in writing to the department of licensing for a refund of the amount of the claimed erroneous payment within thirteen months of the time of payment of the tax on such a form as is prescribed by the department of licensing. The department of licensing shall review such application for refund, and, if it determines that an erroneous payment has been made by the taxpayer, it shall certify the amount to be refunded to the state treasurer that such person is entitled to a refund in such amount, and the treasurer shall make such approved refund herein provided for from the general fund and shall mail or deliver the same to the person entitled thereto.

Any person making any false statement in the ~~((affidavit))~~ claim herein mentioned, under which ~~((he))~~ the person obtains any amount of refund to which ~~((he))~~ the person is not entitled under the provisions of this section, shall be guilty of a gross misdemeanor.

Sec. 27. Section 84.24.070, chapter 15, Laws of 1961 and RCW 84.24.070 are each amended to read as follows:

As soon as any such relieved tax shall have been reassessed and relieved as herein provided, the ~~((board of))~~ county ~~((commissioners))~~ legislative authority shall forthwith, by proper resolution, order and direct the repayment to the owner of the property affected, of such an amount as the payments theretofore made upon the original tax exceed the amount of such relieved tax (the amount of which shall be certified by the county treasurer to ~~((said commissioners))~~ the county legislative authority), together with interest on such excess at ~~((six percent per annum))~~ the rate specified in RCW 84.69.100 from the date or dates of such excess payment, and such repayment shall be made by warrants drawn upon a fund in said treasury hereby created to be known and designated as the county tax refund fund.

Annually, at the time required by law for the levying of taxes for county purposes the proper county officers required by law to make and enter such tax levies, shall make and enter a tax levy or levies for said county tax refund fund as follows:

(1) A levy upon all of the taxable property within the county for the amount of all taxes collected by the county for county and/or state purposes, and which the ~~((board of))~~ county ~~((commissioners))~~ legislative authority has ordered ~~((and directed))~~ to be repaid within the preceding twelve months, including ~~((legal))~~ interest at the rate specified in RCW 84.69.100, together with the additional amounts hereinafter provided for;

(2) A levy upon all of the taxable property of each taxing district within the county for the amount of all taxes collected by the county for the purposes of the various taxing districts in such county, which the ~~((board of))~~ county ~~((commissioners))~~ legislative authority has ordered ~~((and directed))~~ to be repaid within the preceding twelve months, including ~~((legal))~~ interest at the rate specified in RCW 84.69.100, together with the additional amounts hereinafter provided for.

The aforesaid levy or levies shall also include a proper share of the interest paid out of said fund during said twelve months upon warrants issued against said fund, plus an additional amount not to exceed ten percent of the total of the preceding items required to be included in such levy or levies as such levying officers shall deem necessary to meet the obligations of such fund, taking into consideration the probable portions of such taxes that will not be collected or collectible during the year in which they are due and payable, and also any unobligated cash on hand in said fund.

Sec. 28. Section 84.68.030, chapter 15, Laws of 1961 and RCW 84.68.030 are each amended to read as follows:

In case it be determined in such action that said tax, or any portion thereof, so paid under protest, was unlawfully collected, judgment for recovery thereof and ~~((lawful))~~ interest thereon at the rate specified in RCW 84.69.100 from date of payment, together with costs of suit, shall be entered in favor of plaintiff. In case the action is against a county and the judgment shall become final, the amount of such judgment, including ~~((legal))~~ interest at the rate specified in RCW 84.69.100 and costs where allowed, shall be paid out of the treasury of such county by the county treasurer upon warrants drawn by the county auditor against a fund in said treasury hereby created to be known and designated as the county tax refund fund. Such warrants shall be so issued upon the filing with the county auditor and the county treasurer of duly authenticated copies of such judgment, and shall be paid by the county treasurer out of any moneys on hand in said fund. If no funds are available in such county tax refund fund for the payment of such warrants, then such warrants shall bear interest in such cases and shall be callable under such conditions as are provided by law for county warrants, and such interest, if any, shall also be paid out of said fund.

Sec. 29. Section 84.68.050, chapter 15, Laws of 1961 and RCW 84.68.050 are each amended to read as follows:

The action for the recovery of taxes so paid under protest shall be brought in the superior court of the county wherein the tax was collected or

in any federal court of competent jurisdiction: PROVIDED, That where the property against which the tax is levied consists of the operating property of a railroad company, telegraph company or other public service company whose operating property is located in more than one county and is assessed as a unit by any state board or state officer or officers, the complaining taxpayer may institute such action in the superior court of any one of the counties in which such tax is payable, or in any federal court of competent jurisdiction, and may join as parties defendant in said action all of the counties to which the tax or taxes levied upon such operating property were paid or are payable, and may recover in one action from each of the county defendants the amount of the tax, or any portion thereof, so paid under protest, and adjudged to have been unlawfully collected, together with ((~~tax~~)) interest thereon at the rate specified in RCW 84.69.100 from date of payment, and costs of suit.

Sec. 30. Section 84.68.070, chapter 15, Laws of 1961 and RCW 84.68.070 are each amended to read as follows:

Except as permitted by RCW 84.68.010 through 84.68.070 and chapter 84.69 RCW, no action shall ever be brought or defense interposed attacking the validity of any tax, or any portion of any tax: PROVIDED, HOWEVER, That this section shall not be construed as depriving the defendants in any tax foreclosure proceeding of any valid defense allowed by law to the tax sought to be foreclosed therein except defenses based upon alleged excessive valuations, levies or taxes.

Sec. 31. Section 84.68.140, chapter 15, Laws of 1961 as amended by section 210, chapter 278, Laws of 1975 1st ex. sess. and RCW 84.68.140 are each amended to read as follows:

Certified copies of the order of the department of revenue shall be forwarded to the county assessor, the county auditor and the taxpayer, and the taxpayer shall immediately be entitled to a refund of the difference, if any, between the tax already paid and the canceled or reduced or corrected tax based upon the order of the department ((~~of revenue~~)) with ((~~tax~~)) interest on such amount from the date of payment of the original tax. Upon receipt of the order of the department ((~~of revenue~~)) the county auditor shall draw a warrant against the county tax refund fund in the amount of any tax reduction so ordered, plus ((~~tax~~)) interest at the rate specified in RCW 84.69.100 to the date such warrant is issued, and such warrant shall be paid by the county treasurer out of any moneys on hand in said fund. If no funds are available in the county tax refund fund for the payment of such warrant the warrant shall bear interest and shall be callable under such conditions as are provided by law for county warrants and such interest, if any, shall also be paid out of said fund. The order of the department ((~~of revenue~~)) shall for all purposes be considered as a judgment against the county tax refund fund and the obligation thereof shall be discharged in the same manner as provided by law for the discharge of judgments against the

county for excessive taxes under the provisions of RCW 84.68.010 through 84.68.070 or any act amendatory thereof.

Sec. 32. Section 84.69.030, chapter 15, Laws of 1961 and RCW 84.69.030 are each amended to read as follows:

Except in cases wherein the ~~((board of))~~ county ~~((commissioners))~~ legislative authority acts upon its own motion, no orders for a refund under this chapter shall be made except on a claim:

(1) Verified by the person who paid the tax, ~~((his))~~ the person's guardian, executor or administrator; and

(2) Filed with the county legislative authority within three years after making of the payment sought to be refunded; and

(3) Stating the statutory ground upon which the refund is claimed.

Sec. 33. Section 84.69.120, chapter 15, Laws of 1961 as amended by section 2, chapter 228, Laws of 1981 and RCW 84.69.120 are each amended to read as follows:

If the ~~((board of))~~ county ~~((commissioners))~~ legislative authority 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))~~ the person's guardian, executor, or administrator may within one year after the date of 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))~~ legislative authority has refused to refund.

Sec. 34. Section 84.69.140, chapter 15, Laws of 1961 as amended by section 33, chapter 222, Laws of 1988 and RCW 84.69.140 are each amended to read as follows:

In any action in which recovery of taxes is allowed by the court, the plaintiff is entitled to interest on the taxes for which recovery is allowed at ~~((a))~~ the rate ~~((as determined under))~~ specified in RCW 84.69.100 from the date of collection of the tax to the date of entry of judgment, and such accrued interest shall be included in the judgment.

Sec. 35. Section 12, chapter 212, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 319, Laws of 1985 and RCW 84.34.108 are each amended to read as follows:

(1) When land has once been classified under this chapter, a notation of such designation shall be made each year upon the assessment and tax rolls and such land shall be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of such designation by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of such designation;

(b) Sale or transfer to an ownership making all or a portion of 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 classification continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.120, 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 additional 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 classified land for filing or recording unless the new owner has signed the notice of continuance or the additional 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 all or a portion of such land is no longer primarily devoted to and used for the purposes under which it was granted classification.

(2) Within thirty days after such removal of all or a portion of such land from current use classification, 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, the assessor shall revalue the affected land with reference to full market value on the date of removal from classification. Both the assessed valuation before and after the removal of classification shall be listed and taxes shall be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (5) of this section, an additional 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 additional tax. As soon as possible, the assessor shall compute the amount of such an additional tax and the treasurer shall mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such additional tax shall be equal to:

(a) The difference between the property tax paid as "open space land", "farm and agricultural land", or "timber land" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified; plus

(b) Interest upon the amounts of such additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which such additional tax could have been paid without penalty if the land had been assessed at a value without regard to this chapter.



(4) Additional tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from current use classification under this chapter 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 now or as hereafter amended. Any additional 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 additional 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 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;

(d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property;

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of such land;

(f) Transfer to a church and such land would qualify for property tax exemption pursuant to RCW 84.36.020; or

(g) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections: PROVIDED, That at such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (3) of this section shall be imposed(~~;~~ or

~~(h) Transfer to a nonprofit, nonsectarian organization or association, organized and conducted for nonsectarian purposes, and such land would qualify for property tax exemption pursuant to RCW 84.36.030 and is used solely for the benefit of the poor and infirm. This subsection (h) applies only to taxes, penalties, and interest under this section that have been assessed for the removal of property from classification under this chapter after September 1, 1977, and before July 1, 1980. Any person or entity who has paid~~

~~taxes to which this subsection (h) applies may apply within one hundred and eighty days after May 16, 1985, for a refund of the tax paid)).~~

Sec. 36. Section 134, chapter 195, Laws of 1973 1st ex. sess. as amended by section 5, chapter 274, Laws of 1988 and RCW 84.52.043 are each amended to read as follows:

Within and subject to the limitations imposed by RCW 84.52.050 as amended, the regular ad valorem tax levies upon real and personal property by the taxing districts hereafter named shall be as follows:

(1) Levies of the senior taxing districts shall be as follows: (a) The levy by the state shall not exceed three dollars and sixty cents per thousand dollars of assessed value adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue to be used exclusively for the support of the common schools; (b) the levy by any county shall not exceed one dollar and eighty cents per thousand dollars of assessed value; (c) the levy by any road district shall not exceed two dollars and twenty-five cents per thousand dollars of assessed value; and (d) the levy by any city or town shall not exceed three dollars and thirty-seven and one-half cents per thousand dollars of assessed value. However any county is hereby authorized to increase its levy from one dollar and eighty cents to a rate not to exceed two dollars and forty-seven and one-half cents per thousand dollars of assessed value for general county purposes if the total levies for both the county and any road district within the county do not exceed four dollars and five cents per thousand dollars of assessed value, and no other taxing district has its levy reduced as a result of the increased county levy.

(2) Except as provided in RCW 84.52.100, the aggregate levies of junior taxing districts and senior taxing districts, other than the state, shall not exceed five dollars and fifty-five cents per thousand dollars of assessed valuation. The term "junior taxing districts" includes all taxing districts other than the state, counties, road districts, cities, towns, port districts, and public utility districts. The limitations provided in this subsection shall not apply to: (a) Levies at the rates provided by existing law by or for any port or public utility district; (b) excess property tax levies authorized in Article VII, section 2 of the state Constitution; (c) levies for acquiring conservation futures as authorized under RCW 84.34.230; and (d) levies for emergency medical care or emergency medical services imposed under RCW 84.52.069.

~~((3) It is the intent of the legislature that the provisions of this section shall supersede all conflicting provisions of law including RCW 84.52.050:))~~

Sec. 37. Section 64, chapter 278, Laws of 1986 and RCW 84.64.050 are each amended to read as follows:

After the expiration of three years from the date of delinquency, when any property remains on the tax rolls for which no certificate of delinquency has been issued, the county treasurer shall proceed to issue certificates of

delinquency on said property to the county for all years' taxes, interest, and costs: PROVIDED, That the county treasurer, with the consent of the county legislative authority, may elect to issue a certificate for fewer than all years' taxes, interest, and costs to a minimum of the taxes, interest, and costs for the earliest year.

The county treasurer may include in the certificate of delinquency any assessments which are due on the property and are the responsibility of the county treasurer to collect. For purposes of this chapter, "taxes, interest, and costs" include any assessments which are so included by the county treasurer.

The change to a three-year grace period shall first be effective on May 1, 1983. Prior to that date, the county treasurer shall send a notice to all taxpayers with taxes delinquent for two years or more, notifying them of the change in the grace period. The treasurer shall file said certificates when completed with the clerk of the court, and the treasurer shall thereupon, with such legal assistance as the county legislative authority shall provide in counties having a population of thirty thousand or more, and with the assistance of the county prosecuting attorney in counties having a population of less than thirty thousand, proceed to foreclose in the name of the county, the tax liens embraced in such certificates, and the same proceedings shall be had as when held by an individual: PROVIDED, That notice and summons must be served or notice given in a manner reasonably calculated to inform the owner or owners, and any person having a recorded interest in or lien of record upon the property, of the foreclosure action. Either (1) personal service upon the owner or owners and any person having a recorded interest in or lien of record upon the property, or (2) publication once in a newspaper of general circulation, which is circulated in the area of the property and mailing of notice by certified mail to the owner or owners and any person having a recorded interest in or lien of record upon the property, or, if a mailing address is unavailable, personal service upon the occupant of the property, if any, is sufficient. In addition to ~~((describing the property as the same is described))~~ the legal description on the tax rolls, the notice must include the local street address, if any. It shall be the duty of the county treasurer to mail a copy of the published summons, within fifteen days after the first publication thereof, to the treasurer of each city or town within which any property involved in a tax foreclosure is situated, but the treasurer's failure to do so shall not affect the jurisdiction of the court nor the priority of any tax sought to be foreclosed. Said certificates of delinquency issued to the county may be issued in one general certificate in book form including all property, and the proceedings to foreclose the liens against said property may be brought in one action and all persons interested in any of the property involved in said proceedings may be made codefendants in said action, and if unknown may be therein named as unknown owners, and the publication of such notice shall be sufficient service thereof on all persons

interested in the property described therein, except as provided above. The person or persons whose name or names appear on the treasurer's rolls as the owner or owners of said property shall be considered and treated as the owner or owners of said property for the purpose of this section, and if upon said treasurer's rolls it appears that the owner or owners of said property are unknown, then said property shall be proceeded against, as belonging to an unknown owner or owners, as the case may be, and all persons owning or claiming to own, or having or claiming to have an interest therein, are hereby required to take notice of said proceedings and of any and all steps thereunder: PROVIDED, That prior to the sale of the property, if such property is shown on the tax rolls under unknown owners or as having an assessed value of three thousand dollars or more, the treasurer shall order or conduct a title search of the property to be sold to determine the legal description of the property to be sold and the record title holder, and if the record title holder or holders differ from the person or persons whose name or names appear on the treasurer's rolls as the owner or owners, the record title holder or holders shall be considered and treated as the owner or owners of said property for the purpose of this section, and shall be entitled to the notice provided for in this section.

The county treasurer shall not issue certificates of delinquency upon property which is eligible for deferral of taxes under chapter 84.38 RCW but shall require the owner of the property to file a declaration to defer taxes under chapter 84.38 RCW.

NEW SECTION. Sec. 38. A new section is added to chapter 84.56 RCW to read as follows:

In the payment of taxes, interest, and penalties, the county treasurer may accept in lieu of cash a credit card issued by a bank or other financial institution if the bank or financial institution guarantees full payment of the amount due, without discount or other cost or charge, to the county.

Sec. 39. Section 36.32.120, chapter 4, Laws of 1963 as last amended by section 8, chapter 168, Laws of 1988 and RCW 36.32.120 are each amended to read as follows:

The legislative authorities of the several counties shall:

- (1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;
- (2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;
- (3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted at fees set by the legislative authorities which shall not exceed the costs of administration and operation of such licensed activities;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law: **PROVIDED**, That the legislative authority of a county may permit all moneys, assessments, and taxes belonging to or collected for the use of the state or any county, including any amounts representing estimates for future assessments and taxes, to be deposited by any taxpayer prior to the due date thereof with the treasurer or other legal depository for the benefit of the funds to which they belong to be credited against any future tax or assessment that may be levied or become due from the taxpayer: **PROVIDED FURTHER**, That the taxpayer, with the concurrence of the county legislative authority, may designate the particular fund against which such prepayment of future tax or assessment shall be credited;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: **PROVIDED**, That except for Washington state statutes, there shall be filed in the county auditor's office one copy of such codes and compilations ten days prior to their adoption by reference, and additional copies may also be filed in library or city offices within the county as deemed necessary by the county legislative authority: **PROVIDED FURTHER**, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor or a civil violation subject to a monetary penalty: **PROVIDED FURTHER**, That violation of a regulation, ordinance, code, compilation, and/or statute relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation, ordinance, code, compilation, and/or statute equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. The notice must set out a copy of the proposed regulations or

summarize the content of each proposed regulation; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. For purposes of this subsection, a summary shall mean a brief description which succinctly describes the main points of the proposed regulation. When the county publishes a summary, the publication shall include a statement that the full text of the proposed regulation will be mailed upon request. An inadvertent mistake or omission in publishing the text or a summary of the content of a proposed regulation shall not render the regulation invalid if it is adopted. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as district judges.

NEW SECTION. Sec. 40. The following acts or parts of acts are each repealed:

(1) Section 4, chapter 62, Laws of 1983 1st ex. sess. and RCW 84.09-.080;

(2) Section 3, chapter 62, Laws of 1983 1st ex. sess. and RCW 84.36-.475; and

(3) Section 5, chapter 62, Laws of 1983 1st ex. sess. and RCW 84.52-.015.

NEW SECTION. Sec. 41. Section 13 of this act shall take effect January 1, 1990.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 379

[Substitute House Bill No. 1097]

### HOMES FOR THE AGED—PROPERTY TAX EXEMPTION

AN ACT Relating to homes for the aged; amending RCW 84.36.040, 84.36.800, 84.36-.805, 84.36.810, and 84.36.383; adding a new section to chapter 84.36 RCW; and providing an effective date.

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

Sec. 1. Section 84.36.040, chapter 15, Laws of 1961 as last amended by section 1, chapter 31, Laws of 1987 and RCW 84.36.040 are each amended to read as follows:

(1) The real and personal property used by nonprofit ~~((1))~~ (a) day care centers as defined pursuant to RCW 74.15.020 ~~((as now or hereafter amended; (2)))~~; (b) free public libraries; ~~((3))~~ (c) orphanages and orphan asylums; ~~((4) homes for the aged; (5))~~ (d) homes for the sick or infirm; ~~((6))~~ (e) hospitals for the sick; and ~~((7))~~ (f) outpatient dialysis facilities, which are used for the purposes of such organizations shall be exempt from taxation: PROVIDED, That the benefit of the exemption inures to the user.

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

NEW SECTION. Sec. 2. A new section is added to chapter 84.36 RCW, to be codified as RCW 84.36.041, to read as follows:

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

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

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

(2) A home for the aging is eligible for a partial exemption if the home does not meet the requirements of subsection (1) of this section because fewer than fifty percent of the occupied dwelling units are occupied by eligible residents. The amount of exemption shall be calculated by multiplying the assessed value of the property reasonably necessary for the purposes of the home by a fraction. The numerator of the fraction is the number of dwelling units occupied by eligible persons multiplied by two. The denominator of the fraction is the total number of occupied dwelling units. The fraction shall never exceed one.

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

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

(5) Each eligible resident of a home for the aging shall submit the form required under RCW 84.36.385 to the county assessor by July 1st of the assessment year. An eligible resident who has filed a form for a previous

year need not file a new form until there is a change in status affecting the person's eligibility.

(6) In determining the true and fair value of a home for the aging for purposes of the partial exemption provided by subsection (2) of this section, the assessor shall apply the computation method provided by RCW 84.34.060 and shall consider only the use to which such property is applied during the years for which such partial exemptions are available and shall not consider potential uses of such property.

(7) A home for the aging that was exempt for taxes levied for collection in 1990 and is not fully exempt under this section is entitled to partial exemptions as follows:

(a) For taxes levied for collection in 1991, two-thirds of the assessed value that would otherwise be subject to tax under this section is exempt from taxation.

(b) For taxes levied for collection in 1992, one-third of the assessed value that would otherwise be subject to tax under this section is exempt from taxation.

(8) As used in this section:

(a) "Eligible resident" means a person who would be eligible for an exemption under RCW 84.36.381 if the person owned a single-family dwelling. For the purposes of determining eligibility under this section, a "cotenant" as used in RCW 84.36.383 means a person who resides with an eligible resident and who shares personal financial resources with the eligible resident.

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

Sec. 3. Section 6, chapter 40, Laws of 1973 2nd ex. sess. as amended by section 3, chapter 141, Laws of 1981 and RCW 84.36.800 are each amended to read as follows:

As used in RCW 84.36.020, 84.36.030, 84.36.037, 84.36.040, 84.36.041, 84.36.050, 84.36.060, (~~84.36.037~~) 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. as last amended by section 1, chapter 468, Laws of 1987 and RCW 84.36.805 are each amended to read as follows:

In order to be exempt pursuant to RCW 84.36.030, 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, and 84.36.480, the nonprofit organizations, associations or corporations shall satisfy the following conditions:

(1) The property is used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not exceed an amount reasonably necessary for that purpose, except:

(a) The loan or rental of the property does not subject the property to tax if:

(i) The rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and

(ii) Except for the exemption under RCW 84.36.037, the property would be exempt from tax if owned by the organization to which it is loaned or rented;

(b) The use of the property for fund-raising activities does not subject the property to tax if the fund-raising activities are consistent with the purposes for which the exemption is granted;

(2) The property is irrevocably dedicated to the purpose for which exemption has been granted, and on the liquidation, dissolution, or abandonment by said organization, association, or corporation, said property will not inure directly or indirectly to the benefit of any shareholder or individual, except a nonprofit organization, association, or corporation which too would be entitled to property tax exemption: **PROVIDED**, That the property need not be irrevocably dedicated if it is leased or rented to those qualified for exemption pursuant to RCW 84.36.040 or 84.36.041 or those qualified for

exemption as an association engaged in the production or performance of musical, dance, artistic, dramatic, or literary works pursuant to RCW 84.36.060, but only if under the terms of the lease or rental agreement the nonprofit organization, association, or corporation receives the benefit of the exemption;

(3) The facilities and services are available to all regardless of race, color, national origin or ancestry;

(4) The organization, association, or corporation is duly licensed or certified where such licensing or certification is required by law or regulation;

(5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller shall not qualify for exempt status;

(6) The director of the department of revenue shall have access to its books in order to determine whether such organization, association, or corporation is exempt from taxes within the intent of RCW 84.36.030, 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, and 84.36.480.

Sec. 5. Section 8, chapter 40, Laws of 1973 2nd ex. sess. as last amended by section 2, chapter 468, Laws of 1987 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, 84.36.037, 84.36.040, 84.36.041, 84.36.050, and 84.36.060(~~and 84.36.037~~), 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: PROVIDED, That where the property has been granted an exemption for more than ten years, taxes and interest shall not be assessed under this section.

(2) Subsection (1) of this section applies only when ownership of the property is transferred or when fifty-one percent or more of the area of the property has lost its exempt status. The additional tax under subsection (1) of this section shall not be imposed if the cessation of use resulted solely from:

(a) Transfer to a nonprofit organization, association, or corporation for a use which also qualifies and is granted exemption under the provisions of chapter 84.36 RCW;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Official action by an agency of the state of Washington or by the county or city within which the property is located which disallows the present use of such property;

(d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the organization, association, or corporation changing the use of such property;

(e) Relocation of the activity and use of another location or site except for undeveloped properties of camp facilities exempted under RCW 84.36.030;

(f) Cancellation of a lease on property that had been exempt under RCW 84.36.040, 84.36.041, or 84.36.060;

(g) A change in the exempt portion of a home for the aging under RCW 84.36.041(2), as long as some portion of the home remains exempt;

(h) The conversion of a full exemption of a home for the aging to a partial exemption or taxable status under RCW 84.36.041(7).

Sec. 6. Section 2, chapter 182, Laws of 1974 ex. sess. as last amended by section 2, chapter 155, Laws of 1987 and RCW 84.36.383 are each amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, except where the context clearly indicates a different meaning:

(1) The term "residence" shall mean a single family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre. The term shall also include a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term shall also include a single family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080, 84.04.090 or 84.40.250, such a residence shall be deemed real property.

(2) The term "real property" shall also include a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities: PROVIDED, That a mobile home located on land leased by the owner of the mobile home shall be subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

(3) The term "preceding calendar year" shall mean the calendar year preceding the year in which the claim for exemption is to be made.

(4) "Department" shall mean the state department of revenue.

(5) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse, and the disposable income of each cotenant occupying the residence for the preceding calendar year, less amounts paid by the person claiming

the exemption or his or her spouse during the previous year for the treatment or care of either person in a nursing home.

(6) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, ~~((1980;))~~ 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

- (a) Capital gains;
- (b) Amounts deducted for loss;
- (c) Amounts deducted for depreciation;
- (d) Pension and annuity receipts;
- (e) Military pay and benefits other than attendant-care and medical-aid payments;
- (f) Veterans benefits other than attendant-care and medical-aid payments;
- (g) Federal social security act and railroad retirement benefits;
- (h) Dividend receipts; and
- (i) Interest received on state and municipal bonds.

(7) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

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 shall take effect April 1, 1990, and shall be effective for taxes levied for collection in 1991 and thereafter.

Passed the House April 21, 1989.

Passed the Senate April 14, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 380

[House Bill No. 2222]

### AGRICULTURE—PESTICIDE REGULATION AND UNEMPLOYMENT AND WORKERS' COMPENSATION COVERAGE FOR AGRICULTURAL EMPLOYEES

AN ACT Relating to state regulatory programs; amending RCW 15.58.030, 15.58.040, 15.58.050, 15.58.060, 15.58.065, 15.58.070, 15.58.080, 15.58.110, 15.58.120, 15.58.130, 15.58.150, 15.58.160, 15.58.170, 15.58.180, 15.58.200, 15.58.210, 15.58.220, 15.58.230, 15.58.240, 15.58.250, 15.58.260, 15.58.280, 15.58.290, 15.58.330, 15.58.335, 15.58.340, 15.58.910, 17.21.020, 17.21.030, 17.21.040, 17.21.050, 17.21.070, 17.21.080, 17.21.100, 17.21.110, 17.21.122, 17.21.126, 17.21.129, 17.21.130, 17.21.140, 17.21.150, 17.21.160, 17.21.180, 17.21.190, 17.21.200, 17.21.220, 17.21.230, 17.21.240, 17.21.250, 17.21.260, 17.21.270, 17.21.280, 17.21.290, 17.21.315, 17.21.320, 17.21.910, 70.104.030, 50.04.150, 50.29.025, 50.20.100, and 50.29.062; adding new sections to chapter 15.58 RCW; adding new sections to chapter 17.21 RCW; adding new sections to chapter 49.70 RCW; adding new sections to chapter 70.104 RCW; adding

a new chapter to Title 49 RCW; creating new sections; repealing RCW 15.58.190, 15.58.930, 17.21.090, 17.21.120, 17.21.124, and 17.21.205; prescribing penalties; and providing effective dates.

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

Sec. 1. Section 3, chapter 190, Laws of 1971 ex. sess. as last amended by section 26, chapter 182, Laws of 1982 and RCW 15.58.030 are each amended to read as follows:

As used in this chapter the words and phrases defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) ~~("Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed and any other form of plant or animal life or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the director may declare to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; (c) any substance or mixture of substances intended to be used as a spray adjuvant; and (d) any other substances intended for such use as may be named by the director by regulation:~~

~~(2) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests including devices used in conjunction with pesticides such as lindane vaporizers.~~

~~(3) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropod, or mollusk pest:~~

~~(4) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi:~~

~~(5) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director may declare by regulation to be a pest:~~

~~(6) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed, including algae and other aquatic weeds:~~

~~(7) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes:~~

~~(8) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments:~~

(9) "~~Defoliant~~" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission:

(10) "~~Desiccant~~" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues:

(11) "~~Spray adjuvant~~" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the pesticide with which it is to be used:

(12) "~~Pest~~" means, but is not limited to, any insect, other arthropod, fungus, rodent, nematode, mollusk, weed and any form of plant or animal life or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the director may declare by regulation to be a pest:

(13) "~~Nematode~~" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms:

(14) "~~Arthropod~~" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans:

(15) "~~Insects~~" means any of the numerous small invertebrate animals whose bodies, in the adult stage, are more or less obviously segmented with six legs and usually with two pairs of wings, belonging to the class insecta; for example, aphids, beetles, bugs, bees, and flies:

(16) "~~Fungi~~" means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals:

(17) "~~Weed~~" means any plant which grows where not wanted:

(18) "~~Mollusk~~" means any invertebrate animal characterized by a soft unsegmented body usually partially or wholly enclosed in a calcareous shell, having a foot and mantle; for example, slugs and snails:

(19) "~~Restricted use pesticide~~" means any pesticide or device which the director has found and determined subsequent to hearing under the provisions of chapter 17.21 RCW Washington pesticide application act or this chapter as enacted or hereafter amended, to be so injurious to persons, pollinating insects, bees, animals, crops, wildlife, or lands other than the pests it is intended to prevent, destroy, control, or mitigate that additional restrictions are required:

~~(20) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.~~

~~(21) "Pesticide dealer" means any person who distributes any of the following pesticides:~~

~~(a) "Highly toxic pesticides" and/or~~

~~(b) "EPA restricted use pesticides" or "restricted use pesticides" which by regulation are restricted to distribution by licensed pesticide dealers only and/or~~

~~(c) Any other pesticide except spray adjuvants and those pesticides which are labeled and intended for home and garden use only.~~

~~(22) "Pesticide dealer manager" means the owner or other individual supervising pesticide distribution at one outlet holding a pesticide dealer license:~~

~~(23) "Pest control consultant" means any individual who offers or supplies technical advice, supervision or aid or makes recommendations to the user of:~~

~~(a) "Highly toxic pesticides" and/or~~

~~(b) "EPA restricted use pesticides" or "restricted use pesticides" which are restricted by regulation to distribution by licensed pesticide dealers only and/or~~

~~(c) Any other pesticides except spray adjuvants and those pesticides which are labeled and intended for home and garden use only.~~

~~(24) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide, and when the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic. PROVIDED, That in the case of a spray adjuvant the ingredient statement need contain only the names of the principal functioning agents and the total percentage of the constituents ineffective as spray adjuvants. If more than three functioning agents are present, only the three principal ones need be named:~~

~~(25) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant:~~

~~(26) "Inert ingredient" means an ingredient which is not an active ingredient:~~

~~(27) "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment:~~

~~(28) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated:~~

~~(29) "Department" means the department of agriculture of the state of Washington:~~

~~(30) "Director" means the director of the department or his duly authorized representative.~~

~~(31) "Registrant" means the person registering any pesticide pursuant to the provisions of this chapter.~~

~~(32) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or the immediate container thereof, and the outside container or wrapper of the retail package.~~

~~(33) "Labeling" means all labels and other written, printed or graphic matter:~~

~~(a) Upon the pesticide or device or any of its containers or wrappers;~~

~~(b) Accompanying the pesticide, or referring to it in any other media used to disseminate information to the public; and~~

~~(c) To which reference is made on the label or in literature accompanying or referring to the pesticide or device except when accurate nonmisleading reference is made to current official publications of the department; United States department of agriculture; interior, health, education and welfare; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.~~

~~(34) "Highly toxic" means any highly toxic pesticide as determined by the director under RCW 15.58.040.~~

~~(35) "Pesticide advisory board" means the pesticide advisory board as provided for in the Washington pesticide application act as enacted or hereafter amended.~~

~~(36) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.~~

~~(37) "Regulation" means rule or regulation.~~

~~(38) "EPA" means the United States environmental protection agency.~~

~~(39) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.~~

~~(40) "FIFRA" means the federal insecticide, fungicide and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 135).~~

~~(41) "Special local needs registration" means a registration issued by the director pursuant to provisions of section 24(c) of FIFRA.~~

~~(42) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.~~

~~(43) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application~~



and a master license expiration date common to each renewable license endorsement)) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant.

(2) "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(3) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(4) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(5) "Department" means the Washington state department of agriculture.

(6) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(7) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests, or to destroy, control, repel or mitigate fungi, nematodes, or such other pests, as may be designated by the director, but not including equipment used for the application of pesticides when sold separately from the pesticides.

(8) "Director" means the director of the department or a duly authorized representative.

(9) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.

(10) "EPA" means the United States environmental protection agency.

(11) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(12) "FIFRA" means the federal insecticide, fungicide, and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

(13) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of a lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living persons or other animals.

(14) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.

(15) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed.

(16) "Inert ingredient" means an ingredient which is not an active ingredient.

(17) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide, and when the pesticide contains arsenic in

any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic. In the case of a spray adjuvant the ingredient statement need contain only the names of the principal functioning agents and the total percentage of the constituents ineffective as spray adjuvants. If more than three functioning agents are present, only the three principal ones need by named.

(18) "Insect" means any of the numerous small invertebrate animals whose bodies are more or less obviously segmented, and which for the most part belong to the class insecta, comprising six-legged, usually winged forms, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(19) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insects which may be present in any environment whatsoever.

(20) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide, device, or immediate container, and the outside container or wrapper of the retail package.

(21) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon the pesticide, device, or any of its containers or wrappers;

(b) Accompanying the pesticide, or referring to it in any other media used to disseminate information to the public; and

(c) To which reference is made on the label or in literature accompanying or referring to the pesticide or device except when accurate nonmisleading reference is made to current official publications of the department, United States departments of agriculture; interior; education; health and human services; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(22) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(23) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed using a master application and a master license expiration date common to each renewable license endorsement.

(24) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

(25) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with

elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts, may also be called nemas or eelworms.

(26) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(27) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed and any form of plant or animal life or virus, except virus on or in a living person or other animal, which is normally considered to be a pest or which the director may declare to be a pest.

(28) "Pest control consultant" means any individual who sells or offers for sale at other than a licensed pesticide dealer outlet or location, or who offers or supplies technical advice, supervision, or aid, or makes recommendations to the user of:

(a) Highly toxic pesticides, as determined under RCW 15.58.040;

(b) EPA restricted use pesticides or restricted use pesticides which are restricted by rule to distribution by licensed pesticide dealers only; or

(c) Any other pesticide except those pesticides which are labeled and intended for home and garden use only.

(29) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant.

(30) "Pesticide advisory board" means the pesticide advisory board as provided for in the Washington pesticide application act.

(31) "Pesticide dealer" means any person who distributes any of the following pesticides:

(a) Highly toxic pesticides, as determined under RCW 15.58.040;

(b) EPA restricted use pesticides or restricted use pesticides which are restricted by rule to distribution by licensed pesticide dealers only; or

(c) Any other pesticide except those pesticides which are labeled and intended for home and garden use only.

(32) "Pesticide dealer manager" means the owner or other individual supervising pesticide distribution at one outlet holding a pesticide dealer license.

(33) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or their produce, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(34) "Registrant" means the person registering any pesticide under the provisions of this chapter.

(35) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(36) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents, or any other vertebrate animal which the director may declare by rule to be a pest.

(37) "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own, intended to be used with any other pesticide as an aid to the application or to the effect of the pesticide, and which is in a package or container separate from that of the pesticide with which it is to be used.

(38) "Special local needs registration" means a registration issued by the director pursuant to provisions of section 24(c) of FIFRA.

(39) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

(40) "Weed" means any plant which grows where not wanted.

Sec. 2. Section 4, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.040 are each amended to read as follows:

(1) The director shall administer and enforce the provisions of this chapter and ~~((regulations))~~ rules adopted ~~((hereunder))~~ under this chapter. All the authority and requirements provided for in chapter ~~((34.04))~~ 34.05 RCW (Administrative Procedure Act) and chapter ~~((42.32))~~ 42.30 RCW shall apply to this chapter in the adoption of ~~((regulations))~~ rules including those requiring due notice and a hearing for the adoption of permanent ~~((regulations))~~ rules.

(2) The director is authorized to adopt appropriate ~~((regulations))~~ rules for carrying out the purpose and provisions of this chapter, including but not limited to ~~((regulations))~~ rules providing for:

(a) Declaring as a pest any form of plant or animal life or virus which is injurious to plants, ~~((men))~~ people, animals (domestic or otherwise), land, articles, or substances;

(b) Determining that certain pesticides are highly toxic to ~~((man. The director shall, in making this determination, be guided by the federal definition of highly toxic, as defined in Title 7, code of federal regulations 362.8 as issued or hereafter amended))~~ people. For the purpose of this chapter, highly toxic pesticide means any pesticide that conforms to the criteria in 40

C.F.R. Sec. 162.10 for toxicity category I due to oral inhalation or dermal toxicity. The director shall publish a list of all pesticides, determined to be highly toxic, by their common or generic name and their trade or brand name if practical. Such list shall be kept current and shall, upon request, be made available to any interested party;

(c) Determining standards for denaturing pesticides by color, taste, odor, or form;

(d) The collection and examination of samples of pesticides or devices;

(e) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;

(f) Restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength, and/or size to alleviate danger of spillage, breakage, misuse, or any other hazard to the public. The director shall be guided by federal regulations concerning pesticide containers;

(g) Procedures in making of pesticide recommendations;

(h) Adopting a list of restricted use pesticides for the state or for designated areas within the state if the director determines that such pesticides may require ~~((regulations))~~ rules restricting or prohibiting their distribution or use. The director may include in the ~~((regulation))~~ rule the time and conditions of distribution or use of such restricted use pesticides and may, if ~~((he deems))~~ it is found necessary to carry out the purpose and provisions of this chapter, require that any or all restricted use pesticides shall be purchased, possessed, or used only under permit of the director and under ~~((his))~~ the director's direct supervision in certain areas and/or under certain conditions or in certain quantities or concentrations ~~((PROVIDED, That))~~. The director may require all persons issued such permits to maintain records as to the use of all the restricted use pesticides;

(i) Label requirements of all pesticides required to be registered under provisions of this chapter; and

(j) Regulating the labeling of devices.

(3) For the purpose of uniformity and to avoid confusion endangering the public health and welfare the director may adopt ~~((regulations))~~ rules in conformity with the primary pesticide standards, particularly as to labeling, established by the United States ~~((department of agriculture))~~ environmental protection agency or any other federal agency.

Sec. 3. Section 5, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.050 are each amended to read as follows:

Every pesticide which is distributed within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the director subject to the provisions of this chapter. Such registration shall be renewed annually prior to January 1: **PROVIDED**, That registration is not required if a pesticide is shipped from one plant or warehouse to another

plant or warehouse operated by the same person and used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of this chapter (~~(; if the pesticide is not sold and if the container thereof is plainly and conspicuously marked "For Experimental Use Only—Not To Be Sold", together with the manufacturer's name and address)~~); or if a written permit has been obtained from the director to ~~((set))~~ distribute or use the specific pesticide for experimental purposes subject to restrictions and conditions set forth in the permit.

Sec. 4. Section 6, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.060 are each amended to read as follows:

(1) The applicant for registration shall file a statement with the department which shall include:

(a) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(b) The name of the pesticide;

(c) The complete formula of the pesticide, including the active and inert ingredients: PROVIDED, That confidential business information of a proprietary nature is not made available to any other person and is exempt from disclosure as a public record, as provided by RCW 42.17.260;

~~(d)~~ Other necessary information required for completion of the department's application for registration form; and

~~((t))~~ (e) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions and precautions for use.

~~(2) ((The director, when he deems it necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide including the active and inert ingredients:~~

~~(3))~~ The director may require a full description of the tests made and the results thereof upon which the claims are based.

~~((t))~~ (3) The director may prescribe other necessary information by ~~((regulation))~~ rule.

Sec. 5. Section 4, chapter 146, Laws of 1979 and RCW 15.58.065 are each amended to read as follows:

(1) In submitting data required by this chapter, the applicant may:

(a) Mark clearly any portions ~~((thereof))~~ which in ~~((his))~~ the applicant's opinion are trade secrets or commercial or financial information; and

(b) Submit such marked material separately from other material required to be submitted under this chapter.

(2) Notwithstanding any other provision of this chapter or other law, the director shall not make public information which in ~~((his))~~ the director's judgment should be privileged or confidential because it contains or relates to trade secrets or commercial or financial information except that, when necessary to carry out the provisions of this chapter, information relating to

unpublished formulas of products acquired by authorization of this chapter may be revealed to any state or federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the director when necessary under this chapter.

(3) If the director proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (2) of this section, ~~((he))~~ the director shall notify the applicant or registrant in writing, by certified mail. The director shall not thereafter make available for inspection such data until thirty days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in the superior court of Thurston county for a declaratory judgment as to whether such information is subject to protection under subsection (2) of this section.

Sec. 6. Section 7, chapter 190, Laws of 1971 ex. sess. as amended by section 2, chapter 95, Laws of 1983 and RCW 15.58.070 are each amended to read as follows:

(1) Any person desiring to register a pesticide with the department shall pay to the director an annual registration fee ~~((of twenty dollars))~~ for each pesticide registered by the department for such person. The registration fee for the registration of pesticides for any one person during a calendar year shall be: One hundred five dollars for each of the first twenty-five pesticides registered; one hundred dollars for each of the twenty-sixth through one-hundredth pesticides registered; seventy-five dollars for each of the one hundred first through one hundred fiftieth pesticides registered; and fifty dollars for each additional pesticide registered. In addition, the department may establish by rule a registration fee not to exceed ten dollars for each registered product labeled and intended for home and garden use only. The revenue generated by the home and garden use only fees shall be deposited in the agriculture—local fund, to be used to assist in funding activities of the pesticide incident reporting and tracking review panel. All pesticide registrations expire on December 31st of each year.

(2) Any registration approved by the director and in effect on the 31st day of December for which a renewal application has been made and the proper fee paid, continues in full force and effect until the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provision of RCW 15.58.110.

Sec. 7. Section 8, chapter 190, Laws of 1971 ex. sess. as amended by section 3, chapter 95, Laws of 1983 and RCW 15.58.080 are each amended to read as follows:

If the renewal of a pesticide registration is not filed before January 1st of each year, an additional fee of ~~((ten))~~ twenty-five dollars shall be assessed and added to the original fee. The additional fee shall be paid by the applicant before the registration renewal for that pesticide shall be issued

unless the applicant furnishes an affidavit certifying that ~~((he))~~ the applicant did not distribute the unregistered pesticide during the period of non-registration. The payment of the additional fee is not a bar to any prosecution for doing business without proper registry.

Sec. 8. Section 11, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.110 are each amended to read as follows:

(1) If it does not appear to the director that the pesticide is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of this chapter or ~~((regulations))~~ rules adopted ~~((thereunder he shall notify))~~ under this chapter, the registrant shall be notified of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply with the provisions of this chapter so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of such notice, the applicant does not make the corrections the director shall refuse to register the pesticide. The applicant may request a hearing as provided for in chapter ~~((34.04))~~ 34.05 RCW.

(2) The director may, when ~~((he))~~ the director determines that a pesticide or its labeling does not comply with the provisions of this chapter or the ~~((regulations))~~ rules adopted ~~((thereunder))~~ under this chapter, cancel the registration of a pesticide after a hearing in accordance with the provisions of chapter ~~((34.04))~~ 34.05 RCW.

Sec. 9. Section 12, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.120 are each amended to read as follows:

The director may, when ~~((he))~~ the director determines that there is or may be an imminent hazard to the public health and welfare, suspend on ~~((his))~~ the director's own motion, the registration of a pesticide in conformance with the provisions of chapter ~~((34.04))~~ 34.05 RCW.

Sec. 10. Section 13, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.130 are each amended to read as follows:

The term "misbranded" shall apply:

(1) To any pesticide or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) To any pesticide:

(a) If it is an imitation of or is offered for sale under the name of another pesticide;

(b) If its labeling bears any reference to registration under the provision of this chapter unless such reference be required by ~~((regulations))~~ rules under this chapter;

(c) If any word, statement, or other information, required by this chapter or ~~((regulations))~~ rules adopted ~~((thereunder))~~ under this chapter to appear on the label or labeling, is not prominently placed thereon with



such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(d) If the label does not bear:

(i) The name and address of the manufacturer, registrant or person for whom manufactured;

(ii) Name, brand or trademark under which the pesticide is sold;

(iii) An ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase: PROVIDED, That the director may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase;

(iv) Directions for use and a warning or caution statement which are necessary and which if complied with would be adequate to protect the public and to prevent injury to the public, including living ~~((man))~~ people, useful vertebrate animals, useful vegetation, useful invertebrate animals, wildlife, and land; and

(v) The weight or measure of the content, subject to the provisions of chapter 19.94 RCW (state weights and measures act) as enacted or hereafter amended.

(e) If that pesticide contains any substance or substances in quantities highly toxic to ~~((man))~~ people, determined as provided by RCW 15.58.040, unless the label bears, in addition to any other matter required by this chapter:

(i) The skull and crossbones;

(ii) The word "POISON" in red prominently displayed on a background of distinctly contrasting color; and

(iii) A statement of an antidote for the pesticide.

(f) If the pesticide container does not bear a label or if the label does not contain all the information required by this chapter or the ~~((regulations))~~ rules adopted under this chapter.

(3) To a spray adjuvant when the label fails to state the type or function of the principal functioning agents.

Sec. 11. Section 15, chapter 190, Laws of 1971 ex. sess. as last amended by section 25, chapter 45, Laws of 1987 and RCW 15.58.150 are each amended to read as follows:

(1) It is unlawful for any person to distribute within the state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

(a) Any pesticide which has not been registered pursuant to the provisions of this chapter;

(b) Any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration: PROVIDED, That at the discretion of the director, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product;

(c) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to such container, and to the outside container or wrapper of the retail package, if there is one through which the required information on the immediate container cannot be clearly read, a label bearing the information required in this chapter and the ((regulations)) rules adopted under this chapter;

(d) Any pesticide including arsenicals, fluorides, fluosilicates, and/or any other white powdered pesticides unless they have been distinctly denatured as to color, taste, odor, or form if so required by ((regulation)) rule;

(e) Any pesticide which is adulterated or misbranded, or any device which is misbranded;

(f) Any pesticide in containers, violating ((regulations)) rules adopted pursuant to RCW 15.58.040(2)(f) or pesticides found in containers which are unsafe due to damage.

(2) It shall be unlawful:

(a) To sell or deliver any ((restricted-use)) pesticide to any person who is required by law or ((regulations)) rules promulgated under such law to be certified, licensed, or have a permit to use or purchase ((such restricted-use pesticides)) the pesticide unless such person or ((his)) the person's agent, to whom sale or delivery is made, has a valid certification, license, or permit to use or purchase the kind and quantity of such ((restricted-use)) pesticide sold or delivered: PROVIDED, That, subject to conditions established by the director, such permit may be obtained immediately prior to sale or delivery from any person designated by the director;

(b) For any person to detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in this chapter or ((regulations)) rules adopted under this chapter, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter or the ((regulations)) rules adopted thereunder;

(c) For any person to use or cause to be used any pesticide contrary to label directions or to regulations of the director if those regulations differ from or further restrict the label directions: PROVIDED, The compliance to the term "contrary to label directions" is enforced by the director consistent with the intent of this chapter;

(d) For any person to use for his or her own advantage or to reveal, other than to the director or proper officials or employees of the state, or to the courts of the state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of RCW 15.58.060;

(e) For any person to make false, misleading, or erroneous statements or reports concerning any pest during or after a structural pest inspection or in connection with any pesticide complaint or investigation.

Sec. 12. Section 16, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.160 are each amended to read as follows:

When the director has reasonable cause to believe a pesticide or device is being distributed, stored, or transported in violation of any of the provisions of this chapter, or of any of the prescribed ~~((regulations))~~ rules under this chapter, ~~((he))~~ the director may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of any such pesticide or device. If the owner or custodian is not available for service of the order ~~((upon him))~~, the director may attach the order to the pesticide or device. The pesticide or device shall not be sold, used or removed until the provisions of this chapter have been complied with and the pesticide or device has been released in writing under conditions specified by the director, or the violation has been otherwise disposed of as provided in this chapter by a court of competent jurisdiction.

Sec. 13. Section 17, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.170 are each amended to read as follows:

(1) After service of a "stop sale, use or removal" order is made upon any person, either that person or the director may file an action in a court of competent jurisdiction in the county in which a violation of this chapter or ~~((regulations))~~ rules adopted ~~((thereunder))~~ under this chapter is alleged to have occurred for an adjudication of the alleged violation. The court in such action may issue temporary or permanent injunctions mandatory or restraining, and such intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device which does not meet the requirements of this chapter or ~~((regulations))~~ rules adopted ~~((thereunder))~~ under this chapter: PROVIDED, That no authority is granted hereunder to affect the sale or use of products on which legally approved pesticides have been legally used.

(2) If the pesticide or device is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs, and the proceeds, if such pesticide or device is sold, less cost including legal costs, shall be paid to the state treasury as provided in RCW 15.58.410: PROVIDED, That the pesticide or device shall not be sold contrary to the provisions of this chapter or ~~((regulations))~~ rules adopted ~~((thereunder))~~ under this chapter. Upon payment of costs and execution and delivery of a good and

sufficient bond conditioned that the pesticide or device shall not be disposed of unlawfully, the court may direct that the pesticide or device be delivered to the owner thereof for relabeling or reprocessing as the case may be.

(3) When a decree of condemnation is entered against the pesticide, court costs, fees, and storage and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide.

Sec. 14. Section 18, chapter 190, Laws of 1971 ex. sess. as last amended by section 4, chapter 95, Laws of 1983 and RCW 15.58.180 are each amended to read as follows:

(1) Except as provided in subsections (4) and (5) of this section, it is unlawful for any person to act in the capacity of a pesticide dealer or advertise as or assume to act as a pesticide dealer without first having obtained an annual license from the director. The license shall expire on the master license expiration date. A license is required for each location or outlet located within this state from which pesticides are distributed. A manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this state and who distributes such pesticides directly into this state shall obtain a pesticide dealer license for his or her principal out-of-state location or outlet, but such licensed out-of-state pesticide dealer is exempt from the pesticide dealer manager requirements.

(2) Application for a license shall be accompanied by a ~~((twenty))~~ thirty-dollar annual license fee and shall be made through the master license system and shall include the full name of the person applying for the license and the name of the individual within the state designated as the pesticide dealer manager. If the applicant is a partnership, association, corporation, or organized group of persons, the full name of each member of the firm or partnership or the names of the officers of the association or corporation shall be given on the application. The application shall further state the principal business address of the applicant in the state and elsewhere, the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director.

(3) It is unlawful for any licensed dealer outlet to operate without a pesticide dealer manager who has a license of qualification. The department shall be notified forthwith of any change in the pesticide dealer manager designee during the licensing period.

(4) This section does not apply to (a) a licensed pesticide applicator who sells pesticides only as an integral part of ~~((his))~~ the applicator's pesticide application service when such pesticides are dispensed only through apparatuses used for such pesticide application, or (b) any federal, state, county, or municipal agency that provides pesticides only for its own programs.

(5) A user of a pesticide may distribute a properly labelled pesticide to another user who is legally entitled to use that pesticide without obtaining a

pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter 70.105 RCW.

Sec. 15. Section 20, chapter 190, Laws of 1971 ex. sess. as amended by section 19, chapter 297, Laws of 1981 and RCW 15.58.200 are each amended to read as follows:

The director shall require each pesticide dealer manager to demonstrate to the director ~~((his))~~ knowledge of pesticide laws and ~~((regulations))~~ rules; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination after which the director shall issue a license of qualification. Application for a license shall be accompanied by a license fee of ~~((ten))~~ fifty dollars. ~~((The director shall charge a five dollar examination fee for each examination administered on other than a regularly scheduled examination date.))~~ The pesticide dealer manager license shall ~~((be valid until revoked or until the director determines relicensing is necessary))~~ expire on the fifth December 31st after the date of issuance.

Sec. 16. Section 21, chapter 190, Laws of 1971 ex. sess. as amended by section 5, chapter 95, Laws of 1983 and RCW 15.58.210 are each amended to read as follows:

No individual may perform services as a pest control consultant without obtaining from the director an annual license, which license shall expire on the final day of February of each year. Application for a license shall be on a form prescribed by the director and shall be accompanied by a fee of ~~((twenty))~~ thirty dollars. Licensed commercial pesticide applicators and operators; licensed private-commercial applicators; licensed demonstration and research applicators; employees of federal, state, county, or municipal agencies when acting in their official capacities; and pesticide dealer managers and employees working under the direct supervision of the pesticide dealer manager and only at a licensed pesticide dealer's outlet, are exempt from this licensing provision.

Sec. 17. Section 22, chapter 190, Laws of 1971 ex. sess. as last amended by section 4, chapter 203, Laws of 1986 and RCW 15.58.220 are each amended to read as follows:

For the purpose of this section public pest control consultant means any individual who is employed by a governmental agency or unit to act as a pest control consultant as defined in RCW ~~((15.58.030(23)))~~ 15.58.030(28). No person shall act as a public pest control consultant on or after February 28, 1973 without first obtaining ~~((a nonfee))~~ an annual license from the director. ~~((Public pest control consultant licenses shall expire on the fifth December 31st from the date of issuance. PROVIDED, That all public pest control consultant licenses valid on December 31, 1985, shall expire on December 31, 1990.))~~ Application for a license shall be on a form

prescribed by the director (~~(-PROVIDED, That)~~) and shall be accompanied by an annual license fee of fifteen dollars. Federal and state employees whose principal responsibilities are in pesticide research, the jurisdictional health officer or ((his)) a duly authorized representative, public pest control consultants licensed and working in the health vector field, and public operators licensed under RCW 17.21.220 shall be exempt from this licensing provision.

Sec. 18. Section 23, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.230 are each amended to read as follows:

The director shall require each applicant for a pest control consultant's license or a public pest control consultant's license to demonstrate to the director the applicant's knowledge of pesticide laws and regulations; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination for the classifications for which ((he)) the applicant has applied prior to issuing ((his)) the license. (~~An examination fee of five dollars shall be charged when an examination is requested at other than a regularly scheduled examination date.~~)

NEW SECTION. Sec. 19. A new section is added to chapter 15.58 RCW to read as follows:

(1) If an application for renewal of a pesticide dealer license is not filed on or before the master license expiration date, the master license delinquency fee shall be assessed under chapter 19.02 RCW and shall be paid by the applicant before the renewal license is issued.

(2) If application for renewal of any license provided for in this chapter other than the pesticide dealer license is not filed on or before the expiration date of the license, a penalty equivalent to the license fee shall be assessed and added to the original fee, and shall be paid by the applicant before the renewal license is issued: **PROVIDED**, That such penalty shall not apply if the applicant furnishes an affidavit certifying that he or she has not acted as a licensee subsequent to the expiration of the license.

(3) Any license for which a renewal application has been made, all other requirements have been met, and the proper fee paid, continues in full force and effect until the director notifies the applicant that the license has been renewed or the application has been denied.

Sec. 20. Section 24, chapter 190, Laws of 1971 ex. sess. as amended by section 5, chapter 203, Laws of 1986 and RCW 15.58.240 are each amended to read as follows:

The director may classify licenses to be issued under the provisions of this chapter. Such classifications may include but not be limited to agricultural crops, ornamentals, or noncrop land herbicides. If the licensee has a classified license ((he)) the licensee shall be limited to practicing within these classifications. Each such classification shall be subject to separate

testing procedures and requirements: PROVIDED, That no person shall be required to pay an additional license fee if ((such)) the person desires to be licensed in one or all of the license classifications provided for by the director under the authority of this section. The director may charge an examination fee established by the director by rule when an examination is necessary, before a license may be issued or when application for a license and examination is made at other than a regularly scheduled examination date. The director may renew any applicant's license under the classification for which the applicant is licensed, subject to reexamination or other recertification standards as determined by the director when deemed necessary because new knowledge or new classifications are required to carry out the responsibilities of the licensee.

**NEW SECTION.** Sec. 21. A new section is added to chapter 15.58 RCW to read as follows:

Unless revoked for cause by the director, any registration, license, or permit in effect on the effective date of this section shall continue in full force until its expiration date. Public pest control consultant and pesticide dealer manager licenses valid on December 31, 1985, shall expire on December 31, 1990, and public pest control and pesticide dealer manager licenses issued subsequent to December 31, 1985, and valid on December 31, 1986, shall expire on December 31, 1991.

Sec. 22. Section 25, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.250 are each amended to read as follows:

Any person issued a license or permit under the provisions of this chapter may be required by the director to keep accurate records on a form prescribed by ((him)) the director which may contain the following information:

- (1) The delivery, movement or holding of any pesticide or device, including the quantity;
- (2) The date of shipment and receipt;
- (3) The name of consignor and consignee; and
- (4) Any other information, necessary for the enforcement of this chapter, as prescribed by the director.

The director shall have access to such records at any reasonable time to copy or make copies of such records for the purpose of carrying out the provisions of this chapter.

Sec. 23. Section 26, chapter 190, Laws of 1971 ex. sess. as amended by section 2, chapter 158, Laws of 1985 and RCW 15.58.260 are each amended to read as follows:

The director is authorized to impose a civil penalty and/or deny, suspend, or revoke any license, registration or permit provided for in this chapter subject to a hearing and in conformance with the provisions of chapter ((34.04)) 34.05 RCW (Administrative Procedure Act) in any case

in which the director finds there has been a failure or refusal to comply with the provisions of this chapter or rules adopted (~~(hereunder)~~) under this chapter.

Sec. 24. Section 28, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.280 are each amended to read as follows:

The sampling and examination of pesticides or devices shall be made under the direction of the director for the purpose of determining whether or not they comply with the requirements of this chapter. The director is authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to pesticides or devices. If it appears from such examination that a pesticide or device fails to comply with the provisions of this chapter or (~~(regulations)~~) rules adopted (~~(thereunder)~~) under this chapter, and the director contemplates instituting criminal proceedings against any person, the director shall cause notice to be given to such person. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to the contemplated proceedings. If thereafter in the opinion of the director it appears that the provisions of this chapter or (~~(regulations)~~) rules adopted (~~(thereunder)~~) under this chapter have been violated by such person, the director shall refer a copy of the results of the analysis or the examination of such pesticide or device to the prosecuting attorney for the county in which the violation occurred.

Sec. 25. Section 29, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.290 are each amended to read as follows:

Nothing in this chapter shall be construed as requiring the director to report for prosecution or for the institution of condemnation proceedings minor violations of this chapter when (~~(he)~~) the director believes that the public interest will be best served by a suitable notice of warning in writing.

Sec. 26. Section 33, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.330 are each amended to read as follows:

Any person violating any provisions of this chapter or (~~(regulations)~~) rules adopted (~~(thereunder)~~) under this chapter is guilty of a misdemeanor.

Sec. 27. Section 1, chapter 158, Laws of 1985 and RCW 15.58.335 are each amended to read as follows:

Every person who fails to comply with this chapter or the rules adopted under it may be subjected to a civil penalty, as determined by the director, in an amount of not more than (~~(one)~~) seven thousand five hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated this section and may be subject to the civil penalty herein provided.

Sec. 28. Section 34, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.340 are each amended to read as follows:



The director may bring an action to enjoin the violation or threatened violation of any provision of this chapter or any ((regulation)) rule made pursuant to this chapter in a court of competent jurisdiction of the county in which such violation occurs or is about to occur.

NEW SECTION. Sec. 29. A new section is added to chapter 15.58 RCW to read as follows:

Nothing in this chapter shall preclude any person aggrieved by a violation of this chapter from bringing suit in a court of competent jurisdiction for damages arising from the violation.

NEW SECTION. Sec. 30. A new section is added to chapter 15.58 RCW to read as follows:

By December 1, 1989, and each subsequent December 1, the department shall report to the appropriate committees of the house of representatives and the senate on the activities of the department under this chapter. The report shall include, at a minimum, a review of the department's enforcement activities, with the number of cases investigated and the number and amount of civil penalties assessed.

Sec. 31. Section 43, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.910 are each amended to read as follows:

The repeal of RCW 15.57.010 through 15.57.930 and the enactment of this chapter shall not be deemed to have repealed any ((regulations)) rules adopted under the provisions of RCW 15.57.010 through 15.57.930 in effect immediately prior to such repeal and not inconsistent with the provisions of this chapter. All such ((regulations)) rules shall be considered to have been adopted under the provisions of this chapter.

NEW SECTION. Sec. 32. A new section is added to chapter 15.58 RCW to read as follows:

Each registration and licensing fee under this chapter is increased by a surcharge of five dollars to be deposited in the agriculture—local fund, provided that an additional one-time surcharge of five dollars shall be collected on January 1, 1990. The revenue raised by the imposition of this surcharge shall be used to assist in funding the pesticide incident reporting and tracking review panel, department of social and health services' pesticide investigations, and the department of agriculture's pesticide investigations.

Sec. 33. Section 2, chapter 249, Laws of 1961 as last amended by section 1, chapter 92, Laws of 1979 and RCW 17.21.020 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 agriculture of the state of Washington.~~

(2) ~~"Director" means the director of the department or his duly appointed representative.~~

(3) ~~"Person" means a natural person, individual, firm, partnership, corporation, company, society, association, or any organized group of persons whether incorporated or not, and every officer, agent or employee thereof. This term shall import either the singular or plural as the case may be.~~

(4) ~~"Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed and any form of plant or animal life or virus, except virus on or in living man or other animal, which is normally considered to be a pest or which the director may declare to be a pest.~~

(5) ~~"Pesticide" means, but is not limited to, (a) any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed and any other form of plant or animal life or virus, except virus on or in living man or other animal, which is normally considered to be a pest or which the director may declare to be a pest, and (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant, and (c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or effect thereof, and sold in a package or container separate from that of the pesticide with which it is to be used.~~

(6) ~~"Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests or to destroy, control, repel or mitigate fungi, nematodes or such other pests, as may be designated by the director, but not including equipment used for the application of pesticides when sold separately therefrom.~~

(7) ~~"Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel or mitigate any fungi.~~

(8) ~~"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel or mitigate rodents or any other vertebrate animal which the director may declare to be a pest.~~

(9) ~~"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel or mitigate any weed.~~

(10) ~~"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insects which may be present in any environment whatsoever.~~

(11) ~~"Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.~~

(12) ~~"Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or~~

crop plants or the produce thereof, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments:

(13) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission:

(14) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues:

(15) "Weed" means any plant which grows where not wanted:

(16) "Insect" means any of the numerous small invertebrate animals whose bodies are more or less obviously segmented, and which for the most part belong to the class insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and isopod crustaceans:

(17) "Fungi" means all nonchlorophyll-bearing thallophytes (that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts and bacteria, except those on or in living man or other animals:

(18) "Snails or slugs" include all harmful mollusks:

(19) "Nematode" means any of the nonsegmented roundworms harmful to plants:

(20) "Apparatus" means any type of ground, water or aerial equipment, device, or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized handsized household device used to apply any pesticide or any equipment, device or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application, or any other small equipment, device, or contrivance that is transported in a piece of equipment licensed under this chapter as an apparatus:

(21) "Restricted use pesticide" means any pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including man, lands, beneficial insects, animals, crops, and wildlife, other than pests:

(22) "Engage in business" means any application of pesticides by any person upon lands or crops of another:

(23) "Agricultural crop" means a food intended for human consumption, or a food for livestock the products of which are intended for human consumption, which food shall require cultural treatment of the land for its production:

(24) "~~Board~~" means the pesticide advisory board.

(25) "~~Land~~" means all land and water areas, including airspace, and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(26) "~~Agricultural commodity~~" means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

(27) "~~Certified applicator~~" means any individual who is licensed as a pesticide applicator, pesticide operator, public operator, private-commercial applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators, only.

(28) "~~Direct supervision~~" by certified private applicators shall mean that the designated restricted use pesticide shall be applied for purposes of producing any agricultural commodity on land owned or rented by him or his employer, by a competent person acting under the instructions and control of a certified private applicator who is available if and when needed, even though such certified private applicator is not physically present at the time and place the pesticide is applied. The certified private applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied. Direct supervision by all other certified applicators means direct on-the-job supervision.

(29) "~~EPA~~" means the United States environmental protection agency.

(30) "~~EPA restricted use pesticide~~" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(31) "~~FIFRA~~" means the federal insecticide, fungicide and rodenticide act, as amended (61 Stat. 163, 7 U.S.C. Sec. 135).

(32) "~~Private applicator~~" means a certified applicator who uses or is in direct supervision of the use of (a) any EPA restricted use pesticide; or (b) any restricted use pesticide restricted to use only by certified applicators by the director, for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by him or his employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

(33) "~~Private-commercial applicator~~" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide or (b) any restricted use pesticide restricted to use only by certified applicators for

purposes other than the production of any agricultural commodity on lands owned or rented by him or his employer.

~~(34) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director))~~ "Agricultural commodity" means any plant or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

(2) "Apparatus" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land, but shall not include any pressurized handsized household device used to apply any pesticide, or any equipment, device, or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application, or any other small equipment, device, or contrivance that is transported in a piece of equipment licensed under this chapter as an apparatus.

(3) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(4) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators only.

(5) "Commercial pesticide applicator" means any person who engages in the business of applying pesticides to the land of another.

(6) "Commercial pesticide operator" means any employee of a commercial pesticide applicator who uses or supervises the use of any pesticide and who is required to be licensed under provisions of this chapter.

(7) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(8) "Department" means the Washington state department of agriculture.

(9) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(10) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests, or to destroy, control, repel, or mitigate fungi, nematodes, or such other pests, as may be designated by the director, but not including equipment used for the application of pesticides when sold separately from the pesticides.

(11) "Direct supervision" by certified private applicators shall mean that the designated restricted use pesticide shall be applied for purposes of producing any agricultural commodity on land owned or rented by the applicator or the applicator's employer, by a competent person acting under the instructions and control of a certified private applicator who is available if and when needed, even though such certified private applicator is not physically present at the time and place the pesticide is applied. The certified private applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied. Direct supervision by all other certified applicators means direct on-the-job supervision. Direct supervision of an aerial apparatus means the pilot of the aircraft must be appropriately certified.

(12) "Director" means the director of the department or a duly authorized representative.

(13) "Engage in business" means any application of pesticides by any person upon lands or crops of another.

(14) "EPA" means the United States environmental protection agency.

(15) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(16) "FIFRA" means the federal insecticide, fungicide and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

(17) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in a living person or other animals.

(18) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.

(19) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed.

(20) "Insect" means any of the numerous small invertebrate animals whose bodies are more or less obviously segmented, and which for the most part belong to the class insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(21) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insects which may be present in any environment whatsoever.

(22) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices, and contrivances, appurtenant to or situated on, fixed or mobile, including any used for transportation.

(23) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

(24) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts, may also be called nemas or eelworms.

(25) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(26) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed, and any form of plant or animal life or virus, except virus on or in a living person or other animal, which is normally considered to be a pest, or which the director may declare to be a pest.

(27) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or effect thereof, and sold in a package or container separate from that of the pesticide with which it is to be used.

(28) "Pesticide advisory board" means the pesticide advisory board as provided for in this chapter.

(29) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or their produce, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(30) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of (a) any EPA restricted use pesticide; or (b) any restricted use pesticide restricted to use only by certified applicators by the director, for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the applicator or the applicator's employer or if applied without compensation

other than trading of personal services between producers of agricultural commodities on the land of another person.

(31) "Private-commercial applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide or (b) any restricted use pesticide restricted to use only by certified applicators for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

(32) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(33) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents, or any other vertebrate animal which the director may declare by rule to be a pest.

(34) "Snails or slugs" include all harmful mollusks.

(35) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

(36) "Weed" means any plant which grows where not wanted.

Sec. 34. Section 3, chapter 249, Laws of 1961 as last amended by section 26, chapter 45, Laws of 1987 and RCW 17.21.030 are each amended to read as follows:

The director shall administer and enforce the provisions of this chapter and rules adopted hereunder.

(1) The director shall adopt rules:

(a) Governing the application and use, or prohibiting the use, or possession for use, of any pesticide;

(b) Governing the time when, and the conditions under which restricted use pesticides shall or shall not be used in different areas, which areas may be prescribed by the director, in the state;

(c) Providing that any or all restricted use pesticides shall be purchased, possessed or used only under permit of the director and under the director's direct supervision in certain areas and/or under certain conditions or in certain quantities of concentrations; however, any person licensed to sell such pesticides may purchase and possess such pesticides without a permit;

~~(d) ((Providing that all permittees shall keep records as required of licensees under RCW 17.21.100))~~ Establishing recordkeeping requirements for licensees, permittees, and certified applicators;

(e) Fixing and collecting examination fees; ~~((and))~~



(f) Establishing testing procedures, licensing classifications, and requirements for licenses and permits as provided by this chapter; and  
 (g) Fixing and collecting permit fees.

(2) The director may adopt any other rules necessary to carry out the purpose and provisions of this chapter.

Sec. 35. Section 4, chapter 249, Laws of 1961 and RCW 17.21.040 are each amended to read as follows:

All rules adopted under the provisions of this chapter shall be subject to the provisions of chapter ~~((34.04))~~ 34.05 RCW as enacted or hereafter amended, concerning the adoption of rules.

Sec. 36. Section 5, chapter 249, Laws of 1961 as amended by section 4, chapter 158, Laws of 1985 and RCW 17.21.050 are each amended to read as follows:

All hearings for the imposition of a civil penalty and/or the suspension, denial or revocation of a license issued under the provisions of this chapter shall be subject to the provisions of chapter ~~((34.04))~~ 34.05 RCW ~~((as enacted or hereafter amended, concerning contested cases))~~.

Sec. 37. Section 7, chapter 249, Laws of 1961 as last amended by section 21, chapter 297, Laws of 1981 and RCW 17.21.070 are each amended to read as follows:

It shall be unlawful for any person to engage in the business of applying pesticides to the land of another without a commercial pesticide applicator~~((s))~~ license. ~~((Application for such a license shall be made on or before January 1st of each year. Such))~~ Application for the license shall be accompanied by a fee of one hundred twenty-five dollars and in addition ~~((thereto))~~ a fee of ten dollars for each apparatus, exclusive of one, used by the applicant in the application of pesticides: **PROVIDED**, That the provisions of this section shall not apply to any person employed only to operate any apparatus used for the application of any pesticide, and in which such person has no financial interest or other control over such apparatus other than its day to day mechanical operation for the purpose of applying any pesticide. Commercial pesticide applicator licenses shall expire on December 31st following their issuance.

Sec. 38. Section 8, chapter 249, Laws of 1961 as amended by section 4, chapter 177, Laws of 1967 and RCW 17.21.080 are each amended to read as follows:

Application for a commercial pesticide applicator~~((s))~~ license provided for in RCW 17.21.070 shall be on a form prescribed by the director and shall include the following:

(1) The full name of the person applying for such license.

(2) If the applicant is an individual, receiver, trustee, firm, partnership, association, corporation, or any other organized group of persons whether

incorporated or not, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation or group.

(3) The principal business address of the applicant in the state and elsewhere.

(4) The name of a person whose domicile is in the state, and who is authorized to receive and accept services of summons and legal notice of all kinds for the applicant.

(5) The model, make, horsepower, and size of any apparatus used by the applicant to apply pesticides.

(6) License classification or classifications the applicant is applying for.

(7) Any other necessary information prescribed by the director.

Sec. 39. Section 10, chapter 219, Laws of 1961 as last amended by section 28, chapter 45, Laws of 1987 and RCW 17.21.100 are each amended to read as follows:

(1) Except as provided in subsection (7) of this section, pesticide applicators licensed under the provisions of this chapter and all persons applying pesticides to more than one acre of agricultural land in a calendar year, including public entities engaged in roadside spraying of pesticides, shall keep records on a form prescribed by the director which shall include the following:

~~((1))~~ The name of the person for whom the pesticide was applied.

~~((2))~~ (a) The location of the land where the pesticide was applied.

~~((3))~~ (b) The year, month, day and time the pesticide was applied.

~~((4))~~ The trade name and/or the common name) (c) The product name used on the registered label and the United States environmental protection agency registration number, if applicable, of the pesticide which was applied.

~~((5))~~ (d) The crop or site to which the pesticide was applied.

(e) The amount of pesticide applied per acre or other appropriate measure.

(f) The concentration of pesticide that was applied.

(g) The number of acres, or other appropriate measure, to which the pesticide was applied.

(h) The licensed applicator's name, address, and telephone number and the name of the individual or individuals making the application.

(i) The direction and estimated velocity of the wind at the time the pesticide was applied: PROVIDED, That this subsection ((does)) (i) shall not apply to applications of baits in bait stations and pesticide applications within structures.

~~((6))~~ (j) Any other reasonable information required by the director.

~~((7))~~ (2) Records shall be updated on the same day that a pesticide is applied.

(3) Such records shall be kept for a period of ((three)) seven years from the date of the application of the pesticide to which such records refer,

and the director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee: PROVIDED, That the director may require the submission of such records within thirty days of the application of any restricted use pesticide in prescribed areas controlling the use of such restricted use pesticide.

(4) The pesticide records shall be readily available to: The department; treating medical personnel initiating diagnostic testing or therapy for a patient with a suspected case of pesticide poisoning; the department of social and health services; the pesticide incident reporting and tracking panel; and, in the case of an industrial insurance claim filed under Title 51 RCW with the department of labor and industries, the employee or the employee's designated representative and the department of labor and industries.

(5) If a request for information is made under subsection (4) of this section from an applicator referred to in subsection (1) of this section and the applicator refuses to provide a copy of the records, the department shall be notified of the request and the applicator's refusal. Within seven working days, the department shall request that the applicator provide the department with all pertinent copies, except that in a medical emergency the request shall be made within two working days. The applicator shall provide copies of the records to the department within twenty-four hours after the department's request.

(6) The department of agriculture and the department of labor and industries shall jointly adopt, by rule, one form that satisfies the information requirements of this section and section 77 of this act. Records kept on the prescribed form under section 77 of this act may be used to comply with this section.

(7) This section shall not apply to the owner or operator of a dairy farm with respect to his or her application of pesticides to the farm.

Sec. 40. Section 11, chapter 249, Laws of 1961 as last amended by section 22, chapter 297, Laws of 1981 and RCW 17.21.110 are each amended to read as follows:

It shall be unlawful for any person to act as an employee of a commercial pesticide applicator and apply pesticides manually or as the operator directly in charge of any apparatus which is licensed or should be licensed under the provisions of this chapter for the application of any pesticide, without having obtained ((an operator's)) a commercial pesticide operator license from the director. ((Such an operator's)) The commercial pesticide operator license shall be in addition to any other license or permit required by law for the operation or use of any such apparatus. ((Any person applying for such an operator's license shall file an application on a form prescribed by the director on or before January 1st of each year. Such application shall state the classifications the applicant is applying for and

~~whether the applicant intends to apply pesticides manually or to operate either a ground or aerial apparatus, or both, for the application of pesticides:))~~ Application for a license to apply pesticides manually and/or to operate ground apparatuses shall be accompanied by a license fee of ~~((twenty))~~ thirty dollars. Application for a license to operate an aerial apparatus shall be accompanied by a license fee of ~~((twenty))~~ thirty dollars. The provisions of this section shall not apply to any individual who ~~((has passed the examination provided for in RCW 17.21.090, and))~~ is a licensed commercial pesticide applicator. Commercial pesticide operator licenses shall expire on December 31st following their issuance.

Sec. 41. Section 6, chapter 92, Laws of 1979 and RCW 17.21.122 are each amended to read as follows:

It shall be unlawful for any person to act as a private-commercial applicator without having obtained a private-commercial applicator~~((s))~~ license from the director. ~~((Any person applying for such private-commercial applicator's license shall file an application on a form prescribed by the director. Such application shall state the classifications the applicant is applying for and the method in which these pesticides are to be applied:))~~ Application for a private-commercial applicator license ((to apply pesticides)) shall be accompanied by a license fee of ~~((twenty))~~ fifty dollars before a license may be issued. ~~((The))~~ Private-commercial applicator licenses issued by the director shall ((be valid until revoked or until the director determines that recertification is necessary)) expire on the fifth December 31st after the date of issuance.

Sec. 42. Section 8, chapter 92, Laws of 1979 and RCW 17.21.126 are each amended to read as follows:

It shall be unlawful for any person to act as a private applicator without first complying with the certification requirements determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use. Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides the private applicator is to be certified to use shall be relative to hazards according to RCW 17.21.030 as now or hereafter amended. In determining these standards the director shall take into consideration standards of the EPA and is authorized to adopt by ~~((regulation))~~ rule these standards. ~~((A))~~ Application for private applicator certification shall be accompanied by a license fee of fifteen dollars before a certification may be issued. Private applicator certification issued by the director shall ((be valid until revoked or the director determines that a recertification is necessary)) expire on December 31st following issuance: PROVIDED, That private applicator certifications valid on July 1, 1989, shall expire on December 31, 1989. If the director does not qualify ((the)) a private applicator under this section, ((he)) the director shall inform the applicant in writing.

Sec. 43. Section 26, chapter 297, Laws of 1981 as amended by section 30, chapter 45, Laws of 1987 and RCW 17.21.129 are each amended to read as follows:

Except as provided in RCW 17.21.203(1), it is unlawful for a person to use or supervise the use of any pesticide which is restricted to use by certified applicators, on small experimental plots for research purposes when no charge is made for the pesticide and its application, without a demonstration and research applicator's license.

~~((Demonstration and research applicators shall be subject to the record-keeping requirements of RCW 17.21.100. The director shall not issue a demonstration and research license until the applicant has passed an examination to demonstrate (1) the applicant's ability to apply pesticides in the classifications the applicant has applied for, and (2) the applicant's knowledge of the nature and effect of pesticides applied manually or used in such apparatuses under such classifications.))~~

A license fee of ~~((twenty))~~ fifty dollars shall be paid before a demonstration and research license may be issued. ~~((The director shall charge an examination fee established by the director by rule for each examination administered on other than a regularly scheduled examination date.))~~ The demonstration and research applicator~~((s))~~ license shall ~~((be valid until revoked or until the director determines that recertification is necessary))~~ expire on the fifth December 31st after the date of issuance.

NEW SECTION. Sec. 44. A new section is added to chapter 17.21 RCW to read as follows:

Any person applying for a license or certification authorized under the provisions of this chapter shall file an application on a form prescribed by the director. The application shall state the license or certification and the classification(s) the applicant is applying for and the method in which the pesticides are to be applied. Application for a license to apply pesticides shall be accompanied by the required fee. Renewal applications shall be filed on or before January 1st of the appropriate year.

NEW SECTION. Sec. 45. A new section is added to chapter 17.21 RCW to read as follows:

(1) The director shall not issue a commercial pesticide applicator license until the applicant, if he or she is the sole owner of the business, or if there is more than one owner, the person managing the business, has passed an examination. The director shall not issue a commercial pesticide operator, public operator, private commercial applicator, or demonstration and research applicator license until the applicant has passed an examination. Such examinations shall require the applicant to demonstrate to the director knowledge of:

(a) How to apply pesticides under the classification he or she has applied for, manually or with the various apparatuses that he or she may operate;

(b) The nature and effect of pesticides he or she may apply under such classifications; and

(c) Any other matter the director determines to be a necessary subject for examination.

(2) The director shall charge an examination fee established by the director by rule when an examination is necessary before a license may be issued or when application for such license and examination is made at other than a regularly scheduled examination date as provided for by the director.

(3) The director may prescribe separate testing procedures and requirements for each license.

Sec. 46. Section 13, chapter 249, Laws of 1961 as amended by section 10, chapter 203, Laws of 1986 and RCW 17.21.130 are each amended to read as follows:

Any license, permit, or certification provided for in this chapter may be revoked or suspended, and any license, permit, or certification application may be denied by the director for cause.

Sec. 47. Section 14, chapter 249, Laws of 1961 and RCW 17.21.140 are each amended to read as follows:

(1) If the application for renewal of any license provided for in this chapter is not filed on or prior to January 1st ((in any year)) following the expiration date of the license, a penalty of twenty-five ((percent)) dollars for the commercial pesticide applicator's license, and a penalty equivalent to the license fee for any other license, shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: PROVIDED, That such penalty shall not apply if the applicant furnishes an affidavit certifying that he or she has not acted as a ((pesticide applicator or operator)) licensee subsequent to the expiration of ((his)) the license.

(2) Any license for which a timely renewal application has been made, all other requirements have been met, and the proper fee paid, continues in full force and effect until the director notifies the applicant that the license has been renewed or the application has been denied.

Sec. 48. Section 15, chapter 249, Laws of 1961 as last amended by section 4, chapter 191, Laws of 1971 ex. sess. and RCW 17.21.150 are each amended to read as follows:

((The director may deny, suspend, or revoke a license provided for in this chapter if he determines that an applicant or licensee has committed)) A person who has committed any of the following acts((, each of which)) is declared to be ((a)) in violation of this chapter:

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized;

(2) Applied worthless or improper materials;

(3) Operated a faulty or unsafe apparatus;

- (4) Operated in a faulty, careless, or negligent manner;
- (5) Refused or neglected to comply with the provisions of this chapter, the rules adopted hereunder, or of any lawful order of the director;
- (6) Refused or neglected to keep and maintain the records required by ~~((this chapter))~~ rule, or to make reports when and as required;
- (7) Made false or fraudulent records, invoices, or reports;
- (8) Engaged in the business of applying a pesticide without having ~~((a licensed applicator or operator))~~ an appropriately licensed person in direct "on-the-job" supervision;
- (9) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus;
- (10) Used fraud or misrepresentation in making an application for a license or renewal of a license;
- (11) Is not qualified to perform the type of pest control under the conditions and in the locality in which he or she operates or has operated, regardless of whether or not he or she has previously passed ~~((an))~~ a pesticide license examination ~~((provided for in RCW 17.21.090 and 17.21.120))~~;
- (12) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with such a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;
- (13) Knowingly made false, misleading or erroneous statements or reports during or after an inspection concerning any infestation or infection of pests found on land or in connection with any pesticide complaint or investigation; ~~((or))~~
- (14) Impersonated any state, county or city inspector or official; or
- (15) Used or supervised the use of a pesticide restricted to use by certified applicators without having a certified applicator in direct supervision.

Sec. 49. Section 16, chapter 249, Laws of 1961 as amended by section 9, chapter 177, Laws of 1967 and RCW 17.21.160 are each amended to read as follows:

The director shall not issue a commercial pesticide applicator~~((s))~~ license until the applicant has furnished evidence of financial responsibility with the director consisting either of a surety bond; or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant: PROVIDED, That such surety bond or liability insurance policy need not apply to damages or injury to agricultural crops, plants or land being worked upon by the applicant. The director shall not accept a surety bond or liability insurance policy except from authorized insurers in this state or if placed as a surplus line as provided for in chapter 48.15 RCW, as enacted or hereafter amended.

Sec. 50. Section 18, chapter 249, Laws of 1961 as last amended by section 31, chapter 45, Laws of 1987 and RCW 17.21.180 are each amended to read as follows:

The ~~((applicator's))~~ commercial pesticide applicator license shall, whenever the licensee's surety bond or insurance policy is reduced below the requirements of RCW 17.21.170, be automatically suspended until such licensee's surety bond or insurance policy again meets the requirements of RCW 17.21.170; PROVIDED, That the director may pick up such licensee's license plates during such period of automatic suspension and return them only at such time as the said licensee has furnished the director with written proof that he or she is in compliance with the provisions of RCW 17.21.170.

Sec. 51. Section 19, chapter 249, Laws of 1961 and RCW 17.21.190 are each amended to read as follows:

Any person suffering property loss or damage resulting from the use or application by others of any pesticide ~~((must))~~ shall file with the director a verified report of loss setting forth, so far as known to the claimant, the following:

- (1) The name and address of the claimant.
- (2) The type, kind, property alleged to be injured or damaged.
- (3) The name of the person applying the pesticide and allegedly responsible.
- (4) The name of the owner or occupant of the property for whom such application of the pesticide was made.

The report ~~((must))~~ shall be filed within ~~((sixty))~~ thirty days from the time that the property loss or damage becomes known to the claimant. If a growing crop is alleged to have been damaged, the report ~~((must))~~ shall be filed prior to harvest of fifty percent of that crop, unless the loss or damage was not then known. The department shall establish time periods by rule to determine investigation response time. Time periods shall range from immediate to forty-eight hours to initiate an investigation, depending on the severity of the damage.

The filing of such report or the failure to file such a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action.

The failure to file such a report shall not be a violation of this chapter. However, if the person failing to file such report is the only one ~~((injured))~~ suffering loss from such use or application of a pesticide by a pesticide applicator or operator, the director may refuse to ~~((hold a hearing for the denial, suspension, or revocation of such pesticide applicator's or operator's license until such report is filed))~~ act upon the complaint.

Sec. 52. Section 20, chapter 249, Laws of 1961 as last amended by section 3, chapter 92, Laws of 1979 and RCW 17.21.200 are each amended to read as follows:

The provisions of this chapter relating to commercial pesticide applicator licenses and requirements for their issuance shall not apply to any forest



landowner, or his or her employees, applying pesticides with ground apparatus or manually, on his or her own lands or any lands or rights of way under his or her control or to any farmer owner of ground apparatus applying pesticides for himself or herself or other farmers on an occasional basis not amounting to a principal or regular occupation(~~(: PROVIDED, That such owner))~~ or to any grounds maintenance person conducting grounds maintenance on an occasional basis not amounting to a regular occupation. However, persons exempt under this section shall not use pesticides restricted to use by certified applicators and shall not advertise or publicly hold ((himself)) themselves out as ((α)) pesticide applicators.

Sec. 53. Section 22, chapter 249, Laws of 1961 as last amended by section 11, chapter 203, Laws of 1986 and RCW 17.21.220 are each amended to read as follows:

(1) All state agencies, municipal corporations, and public utilities or any other governmental agency shall be subject to the provisions of this chapter and rules adopted thereunder concerning the application of pesticides(~~(: PROVIDED, That the operators applying any pesticide restricted to use by certified applicators or in charge of any apparatuses used by any state agencies, municipal corporations and public utilities or any governmental agencies shall be subject to the provisions of RCW 17.21.100, 17.21.110 and 17.21.120: PROVIDED FURTHER, That the director shall issue a limited public operator license without a fee to such operators which shall be valid only when such operators are acting as employees of a state agency, municipal corporation, public utility, or other government agency: AND PROVIDED FURTHER, That))~~).

· (2) It shall be unlawful for any employee of a state agency, municipal corporation, public utility, or any other government agency to use or to supervise the use of any pesticide restricted to use by certified applicators, or any pesticide by means of an apparatus, without having obtained a public operator license from the director. A license fee of fifteen dollars shall be paid before a public operator license may be issued. The license fee shall not apply to public operators licensed and working in the health vector field. Public operator licenses shall expire on December 31st following the date of issuance. The public operator license shall be valid only when the operator is acting as an employee of a government agency.

(3) The jurisdictional health officer or his or her duly authorized representative is exempt from this licensing provision when applying pesticides not restricted to use by certified applicators to control pests other than weeds. (~~Public operator licenses shall expire on the fifth December 31 from the date of issuance. All public operator licenses valid on December 31, 1985, shall expire on December 31, 1990.~~

~~(2))~~ (4) Such agencies, municipal corporations and public utilities shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or some part thereof occurred.

Sec. 54. Section 23, chapter 249, Laws of 1961 as last amended by section 8, chapter 36, Laws of 1988 and RCW 17.21.230 are each amended to read as follows:

There is hereby created a pesticide advisory board consisting of three licensed pesticide applicators residing in the state (one shall be licensed to operate ground apparatus, one shall be licensed to operate aerial apparatus, and one shall be licensed for structural pest control), one licensed pest control consultant, one licensed pesticide dealer manager, one entomologist in public service, one toxicologist in public service, one ~~((plant pathologist in public service))~~ pesticide coordinator from Washington State University, one member from the agricultural chemical industry, one member from the food processing industry, one member representing agricultural labor, one health care practitioner in private practice, one member from the environmental community, and two producers of agricultural crops or products on which pesticides are applied or which may be affected by the application of pesticides. Such members shall be appointed by the governor for terms of four years and may be appointed for successive four year terms at the discretion of the governor. The governor may remove any member of the pesticide advisory board prior to the expiration of his or her term of appointment for cause. The pesticide advisory board shall also include the following nonvoting members: The director of the department of labor and industries or ((his)) a duly authorized representative, the environmental health specialist from the division of health of the department of social and health services, the supervisor of the ((grain and)) chemical division of the department, and the directors, or their appointed representatives, of the departments of wildlife, fisheries, natural resources, and ecology.

Sec. 55. Section 24, chapter 249, Laws of 1961 and RCW 17.21.240 are each amended to read as follows:

Upon the death, resignation or removal for cause of any member of the pesticide advisory board, the governor shall fill such vacancy, within thirty days of its creation, for the remainder of its term in the manner herein prescribed for appointment to the board.

Sec. 56. Section 25, chapter 249, Laws of 1961 and RCW 17.21.250 are each amended to read as follows:

The pesticide advisory board shall advise the director on any or all problems relating to the use and application of pesticides in the state.

Sec. 57. Section 26, chapter 249, Laws of 1961 and RCW 17.21.260 are each amended to read as follows:

The pesticide advisory board shall elect one of its members chairman. The members of the board shall meet at such time and at such place as shall be specified by the call of the director, chairman or a majority of the board.

Sec. 58. Section 27, chapter 249, Laws of 1961 as amended by section 24, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 17.21.270 are each amended to read as follows:

No person appointed to the pesticide advisory board shall receive a salary or other compensation as a member of the board: PROVIDED, That each member of the board shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day spent in actual attendance at or traveling to and from meetings of the board or special assignments for the board.

Sec. 59. Section 28, chapter 249, Laws of 1961 as last amended by section 183, chapter 202, Laws of 1987 and RCW 17.21.280 are each amended to read as follows:

All moneys collected under the provisions of this chapter shall be paid to the director for use exclusively in the enforcement of this chapter(~~(All moneys held by the director for the enforcement of chapter 17.20 RCW shall be retained by the director for the enforcement of this chapter)~~): PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 60. Section 29, chapter 249, Laws of 1961 as amended by section 15, chapter 177, Laws of 1967 and RCW 17.21.290 are each amended to read as follows:

All licensed apparatuses shall be identified by a license plate furnished by the director, at no cost to the licensee, which plate shall be affixed in a location and manner upon such apparatus as prescribed by the director. (~~(The licensee shall also place on two sides of each licensed apparatus so as to be readily visible to the public, letters not less than one inch high stating the classification or classifications for which such licensee is licensed.)~~)

Sec. 61. Section 3, chapter 158, Laws of 1985 and RCW 17.21.315 are each amended to read as follows:

Every person who fails to comply with this chapter or the rules adopted under it may be subjected to a civil penalty, as determined by the director, in an amount of not more than (~~(one)~~) seven thousand five hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated this section and may be subject to the civil penalty herein provided.

Sec. 62. Section 10, chapter 191, Laws of 1971 ex. sess. and RCW 17-.21.320 are each amended to read as follows:

(1) For purpose of carrying out the provisions of this chapter the director may enter upon any public or private premises at reasonable times, in order:

(a) To have access for the purpose of inspecting any equipment subject to this chapter and such premises on which such equipment is kept or stored;

(b) To inspect lands actually or reported to be exposed to pesticides;

(c) To inspect storage or disposal areas;

(d) To inspect or investigate complaints of injury to humans or land; or

(e) To sample pesticides being applied or to be applied.

(2) Should the director be denied access to any land where such access was sought for the purposes set forth in this chapter, ~~((he))~~ the director may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for said purposes. The court may upon such application, issue the search warrant for the purposes requested.

(3) It shall be the duty of each prosecuting attorney to whom any violation of this chapter is reported, to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(4) The director may bring an action to enjoin the violation or threatened violation of any provision of this chapter or any rule made pursuant to this chapter in the superior court of the county in which such violation occurs or is about to occur.

NEW SECTION. Sec. 63. A new section is added to chapter 17.21 RCW to read as follows:

(1) A person aggrieved by a violation of this chapter or the rules adopted under this chapter:

(a) May request an inspection of the area in which the violation is believed to have occurred. If there are reasonable grounds to believe that a violation has occurred, the department shall conduct an inspection as soon as practicable. However, the director may refuse to act on a request for inspection concerning only property loss or damage if the person suffering property damage fails to file a timely report of loss under RCW 17.21.190. If an inspection is conducted, the person requesting the inspection shall:

(i) Be promptly notified in writing of the department's decision concerning the assessment of any penalty pursuant to the inspection; and

(ii) Be entitled, on request, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available pursuant to this chapter: PROVIDED, That in any appeal proceeding the identity of the aggrieved person who requests the inspection shall be disclosed to the alleged violator of the act upon request of the alleged violator;

(b) Shall be notified promptly, on written application to the director, of any penalty or other action taken by the department pursuant to an investigation of the violation under this chapter; and

(c) May request, within ten days from the service of a final order fixing a penalty for the violation, that the director reconsider the entire matter if it is alleged that the penalty is inappropriate. If the person is aggrieved by a decision of the director on reconsideration, the person may request an adjudicative proceeding under chapter 34.05 RCW. However, the procedures for a brief adjudicative proceeding may not be used unless agreed to by the person requesting the adjudicative proceeding. During the adjudicative proceeding under (c) of this subsection, the presiding officer shall consider the interests of the person requesting the adjudicative proceeding.

(2) Nothing in this chapter shall preclude any person aggrieved by a violation of this chapter from bringing suit in a court of competent jurisdiction for damages arising from the violation.

**NEW SECTION.** Sec. 64. A new section is added to chapter 17.21 RCW to read as follows:

By December 1, 1989, and each subsequent December 1, the department shall report to the appropriate committees of the house of representatives and the senate on the activities of the department under this chapter. The report shall include, at a minimum: (1) A review of the department's pesticide incident investigation and enforcement activities, with the number of cases investigated and the number and amount of civil penalties assessed; and (2) a summary of the pesticide residue food monitoring program with information on the food samples tested and results of the tests, a listing of the pesticides for which no testing is done, and other pertinent information.

Sec. 65. Section 32, chapter 249, Laws of 1961 and RCW 17.21.910 are each amended to read as follows:

Unless revoked for cause by the director, any license issued under the provisions of this chapter ((17.20 RCW)) and in effect on ((the effective date of this act)) June 7, 1961, shall continue in full force and effect until its expiration date ((as if it had been issued under the requirements of RCW 17.21.090 and satisfied all requirements for obtaining such license, unless revoked prior thereto for cause by the director subsequent to a hearing:

The director shall prorate the cost of any license provided for in this chapter for the license period beginning with the \*\*effective date of this act and ending December 31, 1961)); PROVIDED, That public operator, private commercial applicator and demonstration and research applicator licenses in effect on December 31, 1985, shall expire on December 31, 1990, and any public operator, private commercial applicator and demonstration and research applicator licenses issued after December 31, 1985, and in effect on December 31, 1986, shall expire on December 31, 1991.

**NEW SECTION.** Sec. 66. A new section is added to chapter 17.21 RCW to read as follows:

Each registration and licensing fee under this chapter is increased by a surcharge of five dollars to be deposited in the agriculture—local fund, provided that an additional one-time surcharge of five dollars shall be collected on January 1, 1990. The revenue raised by the imposition of this surcharge shall be used to assist in funding the pesticide incident reporting and tracking review panel, department of social and health services' pesticide investigations, and the department of agriculture's pesticide investigations.

**NEW SECTION.** Sec. 67. A new section is added to chapter 70.104 RCW to read as follows:

The legislature finds that heightened concern regarding health and environmental impacts from pesticide use and misuse has resulted in an increased demand for full-scale health investigations, assessment of resource damages, and health effects information. Increased reporting, comprehensive unbiased investigation capability, and enhanced community education efforts are required to maintain this state's responsibilities to provide for public health and safety.

It is the intent of the legislature that the various state agencies responsible for pesticide regulation coordinate their activities in a timely manner to ensure adequate monitoring of pesticide use and protection of workers and the public from the effects of pesticide misuse.

**NEW SECTION.** Sec. 68. A new section is added to chapter 70.104 RCW to read as follows:

(1) There is hereby created a pesticide incident reporting and tracking review panel consisting of the following members:

(a) The directors, secretaries, or designees of the departments of labor and industries, agriculture, natural resources, wildlife, and ecology;

(b) The director of the department of social and health services or his or her designee, who shall serve as the coordinating agency for the review panel;

(c) The chair of the department of environmental health of the University of Washington, or his or her designee;

(d) The pesticide coordinator and specialist of the cooperative extension at Washington State University or his or her designee;

(e) A representative of the Washington poison control center network;

(f) A practicing toxicologist and a member of the general public, who shall each be appointed by the governor for terms of two years and may be appointed for a maximum of four terms at the discretion of the governor. The governor may remove either member prior to the expiration of his or her term of appointment for cause. Upon the death, resignation, or removal

for cause of a member of the review panel, the governor shall fill such vacancy, within thirty days of its creation, for the remainder of the term in the manner herein prescribed for appointment to the review panel.

(2) The review panel shall be chaired by the secretary of the department of social and health services, or designee. The members of the review panel shall meet at least monthly at a time and place specified by the chair, or at the call of a majority of the review panel.

**NEW SECTION.** Sec. 69. A new section is added to chapter 70.104 RCW to read as follows:

The responsibilities of the review panel shall include, but not be limited to:

(1) Establishing guidelines for centralizing the receipt of information relating to actual or alleged health and environmental incidents involving pesticides:

(2) Reviewing and making recommendations for procedures for investigation of pesticide incidents, which shall be implemented by the appropriate agency unless a written statement providing the reasons for not adopting the recommendations is provided to the review panel;

(3) Monitoring the time periods required for response to reports of pesticide incidents by the departments of agriculture, social and health services, and labor and industries;

(4) At the request of the chair or any panel member, reviewing pesticide incidents of unusual complexity or those that cannot be resolved;

(5) Identifying inadequacies in state and/or federal law that result in insufficient protection of public health and safety, with specific attention to advising the appropriate agencies on the adequacy of pesticide reentry intervals established by the federal environmental protection agency and registered pesticide labels to protect the health and safety of farmworkers. The panel shall establish a priority list for reviewing reentry intervals, which considers the following criteria:

(a) Whether the pesticide is being widely used in labor-intensive agriculture in Washington;

(b) Whether another state has established a reentry interval for the pesticide that is longer than the existing federal reentry interval;

(c) The toxicity category of the pesticide under federal law;

(d) Whether the pesticide has been identified by a federal or state agency or through a scientific review as presenting a risk of cancer, birth defects, genetic damage, neurological effects, blood disorders, sterility, menstrual dysfunction, organ damage, or other chronic or subchronic effects; and

(e) Whether reports or complaints of ill effects from the pesticide have been filed following worker entry into fields to which the pesticide has been applied; and

(6) Reviewing and approving an annual report prepared by the department of social and health services to the governor, agency heads, and members of the legislature, with the same available to the public. The report shall include, at a minimum:

- (a) A summary of the year's activities;
- (b) A synopsis of the cases reviewed;
- (c) A separate descriptive listing of each case in which adverse health or environmental effects due to pesticides were found to occur;
- (d) A tabulation of the data from each case;
- (e) An assessment of the effects of pesticide exposure in the workplace;
- (f) The identification of trends, issues, and needs; and
- (g) Any recommendations for improved pesticide use practices.

NEW SECTION. Sec. 70. A new section is added to chapter 70.104 RCW to read as follows:

Nothing in sections 67 through 69 of this act shall be construed to affect in any manner the administration of Title 51 RCW by the department of labor and industries.

Sec. 71. Section 3, chapter 41, Laws of 1971 ex. sess. and RCW 70.104.030 are each amended to read as follows:

(1) The department of social and health services shall investigate all suspected human cases of pesticide poisoning and such cases of suspected pesticide poisoning of animals that may relate to human illness. The department shall establish time periods by rule to determine investigation response time. Time periods shall range from immediate to forty-eight hours to initiate an investigation, depending on the severity of the case or suspected case of pesticide poisoning.

In order to adequately investigate such cases, the department of social and health services shall have the power to:

(a) Take all necessary samples and human or animal tissue specimens for diagnostic purposes: PROVIDED, That tissue, if taken from a living human, shall be taken from a living human only with the consent of a person legally qualified to give such consent;

(b) Secure any and all such information as may be necessary to adequately determine the nature and causes of any case of pesticide poisoning.

(2) The state department of social and health services shall, by rule and regulation adopted pursuant to the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW, as it now exists or is hereafter amended, and, in any event, with due notice and a hearing for the adoption of permanent rules, establish procedures for the prevention of any recurrence of poisoning and the department shall immediately notify the department of agriculture, the department of labor and industries, and other appropriate agencies of the results of its investigation for such action as the ~~((department of agriculture or such))~~ other departments or agencies deem appropriate. The notification of such investigations and their results may include



recommendations for further action by the appropriate department or agency.

**NEW SECTION.** Sec. 72. A new section is added to chapter 70.104 RCW to read as follows:

(1) Any attending physician or other health care provider recognized as primarily responsible for the diagnosis and treatment of a patient or, in the absence of a primary health care provider, the health care provider initiating diagnostic testing or therapy for a patient shall report a case or suspected case of pesticide poisoning to the department of social and health services in the manner prescribed by, and within the reasonable time periods established by, rules of the state board of health. Time periods established by the board shall range from immediate reporting to reporting within seven days depending on the severity of the case or suspected case of pesticide poisoning. The reporting requirements shall be patterned after other board rules establishing requirements for reporting of diseases or conditions. Confidentiality requirements shall be the same as the confidentiality requirements established for other reportable diseases or conditions. The board rules shall determine what information shall be reported. Reports shall be made on forms provided to health care providers by the department of social and health services. For purposes of any oral reporting, the department of social and health services shall make available a toll-free telephone number.

(2) Within a reasonable time period as established by board rules, the department of social and health services shall investigate the report of a case or suspected case of pesticide poisoning to document the incident. The department shall report the results of the investigation to the health care provider submitting the original report.

(3) Cases or suspected cases of pesticide poisoning shall be reported by the department of social and health services to the pesticide reporting and tracking review panel within the time periods established by state board of health rules.

(4) Upon request of the primary health care provider, pesticide applicators or employers shall make available to that provider any available information on pesticide applications which may have affected the health of the provider's patient. This information is to be used only for the purposes of providing health care services to the patient.

(5) Any failure of the primary health care provider to make the reports required under this section may be cause for the department of social and health services to submit information about such nonreporting to the applicable disciplining authority for the provider under RCW 18.130.040.

(6) No cause of action shall arise as the result of: (a) The failure to report under this section; or (b) any report submitted to the department of social and health services under this section.

(7) For the purposes of this section, a suspected case of pesticide poisoning is a case in which the diagnosis is thought more likely than not to be pesticide poisoning.

**NEW SECTION.** Sec. 73. A new section is added to chapter 70.104 RCW to read as follows:

The department of social and health services, after seeking advice from the state board of health, local health officers, and state and local medical associations, shall develop a program of medical education to alert physicians and other health care providers to the symptoms, diagnosis, treatment, and reporting of pesticide poisonings.

**NEW SECTION.** Sec. 74. The following acts or parts of acts are each repealed:

(1) Section 19, chapter 190, Laws of 1971 ex. sess., section 28, chapter 182, Laws of 1982 and RCW 15.58.190;

(2) Section 45, chapter 190, Laws of 1971 ex. sess. and RCW 15.58-.930;

(3) Section 9, chapter 249, Laws of 1961, section 5, chapter 177, Laws of 1967, section 2, chapter 191, Laws of 1971 ex. sess., section 7, chapter 203, Laws of 1986, section 27, chapter 45, Laws of 1987 and RCW 17.21-.090;

(4) Section 12, chapter 249, Laws of 1961, section 7, chapter 177, Laws of 1967, section 8, chapter 203, Laws of 1986, section 29, chapter 45, Laws of 1987 and RCW 17.21.120; and

(5) Section 7, chapter 92, Laws of 1979 and RCW 17.21.124.

**NEW SECTION.** Sec. 75. Section 18, chapter 177, Laws of 1967, section 6, chapter 191, Laws of 1971 ex. sess., section 5, chapter 92, Laws of 1979 and RCW 17.21.205 are each repealed effective January 1, 1990.

**NEW SECTION.** Sec. 76. A new section is added to chapter 49.70 RCW to read as follows:

(1) If a pesticide having a reentry interval of greater than twenty-four hours is applied to a labor-intensive agricultural crop, the pesticide-treated area shall be posted with warning signs in accordance with the requirements of this section.

(2) When pesticide warning signs are required under this section, the employer shall post signs visible from all usual points of entry to the pesticide-treated area. If there are no usual points of entry or the area is adjacent to an unfenced public right of way, signs shall be posted (a) at each corner of the pesticide-treated area, and (b) at intervals not exceeding six hundred feet, or (c) at other locations approved by the department that provide maximum visibility.

(3) The signs shall be posted no sooner than twenty-four hours before the scheduled application of the pesticide, remain posted during application and throughout the applicable reentry interval, and be removed within two

days after the expiration of the applicable reentry interval and before employee reentry is permitted.

(4) Signs shall be legible for the duration of use. Signs shall contain a prominent symbol approved by the department of agriculture and the department of labor and industries by rule, and wording shall be in English and Spanish or other languages as required by the department. Signs shall meet the minimum specifications of rules adopted by the department, which rules shall include, at a minimum, size and lettering requirements.

**NEW SECTION.** Sec. 77. A new section is added to chapter 49.70 RCW to read as follows:

(1) An employer who applies or stores pesticides in connection with the production of an agricultural crop shall compile and maintain a workplace pesticide list by crop for each pesticide that is applied to a crop or stored in a work area. The workplace pesticide list shall be kept on a form prescribed by the department and shall contain at least the following information:

(a) The location of the land where the pesticide was applied or site where the pesticide was stored;

(b) The year, month, day, and time the pesticide was applied;

(c) The product name used on the registered label and the United States environmental protection agency registration number, if applicable, of the pesticide that was applied or stored;

(d) The crop or site to which the pesticide was applied;

(e) The amount of pesticide applied per acre, or other appropriate measure;

(f) The concentration of pesticide that was applied;

(g) The number of acres, or other appropriate measure, to which pesticide was applied;

(h) If applicable, the licensed applicator's name, address, and telephone number and the name of the individual or individuals making the application; and

(i) The direction and estimated velocity of the wind at the time the pesticide was applied: PROVIDED, That this subsection (i) shall not apply to applications of baits in bait stations and pesticide applications within structures.

(2) The employer shall update the workplace pesticide list on the same day that a pesticide is applied or is first stored in a work area.

(3) The workplace pesticide list may be prepared for the workplace as a whole or for each work area and must be readily available to employees and their designated representatives. New or newly assigned employees shall be made aware of the pesticide chemical list before working with pesticides or in a work area containing pesticides.

(4) An employer subject to this section shall maintain one form for each crop, work area, or workplace as a whole, as appropriate, and shall add information to the form as different pesticides are applied or stored. The

forms shall be accessible and available for copying and shall be stored in a location suitable to preserve their physical integrity. The employer shall maintain and preserve the forms required under this section for no less than seven years. The records shall include an estimation of the total amount of each pesticide listed on the forms.

(5) After the effective date of this section, if an employer has failed to maintain and preserve the forms as required, the employer shall be subject to any applicable penalties authorized under this chapter or chapter 49.17 RCW.

(6) If activities for which forms are maintained cease at a workplace, the forms shall be filed with the department. If an employer subject to this section is succeeded or replaced in that function by another person, the person who succeeds or replaces the employer shall retain the forms as required by this section but is not liable for violations committed by the former employer under this chapter or rules adopted under this chapter, including violations relating to the retention and preservation of forms.

(7) The employer shall provide copies of the forms, on request, to an employee or the employee's designated representative in the case of an industrial insurance claim filed under Title 51 RCW with the department of labor and industries, treating medical personnel, the pesticide incident reporting and tracking review panel, or department representative. The designated representative or treating medical personnel are not required to identify the employee represented or treated. The department shall keep the name of any affected employee confidential in accordance with RCW 49.17.080(1). If an employee, a designated representative, treating medical personnel, or the pesticide incident reporting and tracking review panel requests a copy of a form and the employer refuses to provide a copy, the requester shall notify the department of the request and the employer's refusal. Within seven working days, the department shall request that the employer provide the department with all pertinent copies, except that in a medical emergency the request shall be made within two working days. The employer shall provide copies of the form to the department within twenty-four hours after the department's request.

(8) The department of labor and industries and the department of agriculture shall jointly adopt, by rule, one form that satisfies the information requirements of this section and RCW 17.21.100. Records kept by the employer on the prescribed form under RCW 17.21.100 may be used to comply with the workplace pesticide list information requirements under this section.

Sec. 78. Section 16, chapter 35, Laws of 1945 as last amended by section 2, chapter 292, Laws of 1977 ex. sess. and RCW 50.04.150 are each amended to read as follows:

Except as otherwise provided in RCW 50.04.155, the term "employment" shall not include service performed in agricultural labor ((except as

otherwise provided in RCW 50.04.155)) by individuals who are enrolled as students and regularly attending classes, or are between two successive academic years or terms, at an elementary school, a secondary school, or an institution of higher education as defined in RCW 50.44.037 and in the case of corporate farms not covered under RCW 50.04.155, the provisions regarding family employment in RCW 50.04.180 shall apply.

Agricultural labor is defined as services performed:

(1) On a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wild life, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or

(2) In packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this paragraph shall not be deemed to be applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

Sec. 79. Section 5, chapter 205, Laws of 1984 as last amended by section 3, chapter 171, Laws of 1987 and RCW 50.29.025 are each amended to read as follows:

The contribution rate for each employer shall be determined under this section.

(1) A fund balance ratio shall be determined by dividing the balance in the unemployment compensation fund as of the June 30th immediately preceding the rate year by the total remuneration paid by all employers subject to contributions during the second calendar year preceding the rate year and reported to the department by the following March 31st. The division shall be carried to the fourth decimal place with the remaining fraction, if any, disregarded. The fund balance ratio shall be expressed as a percentage.

(2) The interval of the fund balance ratio, expressed as a percentage, shall determine which tax schedule in subsection (5) of this section shall be in effect for assigning tax rates for the rate year. The intervals for determining the effective tax schedule shall be:

Interval of the Fund Balance Ratio Expressed as a Percentage	Effective Tax Schedule
3.40 and above	A
2.90 to 3.39	B
2.40 to 2.89	C
1.90 to 2.39	D
1.40 to 1.89	E
Less than 1.40	F

(3) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (a) Identification number; (b) benefit ratio; (c) taxable payrolls for the four calendar quarters immediately preceding the computation date and reported to the department by the cut-off date; (d) a cumulative total of taxable payrolls consisting of the employer's taxable payroll plus the taxable payrolls of all other employers preceding him or her in the array; and (e) the percentage equivalent of the cumulative total of taxable payrolls.

(4) Each employer in the array shall be assigned to one of twenty rate classes according to the percentage intervals of cumulative taxable payrolls set forth in subsection (5) of this section: PROVIDED, That if an employer's taxable payroll falls within two or more rate classes, the employer and any other employer with the same benefit ratio shall be assigned to the lowest rate class which includes any portion of the employer's taxable payroll.

(5) The contribution rate for each employer in the array shall be the rate specified in the following table for the rate class to which he or she has been assigned, as determined under subsection (4) of this section, within the tax schedule which is to be in effect during the rate year:

Percent of Cumulative Taxable Payrolls			Schedule of Contribution Rates for Effective Tax Schedule					
From	To	Rate Class	A	B	C	D	E	F
0.00	5.00	1	0.48	0.58	0.98	1.48	1.88	2.48
5.01	10.00	2	0.48	0.78	1.18	1.68	2.08	2.68
10.01	15.00	3	0.58	0.98	1.38	1.78	2.28	2.88
15.01	20.00	4	0.78	1.18	1.58	1.98	2.48	3.08
20.01	25.00	5	0.98	1.38	1.78	2.18	2.68	3.18
25.01	30.00	6	1.18	1.58	1.98	2.38	2.78	3.28
30.01	35.00	7	1.38	1.78	2.18	2.58	2.98	3.38
35.01	40.00	8	1.58	1.98	2.38	2.78	3.18	3.58
40.01	45.00	9	1.78	2.18	2.58	2.98	3.38	3.78

45.01	50.00	10	1.98	2.38	2.78	3.18	3.58	3.98
50.01	55.00	11	2.28	2.58	2.98	3.38	3.78	4.08
55.01	60.00	12	2.48	2.78	3.18	3.58	3.98	4.28
60.01	65.00	13	2.68	2.98	3.38	3.78	4.18	4.48
65.01	70.00	14	2.88	3.18	3.58	3.98	4.38	4.68
70.01	75.00	15	3.08	3.38	3.78	4.18	4.58	4.78
75.01	80.00	16	3.28	3.58	3.98	4.38	4.68	4.88
80.01	85.00	17	3.48	3.78	4.18	4.58	4.88	4.98
85.01	90.00	18	3.88	4.18	4.58	4.88	4.98	5.18
90.01	95.00	19	4.28	4.58	4.98	5.08	5.18	5.38
95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40

(6) The contribution rate for each employer not qualified to be in the array shall be ~~((a rate equal to the average industry tax rate as determined by the commissioner, however, the rate may not be less than one percent; PROVIDED, That))~~ as follows:

(a) Employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned the contribution rate of five and four-tenths percent;

(b) The contribution rate for employers exempt as of December 31, 1989, who are newly covered under the section 78, chapter . . . , Laws of 1989, (section 78 of this act) amendment to RCW 50.04.150 and not yet qualified to be in the array shall be 2.5 percent for employers whose standard industrial code is "016", "017", "018", "021", or "081"; and

(c) For all other employers not qualified to be in the array, the contribution rate shall be a rate equal to the average industry rate as determined by the commissioner; however, the rate may not be less than one percent. Assignment of employers by the commissioner to industrial classification, for purposes of this subsection, shall be in accordance with established classification practices found in the "Standard Industrial Classification Manual" issued by the federal office of management and budget to the third digit provided in the Standard Industrial Classification code.

Sec. 80. Section 78, chapter 35, Laws of 1945 as last amended by section 6, chapter 33, Laws of 1977 ex. sess. and RCW 50.20.100 are each amended to read as follows:

Suitable work for an individual is employment in an occupation in keeping with the individual's prior work experience, education, or training and if the individual has no prior work experience, special education, or training for employment available in the general area, then employment which the individual would have the physical and mental ability to perform, and for individuals with base year work experience in agricultural labor, any agricultural labor available from any employer shall be deemed suitable unless it meets the conditions in RCW 50.20.110 or the commissioner finds elements of specific work opportunity unsuitable for a particular individual.

In determining whether work is suitable for an individual, the commissioner shall also consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and such other factors as the commissioner may deem pertinent, including state and national emergencies.

Sec. 81. Section 6, chapter 205, Laws of 1984 and RCW 50.29.062 are each amended to read as follows:

Predecessor and successor employer contribution rates shall be computed in the following manner:

(1) If the successor is an employer at the time of the transfer, his or her contribution rate shall remain unchanged for the remainder of the rate year in which the transfer occurs. From and after January 1 following the transfer, the successor's contribution rate for each rate year shall be based on his or her experience with payrolls and benefits including the experience of the acquired business or portion of a business from the date of transfer, as of the regular computation date for that rate year.

(2) If the successor is not an employer at the time of the transfer, he or she shall pay contributions at the rate class assigned to the predecessor employer at the time of the transfer for the remainder for that rate year and continuing until such time as he or she qualifies for a different rate in his or her own right.

(3) If the successor is not an employer at the time of the transfer and simultaneously acquires the business or a portion of the business of two or more employers in different rate classes, his or her rate from the date the transfer occurred until the end of that rate year and until he or she qualifies in his or her own right for a new rate, shall be the highest rate class applicable at the time of the acquisition to any predecessor employer who is a party to the acquisition.

(4) The contribution rate on any payroll retained by a predecessor employer shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(5) In all cases, from and after January 1 following the transfer, the predecessor's contribution rate for each rate year shall be based on his or her experience with payrolls and benefits as of the regular computation date for that rate year including the experience of the acquired business or portion of business up to the date of transfer: PROVIDED, That if all of the predecessor's business is transferred to a successor or successors, the predecessor shall not be a qualified employer until he or she satisfies the requirements of a "qualified employer" as set forth in RCW 50.29.010.

NEW SECTION. Sec. 82. (1) It is the intent of the legislature that the department assist agricultural employers in mitigating the costs of the state's unemployment insurance program. The department shall work with



members of the agricultural community to: Improve understanding of the program's operation; increase compliance with work-search requirements; provide prompt notification of potential claims against an employer's experience rating; inform employers of their rights; inform employers of the actions necessary to appeal a claim and to protect their rights; and reduce claimant and employer fraud. These efforts shall include:

- (a) Conducting employer workshops and community seminars;
- (b) Developing new educational materials; and
- (c) Developing forms that use lay language.

(2) The employment security department, the department of labor and industries, the department of licensing, and the department of revenue shall develop a plan to implement voluntary combined reporting for agricultural employers by January 1, 1991. The departments shall submit the plan to the legislature by January 10, 1990, and include recommendations for legislation necessary to standardize and simplify statutory coverage and other requirements. Such standardization shall be as consistent with federal requirements as possible.

The departments shall consult with representatives of agricultural employer and labor associations and general business associations in the development of the plan and legislation. The departments shall ensure that they accommodate the needs of small agricultural employers in particular.

(3) The department shall report to the appropriate standing committees of the legislature by January 10, 1990, 1991, and 1992 and include a description of the activities of the department to carry out the intents of this section and provide quantitative data where possible on the effectiveness of the activities undertaken by the department to comply with the intents of this section during the previous calendar year.

NEW SECTION. Sec. 83. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agricultural employment" or "employment" means employment in agricultural labor as defined in RCW 50.04.150.

(2) "Department" means the department of labor and industries.

(3) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that engages in any agricultural activity in this state and employs one or more employees.

(4) "Employee" means a person employed in agricultural employment, and includes a person who is working under an independent contract the essence of which is personal labor in agricultural employment whether by way of manual labor or otherwise. However, "employee" shall not include immediate family members of the officers of any corporation, partnership, sole proprietorship, or other business entity, or officers of any closely held corporation engaged in agricultural production of crops or livestock.

(5) "Minor" means an employee who is under the age of eighteen years.

**NEW SECTION.** Sec. 84. (1) Each employer required to keep employment records under RCW 49.46.070, shall retain such records for three years.

(2) Each employer shall furnish to each employee at the time the employee's wages are paid an itemized statement showing the pay basis in hours or days worked, the rate or rates of pay, the gross pay, and all deductions from the pay for the respective pay period.

**NEW SECTION.** Sec. 85. The department shall establish an advisory committee on agricultural labor to develop recommendations for rules to provide labor standards for agricultural employment of minors. The advisory committee shall be composed of: A representative of the department of labor and industries; a representative of the department of agriculture; representatives of the agricultural employer and employee communities; and one legislator from each caucus of the house of representatives and the senate, to be appointed by the speaker of the house of representatives and president of the senate, respectively.

Based upon the recommendations of the advisory committee and considerations as to the nature of agricultural employment and usual crop cultural and harvest requirements, the director shall adopt rules under chapter 34.05 RCW which only address the following:

(1) The employment of minors, providing for annual notification to the department of intent to hire minors, and including provisions that both encourage school attendance and provide flexible hours that will meet the requirements of agricultural employment; and

(2) The provision of rest and meal periods for agricultural employees, taking into account naturally occurring work breaks where possible. The initial rules shall be adopted no later than July 1, 1990.

**NEW SECTION.** Sec. 86. Any violation of the provisions of this chapter or rules adopted hereunder shall be a class I civil infraction. The director shall have the authority to issue and enforce civil infractions according to chapter 7.80 RCW.

**NEW SECTION.** Sec. 87. Sections 83 through 86 of this act shall constitute a new chapter in Title 49 RCW.

**NEW SECTION.** Sec. 88. 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. 89. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder

of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 90. Sections 69 and 71 through 73 of this act shall take effect on January 1, 1990.

NEW SECTION. Sec. 91. Sections 78 through 81 of this act shall take effect on January 1, 1990.

NEW SECTION. Sec. 92. Section 76 of this act shall take effect on July 1, 1990.

Passed the House April 23, 1989.

Passed the Senate April 23, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 381

[Substitute House Bill No. 1133]

### CHILD CARE FACILITIES DEVELOPMENT—EMPLOYER INVOLVEMENT

AN ACT Relating to encouraging employer involvement in child care facilities development and services; amending RCW 74.13.085 and 74.13.090; adding new sections to chapter 74.13 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the increasing difficulty of balancing work life and family needs for parents in the workforce has made the availability of quality, affordable child care a critical concern for the state and its citizens. The prospect for labor shortages resulting from the aging of the population and the importance of the quality of the workforce to the competitiveness of Washington businesses make the availability of quality child care an important concern for the state and its businesses.

The legislature further finds that making information on child care options available to businesses can help the market for child care adjust to the needs of businesses and working families. The legislature further finds that investments are necessary to promote partnerships between the public and private sectors, educational institutions, and local governments to increase the supply, affordability, and quality of child care in the state.

Sec. 2. Section 1, chapter 213, Laws of 1988 and RCW 74.13.085 are each amended to read as follows:

It shall be the policy of the state of Washington to:

(1) Recognize the family as the most important social and economic unit of society and support the central role parents play in child rearing. All parents are encouraged to care for and nurture their children through the traditional methods of parental care at home. However, ~~((to the extent child care services are used;))~~ there has been a dramatic increase in participation

of women in the workforce which has made the availability of quality, affordable child care a critical concern for the state and its citizens. There are not enough child care services and facilities to meet the needs of working parents, the costs of care are often beyond the resources of working parents, and child care facilities are not located conveniently to work places and neighborhoods. Parents are encouraged to participate fully in the effort to improve the quality of child care services.

(2) Promote a variety of culturally and developmentally appropriate child care settings and services of the highest possible quality in accordance with the basic principle of continuity of care. These settings shall include, but not be limited to, family day care homes, mini-centers, centers and schools.

(3) Promote the growth, development and safety of children by working with community groups including providers and parents to establish standards for quality service, training of child care providers, fair and equitable monitoring, and salary levels commensurate with provider responsibilities and support services.

(4) Promote equal access to quality, affordable, socio-economically integrated child care for all children and families.

(5) Facilitate broad community and private sector involvement in the provision of quality child care services to foster economic development and assist industry.

Sec. 3. Section 2, chapter 213, Laws of 1988 and RCW 74.13.090 are each amended to read as follows:

(1) There is established a child care coordinating committee to provide coordination and communication between state agencies responsible for child care and early childhood education services. The child care coordinating committee shall be composed of not less than seventeen nor more than thirty members who shall include:

(a) One representative each from the department of social and health services, the department of community development, the office of the superintendent of public instruction, and any other agency having responsibility for regulation, provision, or funding of child care services in the state;

(b) One representative from the ~~((governor's commission on children))~~ department of labor and industries;

(c) One representative from the department of trade and economic development;

(d) One representative from the department of revenue;

(e) One representative from the employment security department;

(f) At least one representative of family home child care providers and one representative of center care providers;

~~((f))~~ (g) At least one representative of early childhood development experts;

~~((f))~~ (h) At least one representative of school districts and teachers involved in the provision of child care and preschool programs;

~~((g))~~ (i) At least one parent education specialist;

~~((h))~~ (j) At least one representative of resource and referral programs;

~~((i))~~ (k) One pediatric or other health professional;

~~((j))~~ (l) At least one representative of college or university child care providers;

~~((k))~~ (m) At least one representative of a citizen group concerned with child care;

~~((l))~~ (n) At least one representative of a labor organization;

~~((m))~~ (o) At least one representative of a head start – early childhood education assistance program agency;

~~((n))~~ (p) At least one employer who provides child care assistance to employees;

~~((o))~~ (q) Parents of children receiving, or in need of, child care, half of whom shall be parents needing or receiving subsidized child care and half of whom shall be parents who are able to pay for child care.

The named state agencies shall select their representative to the child care coordinating committee. The department of social and health services shall select the remaining members, considering recommendations from lists submitted by professional associations and other interest groups until such time as the committee adopts a member selection process. ~~((Staff support for the child care coordinating committee shall be provided within available resources by the department of social and health services on an ongoing basis.))~~ The department shall use any federal funds which may become available to accomplish the purposes of RCW 74.13.085 through 74.13.095.

The committee shall elect officers from among its membership and shall adopt policies and procedures specifying the lengths of terms, methods for filling vacancies, and other matters necessary to the ongoing functioning of the committee. The secretary of social and health services shall appoint a temporary chair until the committee has adopted policies and elected a chair accordingly. Child care coordinating committee members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(2) To the extent possible within available funds, the child care coordinating committee shall:

(a) Serve as an advisory coordinator for all state agencies responsible for early childhood or child care programs for the purpose of improving communication and interagency coordination ~~((but not to review the substance of programs. The committee shall));~~

(b) Annually review state programs and make recommendations to the agencies and the legislature which will maximize funding and promote furtherance of the policies set forth in RCW 74.13.085(;;). Reports shall be

provided to all appropriate committees of the legislature by December 1 of each year. At a minimum the committee shall:

~~((b)) (i) Review and propose changes to the child care subsidy system ((by December 1, 1989)) in its December 1989 report;~~

(ii) Review alternative models for child care service systems, in the context of the policies set forth in RCW 74.13.085, and recommend to the legislature a new child care service structure; and

(iii) Review options and make recommendations on the feasibility of establishing an allocation for day care facilities when constructing state buildings;

(c) Review ~~((agency))~~ department of social and health services administration of the child care expansion grant program described in RCW 74.13.095;

~~(d) ((Review alternative models for child care service systems, in the context of the policies set forth in RCW 74.13.085, and recommend to the legislature a new child care service structure;~~

~~(e) Review options and make recommendations on the feasibility of establishing an allocation for day care facilities when constructing state buildings; and~~

~~(f))~~ Review rules regarding child care facilities and services for the purpose of identifying those which unnecessarily obstruct the availability and affordability of child care in the state;

(e) Advise and assist the child care resource coordinator in implementing his or her duties under section 5 of this act; and

(f) Perform other functions to improve the quantity and quality of child care in the state, including compliance with existing and future prerequisites for federal funding.

NEW SECTION. Sec. 4. A new section is added to chapter 74.13 RCW to read as follows:

The child care partnership is established as a subcommittee of the child care coordinating committee to increase employer assistance and involvement in child care, and to foster cooperation between business and government to improve the availability, quality, and affordability of child care services in the state.

(1) The partnership shall have nine members who may be drawn from the membership of the child care coordinating committee. The secretary of the department of social and health services shall appoint the partnership members, who shall include:

(a) At least two members representing labor organizations;

(b) At least one member representing each of the following: Businesses with one through fifty employees, businesses with fifty-one through two hundred employees, and businesses with more than two hundred employees; and

(c) At least one representative of local child care resource and referral organizations.

(2) The partnership shall follow the same policies and procedures adopted by the child care coordinating committee, and members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(3) To the extent possible within available funds, the partnership shall:

(a) Review and propose statutory and administrative changes to encourage employer involvement in child care and partnerships between employers and the public sector to increase the quantity, quality, and affordability of child care services and facilities in this state;

(b) Review public and private child care programs with the purpose of enhancing communications and coordination among business, labor, public agencies, and child care providers in order to encourage employers to develop and implement child care services for their employees;

(c) Evaluate alternative employer-assisted child care service systems, in the context of the policies set forth in RCW 74.13.085, and recommend to the legislature and local governments ways to encourage and enhance employer-assisted child care services in the state, including statutory and administrative changes;

(d) Evaluate the impact of workplace personnel practices and policies, including flexible work schedules, on the ability of parents to access or provide care for their children, and make recommendations to employers and the legislature in this regard;

(e) Study the liability insurance issues related to the provision of employer-assisted child care and report the findings and recommendations to the legislature; and

(f) Advise and assist the employer liaison in the implementation of its duties under section 6 of this act.

All findings and recommendations of the partnership to the legislature shall be incorporated into the annual report of the child care coordinating committee required under RCW 74.13.090.

**NEW SECTION.** Sec. 5. A new section is added to chapter 74.13 RCW to read as follows:

The office of the child care resources coordinator is established to operate under the authority of the department of social and health services. The office shall, within appropriated funds:

(1) Staff and assist the child care coordinating committee in the implementation of its duties under RCW 74.13.090;

(2) Work with local governments, nonprofit organizations, businesses, and community child care advocates to create local child care resource and referral organizations. These organizations may carry out needs assessments, resource development, provider training, technical assistance, and parent information and training;

(3) Actively seek public and private money for distribution as grants to potential or existing local child care resource and referral organizations. No grant shall be distributed that is greater than twenty-five thousand dollars;

(4) Adopt rules regarding the application for and distribution of grants to local child care resource and referral organizations. The rules shall, at a minimum, require an applicant to submit a plan for achieving the following objectives:

(a) Provide parents with information about child care resources, including location of services and subsidies;

(b) Carry out child care provider recruitment and training programs;

(c) Offer support services, such as parent and provider seminars, toy-lending libraries, and substitute banks;

(d) Provide information for businesses regarding child care supply and demand;

(e) Advocate for increased public and private sector resources devoted to child care; and

(f) Provide technical assistance to employers regarding employee child care services;

(5) Provide staff support and technical assistance to local child care resource and referral organizations;

(6) Organize the local child care resource and referral organizations into a state-wide system;

(7) Maintain a state-wide child care referral data bank and work with department of social and health services licensors to provide information to local child care resource and referral organizations about licensed child care providers in the state;

(8) Through local resource and referral organizations, compile data about local child care needs and availability for future planning and development;

(9) Coordinate the provision of training and technical assistance to child care providers; and

(10) Collect and assemble information regarding the availability of insurance and of federal and other child care funding to assist state and local agencies, businesses, and other child care providers in offering child care services.

**NEW SECTION.** Sec. 6. A new section is added to chapter 74.13 RCW to read as follows:

An employer liaison position is established in the department of social and health services to be colocated at the business assistance center established under RCW 43.31.083. The employer liaison shall, within appropriated funds:

(1) Staff and assist the child care partnership in the implementation of its duties under section 4 of this act;



(2) Provide technical assistance to employers regarding child care services, working with and through local resource and referral organizations whenever possible. Such technical assistance shall include at a minimum:

(a) Assessing the child care needs of employees and prospective employees;

(b) Reviewing options available to employers interested in increasing access to child care for their employees;

(c) Developing techniques to permit small businesses to increase access to child care for their employees;

(d) Reviewing methods of evaluating the impact of child care activities on employers; and

(e) Preparing, collecting, and distributing current information for employers on options for increasing involvement in child care; and

(3) Provide assistance to local child care resource and referral organizations to increase their capacity to provide quality technical assistance to employers in their community.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 22, 1989.

Passed the Senate April 22, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 382

[Substitute House Bill No. 1208]

### COURT REPORTERS—CERTIFICATION

AN ACT Relating to the certification of court reporters; adding a new chapter to Title 18 RCW; making an appropriation; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds it necessary to regulate the practice of shorthand reporting or court reporting at the level of certification to protect the public safety and well-being. The legislature intends that only individuals who meet and maintain minimum standards of competence may represent themselves as shorthand or court reporters.

NEW SECTION. Sec. 2. (1) No person may represent himself or herself as a shorthand reporter or a court reporter without first obtaining a certificate as required by this chapter.

(2) A person represents himself or herself to be a shorthand reporter or court reporter when the person adopts or uses any title or description of services that incorporates one or more of the following terms: "Shorthand reporter," "court reporter," "certified shorthand reporter," or "certified court reporter."

NEW SECTION. Sec. 3. The "practice of shorthand reporting or court reporting" means the making by means of written symbols or abbreviations in shorthand or machine writing of a verbatim record of any oral court proceeding, deposition, or proceeding before a jury, referee, court commissioner, special master, governmental entity, or administrative agency and the producing of a transcript from the proceeding.

NEW SECTION. Sec. 4. 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) "Shorthand reporter" and "court reporter" mean an individual certified under this chapter.

(4) "Board" means the Washington state shorthand reporter advisory board.

NEW SECTION. Sec. 5. Nothing in this chapter prohibits or restricts:

(1) The practice of a profession by individuals who are licensed, certified, or registered under other laws of this state and who are performing services within their authorized scope of practice;

(2) The practice of shorthand reporting by an individual employed by the government of the United States while the individual is performing duties prescribed by the laws and regulations of the United States; or

(3) The practice of court reporting or use of the title certified court reporter by stenographers who are practicing as of the effective date of this act.

Nothing in this chapter shall be construed to prohibit the introduction of alternate technology.

NEW SECTION. Sec. 6. In addition to any other authority provided by law, the director may:

(1) Adopt rules in accordance with chapter 34.05 RCW that are necessary to implement this chapter;

(2) Set all certification examination, renewal, late renewal, duplicate, and verification fees in accordance with RCW 43.24.086;

(3) Establish the forms and procedures necessary to administer this chapter;

(4) Issue a certificate to any applicant who has met the requirements for certification;

(5) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter;

(6) Investigate complaints or reports of unprofessional conduct as defined in this chapter and hold hearings pursuant to chapter 34.05 RCW;

(7) Issue subpoenas for records and attendance of witnesses, statements of charges, statements of intent to deny certificates, and orders; administer oaths; take or cause depositions to be taken; and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(8) Maintain the official departmental record of all applicants and certificate holders;

(9) Delegate, in writing to a designee, the authority to issue subpoenas, statements of charges, and statements of intent to deny certification;

(10) Prepare and administer or approve the preparation and administration of examinations for certification;

(11) Establish by rule the procedures for an appeal of a failure of an examination;

(12) Conduct a hearing under chapter 34.05 RCW on an appeal of a denial of a certificate based on the applicant's failure to meet minimum qualifications for certification.

**NEW SECTION.** Sec. 7. (1) The state shorthand reporters advisory board is established to advise the director concerning the administration of this chapter. The board shall consist of five members appointed by the director. Three members of the board shall be certified shorthand reporters, except for the initial members of the board, two of whom shall be freelance shorthand reporters and one a court-employed shorthand reporter, each engaged in the continuous practice of shorthand reporting for at least five years preceding appointment. Two members of the board shall be unaffiliated with the profession. One shall be a current member of the state bar association or state judiciary, the other shall be a public member. The term of office for board members is four years, except the terms of the first board members shall be staggered to ensure an orderly succession of new board members. The director may remove a board member for misconduct, incompetency, or neglect of duty as specified by rule. Upon the death, resignation, or removal of a member, the director shall appoint a new member to fill a vacancy on the board for the remainder of the unexpired term. No board member may serve more than two consecutive terms, whether full or partial.

(2) Board members shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(3) The board shall annually elect a chairperson and vice-chairperson to direct the meetings of the board. The board shall meet at least once each year, at times and locations determined by the director. A simple majority of the board members currently serving constitutes a quorum of the board.

(4) Upon receipt of complaints against shorthand reporters, the director shall investigate and evaluate the complaint to determine if disciplinary action is appropriate. At the discretion of the director, individual board members may participate in or conduct investigations or evaluations of investigation reports and make recommendations regarding further action. The director shall hold disciplinary hearings pursuant to chapter 34.05 RCW.

NEW SECTION. Sec. 8. The director, members of the board, and individuals acting on their behalf shall not be civilly liable for any act performed in good faith in the course of their duties.

NEW SECTION. Sec. 9. (1) The department shall issue a certificate to any applicant who, as determined by the director upon advice of the board, has:

- (a) Successfully completed an examination approved by the director;
- (b) Good moral character;
- (c) Not engaged in unprofessional conduct; and
- (d) Not been determined to be unable to practice with reasonable skill and safety as a result of a physical or mental impairment.

(2) A one-year temporary certificate may be issued, at the discretion of the director, to a person holding one of the following: National shorthand reporters association certificate of proficiency, registered professional reporter certificate, or certificate of merit; a current court or shorthand reporter certification, registration, or license of another state; or a certificate of graduation of a court reporting school. To continue to be certified under this chapter, a person receiving a temporary certificate shall successfully complete the examination under subsection (1)(a) of this section within one year of receiving the temporary certificate, except that the director may renew the temporary certificate if extraordinary circumstances are shown.

(3) The examination required by subsection (1)(a) of this section shall be no more difficult than the examination provided by the court reporter examining committee as authorized by RCW 2.32.180.

NEW SECTION. Sec. 10. Applications for certification shall be submitted on forms provided by the department. The department may require information and documentation to determine whether the applicant meets the criteria for certification as provided in this chapter. Each applicant shall pay a fee determined by the director as provided in RCW 43.24.086 which shall accompany the application.

NEW SECTION. Sec. 11. The director shall establish by rule the requirements and the renewal and late renewal fees for certification. Failure

to renew the certificate on or before the expiration date cancels all privileges granted by the certificate. If an individual desires to reinstate a certificate which had not been renewed for three years or more, the individual shall satisfactorily demonstrate continued competence in conformance with standards determined by the director.

NEW SECTION. Sec. 12. Persons with two or more years' experience in shorthand reporting in Washington state as of the effective date of this act shall be granted a shorthand reporters certificate without examination, if application is made within one year of the effective date of this act. Shorthand reporters with less than two years' experience in shorthand reporting in this state as of the effective date of this act shall be granted a temporary certificate for one year. To continue to be certified under this chapter, a person receiving a temporary certificate shall successfully complete the examination under section 9 of this act within one year of receiving the temporary certificate, except that the director may renew the temporary certificate if extraordinary circumstances are shown.

NEW SECTION. Sec. 13. After a hearing conducted under chapter 34.05 RCW and upon a finding that a certificate holder or applicant has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the director may issue an order providing for one or any combination of the following:

- (1) Revocation of the certification;
- (2) Suspension of the certificate for a fixed or indefinite term;
- (3) Restriction or limitation of the practice;
- (4) Requiring the satisfactory completion of a specific program or remedial education;
- (5) The monitoring of the practice by a supervisor approved by the director;
- (6) Censure or reprimand;
- (7) Compliance with conditions or probation for a designated period of time;
- (8) Denial of the certification request;
- (9) Corrective action;
- (10) Refund of fees billed to or collected from the consumer.

Any of the actions under this section may be totally or partly stayed by the director. In determining what action is appropriate, the director shall consider sanctions necessary to protect the public, after which the director may consider and include in the order requirements designed to rehabilitate the certificate holder or applicant. All costs associated with compliance to orders issued under this section are the obligation of the certificate holder or applicant.

**NEW SECTION.** Sec. 14. The following conduct, acts, or conditions constitute unprofessional conduct for any certificate holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of shorthand reporting, whether or not the act constitutes a crime. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action;

(2) Misrepresentation or concealment of a material fact in obtaining or in seeking reinstatement of a certificate;

(3) Advertising in a false, fraudulent, or misleading manner;

(4) Incompetence or negligence;

(5) Suspension, revocation, or restriction of the individual's certificate, registration, or license to practice shorthand reporting by a regulatory authority in any state, federal, or foreign jurisdiction;

(6) Violation of any state or federal statute or administrative rule regulating the profession;

(7) Failure to cooperate in an inquiry, investigation, or disciplinary action by:

(a) Not furnishing papers or documents;

(b) Not furnishing in writing a full and complete explanation of the matter contained in the complaint filed with the director;

(c) Not responding to subpoenas issued by the director, regardless of whether the recipient of the subpoena is the accused in the proceeding;

(8) Failure to comply with an order issued by the director or an assurance of discontinuance entered into with the director;

(9) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(10) Conviction of any gross misdemeanor or felony relating to the practice of the profession. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW.

**NEW SECTION.** Sec. 15. This chapter may be known and cited as the shorthand reporting practice act.

**NEW SECTION.** Sec. 16. This act shall take effect September 1, 1989 except that the director may immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

**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 18 RCW.

**NEW SECTION.** Sec. 19. The sum of forty-eight thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund to the department of licensing for the biennium ending June 30, 1991, to carry out the purposes of this act. The amount spent shall be repaid to the general fund from fees imposed as a result of this act prior to the end of the biennium ending June 30, 1993.

Passed the House April 20, 1989.

Passed the Senate April 19, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

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## CHAPTER 383

[Second Substitute House Bill No. 1180]

### UNDERGROUND STORAGE TANKS—STATE FINANCIAL RESPONSIBILITY PROGRAM

AN ACT Relating to underground petroleum storage tanks; adding a new chapter to Title 70 RCW; adding a new chapter to Title 82 RCW; prescribing penalties; making appropriations; providing an effective date; providing an expiration date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. (1) The legislature finds that:

(a) Final regulations adopted by the United States environmental protection agency (EPA) require owners and operators of underground petroleum storage tanks to demonstrate financial responsibility for accidental releases of petroleum as a precondition to continued ownership and operation of such tanks;

(b) Financial responsibility is demonstrated through the purchase of pollution liability insurance or an acceptable alternative such as coverage under a state financial responsibility program, in the amount of at least five hundred thousand dollars per occurrence and one million dollars annual aggregate depending upon the nature, use, and number of tanks owned or operated;

(c) Many owners and operators of underground petroleum storage tanks cannot purchase pollution liability insurance either because private insurance is unavailable at any price or because owners and operators cannot meet the rigid underwriting standards of existing insurers, nor can many owners and operators meet the strict regulatory standards imposed for alternatives to the purchase of insurance; and

(d) Without a state financial responsibility program for owners and operators of underground petroleum storage tanks, many tank owners and operators will be forced to discontinue the ownership and operation of these tanks.

(2) The purpose of this chapter is to create a state financial responsibility program meeting EPA standards for owners and operators of underground petroleum storage tanks in a manner that:

(a) Minimizes state involvement in pollution liability claims management and insurance administration;

(b) Protects the state of Washington from unwanted and unanticipated liability for accidental release claims;

(c) Creates incentives for private insurers to provide needed liability insurance; and

(d) Parallels generally accepted principles of insurance and risk management.

To that end, this chapter establishes a program to provide pollution liability reinsurance at a price that will encourage a private insurance company or risk retention group to sell pollution liability insurance in accordance with the requirements of this chapter to owners and operators of underground petroleum storage tanks, thereby allowing the owners and operators to comply with the financial responsibility regulations of the EPA.

(3) It is not the intent of this chapter to permit owners and operators of underground petroleum storage tanks to obtain pollution liability insurance without regard to the quality or condition of their storage tanks or without regard to the risk management practices of tank owners and operators, nor is it the intent of this chapter to provide coverage or funding for past or existing petroleum releases. Further, it is the intent of the legislature that the program follow generally accepted insurance underwriting and actuarial principles and to deviate from those principles only to the extent necessary to make pollution liability insurance reasonably affordable and available to owners and operators who meet the requirements of this chapter.

**NEW SECTION.** Sec. 2. Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Accidental release" means any sudden or nonsudden release of petroleum arising from operating an underground storage tank that results in a need for corrective action, bodily injury, or property damage neither expected nor intended by the owner or operator.

(2) "Administrator" means the Washington pollution liability reinsurance program administrator.

(3) "Bodily injury" means bodily injury, sickness, or disease sustained by any person, including death at any time resulting from the injury, sickness, or disease.

(4) "Corrective action" means those actions reasonably required to be undertaken by the insured to remove, treat, neutralize, contain, or clean up an accidental release in order to comply with any statute, ordinance, rule, regulation, directive, order, or similar legal requirement of the United States, the state of Washington, or any political subdivision of the United



States or the state of Washington in effect at the time of an accidental release. "Corrective action" includes, when agreed to in writing, in advance by the insurer, action to remove, treat, neutralize, contain, or clean up an accidental release to avert, reduce, or eliminate the liability of the insured for corrective action, bodily injury, or property damage. "Corrective action" also includes actions reasonably necessary to monitor, assess, and evaluate an accidental release.

"Corrective action" does not include:

(a) Replacement or repair of storage tanks or other receptacles;  
(b) Replacement or repair of piping, connections, and valves of storage tanks or other receptacles;

(c) Excavation or backfilling done in conjunction with (a) or (b) of this subsection; or

(d) Testing for a suspected accidental release if the results of the testing indicate that there has been no accidental release.

(5) "Defense costs" include the costs of legal representation, expert fees, and related costs and expenses incurred in defending against claims or actions brought by or on behalf of:

(a) The United States, the state of Washington, or any political subdivision of the United States or state of Washington to require corrective action or to recover costs of corrective action; or

(b) A third party for bodily injury or property damage caused by an accidental release.

(6) "Washington pollution liability reinsurance program" or "program" means the excess of loss reinsurance program created by this chapter.

(7) "Insured" means the owner or operator who is provided insurance coverage in accordance with this chapter.

(8) "Insurer" means the insurance company or risk retention group licensed or qualified to do business in Washington and authorized by the administrator to provide insurance coverage in accordance with this chapter.

(9) "Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a release from an underground storage tank.

(10) "Operator" means a person in control of, or having responsibility for, the daily operation of an underground storage tank.

(11) "Owner" means a person who owns an underground storage tank.

(12) "Person" means an individual, trust, firm, joint stock company, corporation (including government corporation), partnership, association, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, interstate body, the federal government, or any department or agency of the federal government.

(13) "Petroleum" means crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure, which means at

sixty degrees Fahrenheit and 14.7 pounds per square inch absolute and includes gasoline, kerosene, heating oils, and diesel fuels.

(14) "Property damage" means:

(a) Physical injury to, destruction of, or contamination of tangible property, including the loss of use of the property resulting from the injury, destruction, or contamination; or

(b) Loss of use of tangible property that has not been physically injured, destroyed, or contaminated but has been evacuated, withdrawn from use, or rendered inaccessible because of an accidental release.

(15) "Release" means the emission, discharge, disposal, dispersal, seepage, or escape of petroleum from an underground storage tank into or upon land, ground water, surface water, subsurface soils, or the atmosphere.

(16) "Tank" means a stationary device, designed to contain an accumulation of petroleum, that is constructed primarily of nonearthen materials such as wood, concrete, steel, or plastic that provides structural support.

(17) "Underground storage tank" means any one or a combination of tanks including underground pipes connected to the tank, that is used to contain an accumulation of petroleum and the volume of which (including the volume of the underground pipes connected to the tank) is ten percent or more beneath the surface of the ground.

**NEW SECTION.** Sec. 3. The pollution liability reinsurance program trust account is established in the custody of the state treasurer. All funds appropriated for this chapter and all premiums collected for reinsurance shall be deposited in the account. Expenditures from the account shall be used exclusively for the purposes of this chapter including payment of costs of administering the program. The account is subject to allotment procedures under chapter 43.88 RCW. Expenditures for payment of the costs of administering the program may be made only after appropriation by statute. No appropriation is required for other expenditures from the account. The earnings on any surplus balances in the pollution liability reinsurance program trust account shall be credited to the account notwithstanding RCW 43.84.090.

**NEW SECTION.** Sec. 4. (1) The Washington pollution liability reinsurance program is created as an independent agency of the state. The administrative head and appointing authority of the program shall be the administrator who shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The salary for this office shall be set by the governor pursuant to RCW 43.03.040. The administrator shall appoint an assistant administrator. The administrator, assistant administrator, and up to three other employees are exempt from the civil service law, chapter 41.06 RCW.

(2) The administrator shall employ such other staff as are necessary to fulfill the responsibilities and duties of the administrator. The staff is subject to the civil service law, chapter 41.06 RCW. In addition, the administrator

may contract with third parties for services necessary to carry out its activities where this will promote economy, avoid duplication of effort, and make best use of available expertise. Any such contractor or consultant is prohibited from releasing, publishing, or otherwise using any information made available to it under its contractual responsibility without specific permission of the program administrator. The administrator may call upon other agencies of the state to provide technical support and available information as necessary to assist the administrator in meeting the administrator's responsibilities under this chapter. Agencies shall supply this support and information as promptly as circumstances permit.

(3) The governor shall appoint a standing technical advisory committee that is representative of the public, the petroleum marketing industry, business and local government owners of underground storage tanks, and insurance professionals. Individuals appointed to the technical advisory committee shall serve at the pleasure of the governor and without compensation for their services as members, but may be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) A member of the technical advisory committee of the program is not civilly liable for any act or omission in the course and scope of his or her official capacity unless the act or omission constitutes gross negligence.

**NEW SECTION.** Sec. 5. The administrator may adopt rules consistent with this chapter to carry out the purposes of this chapter. All rules shall be adopted in accordance with chapter 34.05 RCW.

**NEW SECTION.** Sec. 6. The administrator has the following powers and duties:

(1) To design and from time to time revise an excess of loss reinsurance contract providing coverage to an insurer meeting the requirements of this chapter. In designing the reinsurance contract the administrator shall consider common insurance industry excess of loss reinsurance contract provisions and shall design the contract in accordance with the following guidelines:

(a) The contract shall provide coverage to the insurer for the liability risks of owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action that are underwritten by the insurer.

(b) In the event of an insolvency of the insurer, the reinsurance contract shall provide reinsurance payable directly to the insurer or to its liquidator, receiver, or successor on the basis of the liability of the insurer in accordance with the reinsurance contract. In no event may the program be liable for or provide coverage for that portion of any covered loss that is the responsibility of the insurer whether or not the insurer is able to fulfill the responsibility.

(c) The total limit of liability for reinsurance coverage shall not exceed one million dollars per occurrence and two million dollars annual aggregate

for each policy underwritten by the insurer less the ultimate net loss retained by the insurer as defined and provided for in the reinsurance contract.

(d) Disputes between the insurer and the reinsurance program shall be settled through arbitration.

(2) To design and implement a structure of periodic premiums due the administrator from the insurer that takes full advantage of revenue collections and projected revenue collections to ensure affordable premiums to the insured consistent with sound actuarial principles.

(3) To periodically review premium rates for reinsurance to determine whether revenue appropriations supporting the program can be reduced without substantially increasing the insured's premium costs.

(4) To solicit bids from insurers and select an insurer to provide pollution liability insurance to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action.

(5) To monitor the activities of the insurer to ensure compliance with this chapter and protect the program from excessive loss exposure resulting from claims mismanagement by the insurer.

(6) To monitor the success of the program and periodically make such reports and recommendations to the legislature as the administrator deems appropriate.

(7) To annually report the financial and loss experience of the insurer as to policies issued under the program and the financial and loss experience of the program to the legislature.

(8) To evaluate the effects of the program upon the private market for liability insurance for owners and operators of underground storage tanks and make recommendations to the legislature on the necessity for continuing the program to ensure availability of such coverage.

(9) To enter into contracts with public and private agencies to assist the administrator in his or her duties to design, revise, monitor, and evaluate the program and to provide technical or professional assistance to the administrator.

(10) To examine the affairs, transactions, accounts, records, documents, and assets of insurers as the administrator deems advisable.

**NEW SECTION.** Sec. 7. (1) All examination and proprietary reports and information obtained by the administrator and the administrator's staff in soliciting bids from insurers and in monitoring the insurer selected by the administrator shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the administrator may furnish all or part of examination reports prepared by the administrator or by any person, firm, corporation, association, or other entity preparing the reports on behalf of the administrator to:

- (a) The Washington state insurance commissioner;
- (b) A person or organization officially connected with the insurer as officer, director, attorney, auditor, or independent attorney or independent auditor; and
- (c) The attorney general in his or her role as legal advisor to the administrator.

(3) Subsection (1) of this section notwithstanding, the administrator may furnish all or part of the examination or proprietary reports or information obtained by the administrator to:

- (a) The Washington state insurance commissioner; and
  - (b) A person, firm, corporation, association, governmental body, or other entity with whom the administrator has contracted for services necessary to perform his or her official duties.
- (4) Examination reports and proprietary information obtained by the administrator and the administrator's staff are not subject to public disclosure under chapter 42.17 RCW.

(5) A person who violates any provision of this section is guilty of a gross misdemeanor.

**NEW SECTION.** Sec. 8. (1) In selecting an insurer to provide pollution liability insurance coverage to owners and operators of underground storage tanks, the administrator shall evaluate bids based upon criteria established by the administrator that shall include:

- (a) The insurer's ability to underwrite pollution liability insurance;
- (b) The insurer's ability to settle pollution liability claims quickly and efficiently;
- (c) The insurer's estimate of underwriting and claims adjustment expenses;
- (d) The insurer's estimate of premium rates for providing coverage;
- (e) The insurer's ability to manage and invest premiums; and
- (f) The insurer's ability to provide risk management guidance to insureds.

The administrator shall select the bidder most qualified to provide insurance consistent with this chapter and need not select the bidder submitting the least expensive bid. The administrator may consider bids by groups of insurers and management companies who propose to act in concert in providing coverage and who otherwise meet the requirements of this chapter.

(2) The successful bidder shall agree to provide liability insurance coverage to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action consistent with the following minimum standards:

- (a) The insurer shall provide coverage for defense costs.
- (b) The insurer shall collect a deductible from the insured for corrective action in an amount approved by the administrator.

(c) The insurer shall provide coverage for accidental releases in the amount of five hundred thousand dollars per occurrence and one million dollars annual aggregate but no more than one million dollars per occurrence and two million dollars annual aggregate exclusive of defense costs.

(d) The insurer shall require insurance applicants to meet at least the following underwriting standards before issuing coverage to the applicant:

(i) The applicant must be in compliance with statutes, ordinances, rules, regulations, and orders governing the ownership and operation of underground storage tanks as identified by the administrator by rule; and

(ii) The applicant must exercise adequate underground storage tank risk management as specified by the administrator by rule.

(e) The insurer may exclude coverage for losses arising before the effective date of coverage, and the administrator may adopt rules establishing standards for determining whether a loss was incurred before the effective date of coverage.

(f) The insurer may exclude coverage for bodily injury, property damage, and corrective action as permitted by the administrator by rule.

(g) The insurer shall use a variable rate schedule approved by the administrator taking into account tank type, tank age, and other factors specified by the administrator.

(3) The administrator shall adopt all rules necessary to implement this section. In developing and adopting rules governing rates, deductibles, underwriting standards, and coverage conditions, limitations, and exclusions, the administrator shall balance the owner and operator's need for coverage with the need to maintain the actuarial integrity of the program and shall consult with the standing technical advisory committee established under section 4(3) of this act. In developing and adopting rules governing coverage exclusions affecting corrective action, the administrator shall consult with the Washington state department of ecology.

(4) Notwithstanding the definitions contained in section 2 of this act, the administrator may permit an insurer to use different words or phrases describing the coverage provided under the program. In permitting such deviations from the definitions contained in section 2 of this act, the administrator shall consider the regulations adopted by the United States environmental protection agency requiring financial responsibility by owners and operators of underground petroleum storage tanks.

(5) Owners and operators of underground storage tanks or sites containing underground storage tanks where a preexisting release has been identified or where the owner or operator knows of a preexisting release are eligible for coverage under the program subject to the following conditions:

(a) The owner or operator must have a plan for proceeding with corrective action; and

(b) If the owner or operator files a claim with the insurer, the owner or operator has the burden of proving that the claim is not related to a preexisting release until the owner or operator demonstrates to the satisfaction of the administrator that corrective action has been completed.

**NEW SECTION.** Sec. 9. If the insurer cancels or refuses to issue or renew a policy, the affected owner or operator may appeal the insurer's decision to the administrator. The administrator shall conduct a brief adjudicative proceeding under chapter 34.05 RCW.

**NEW SECTION.** Sec. 10. (1) The activities and operations of the program are exempt from the provisions and requirements of Title 48 RCW and to the extent of their participation in the program, the activities and operations of the insurer selected by the administrator to provide liability insurance coverage to owners and operators of underground storage tanks are exempt from the requirements of Title 48 RCW except for:

- (a) Chapter 48.03 RCW pertaining to examinations;
- (b) RCW 48.05.250 pertaining to annual reports;
- (c) Chapter 48.12 RCW pertaining to assets and liabilities;
- (d) Chapter 48.13 RCW pertaining to investments;
- (e) Chapter 48.30 RCW pertaining to deceptive, false, or fraudulent acts or practices; and
- (f) Chapter 48.92 RCW pertaining to liability risk retention.

(2) To the extent of their participation in the program, the insurer selected by the administrator to provide liability insurance coverage to owners and operators of underground storage tanks shall not participate in the Washington insurance guaranty association nor shall the association be liable for coverage provided to owners and operators of underground storage tanks issued in connection with the program.

**NEW SECTION.** Sec. 11. (1) The administrator shall report to the legislature by January 1, 1990, on the estimated costs to the insured and the state of implementing the program including proposed coverage, rates, and underwriting the insurer recommended by the administrator. The administrator shall seek advice from the department of revenue on the tax rate imposed under section 16 of this act and include a recommendation in the report on any necessary tax rate adjustments.

(2) Until and unless the legislature enacts legislation authorizing the administrator to fully implement the program, the administrator shall take no action nor enter into any contract that binds the state to providing pollution liability insurance or reinsurance as provided in this chapter.

(3) Nothing contained in this section shall prohibit the administrator from entering into contracts to assist in the development or analysis of information necessary to complete the report to the legislature nor shall this section prohibit the administrator from entering into contracts to analyze

and design insurance and reinsurance policies to the extent necessary to develop the probable costs of full program implementation.

**NEW SECTION.** Sec. 12. The legislature reserves the right to amend or repeal all or any part of this chapter at any time, and there is no vested right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this chapter or any acts done under it exist subject to the power of the legislature to amend or repeal this chapter at any time.

**NEW SECTION.** Sec. 13. This chapter shall expire June 1, 1995.

**NEW SECTION.** Sec. 14. It is the intent of this chapter to impose a tax only once for each petroleum product possessed in this state and to tax the first possession of all petroleum products. This chapter is not intended to exempt any person from tax liability under any other law.

**NEW SECTION.** Sec. 15. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Petroleum product" means plant condensate, lubricating oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, residual oil, liquefied or liquefiable gases such as butane, ethane, and propane, and every other product derived from the refining of crude oil, but the term does not include crude oil.

(2) "Possession" means the control of a petroleum product located within this state and includes both actual and constructive possession. "Actual possession" occurs when the person with control has physical possession. "Constructive possession" occurs when the person with control does not have physical possession. "Control" means the power to sell or use a petroleum product or to authorize the sale or use by another.

(3) "Previously taxed petroleum product" means a petroleum product in respect to which a tax has been paid under this chapter and that has not been remanufactured or reprocessed in any manner (other than mere repackaging or recycling for beneficial reuse) since the tax was paid.

(4) "Wholesale value" means fair market wholesale value, determined as nearly as possible according to the wholesale selling price at the place of use of similar products of like quality and character, in accordance with rules of the department.

(5) Except for terms defined in this section, the definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

**NEW SECTION.** Sec. 16. (1) A tax is imposed on the privilege of possession of petroleum products in this state. The rate of the tax shall be fifty one-hundredths of one percent multiplied by the wholesale value of the petroleum product.

(2) Moneys collected under this chapter shall be deposited in the pollution liability reinsurance program trust account under section 3 of this act.



(3) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter.

(4) Within thirty days after the end of each calendar quarter the department shall determine the "quarterly balance," which shall be the balance in the pollution liability reinsurance program trust account as of the last day of that calendar quarter. Balance determinations by the department under this section are final and shall not be used to challenge the validity of any tax imposed under this section. For each calendar quarter, tax shall be imposed under this section during the entire calendar quarter unless:

(a) Tax was imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than fifteen million dollars; or

(b) Tax was not imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than seven million five hundred thousand dollars.

NEW SECTION. Sec. 17. The following are exempt from the tax imposed in this chapter:

(1) Any successive possession of a previously taxed petroleum product. If tax due under this chapter has not been paid with respect to a petroleum product, the department may collect the tax from any person who has had possession of the petroleum product. If the tax is paid by any person other than the first person having taxable possession of a petroleum product, the amount of tax paid shall constitute a debt owed by the first person having taxable possession to the person who paid the tax.

(2) Any possession of a petroleum product by a natural person under circumstances where the substance is used, or is to be used, for a personal or domestic purpose (and not for any business purpose) by that person or a relative of, or person residing in the same dwelling as, that person.

(3) Persons or activities which the state is prohibited from taxing under the United States Constitution.

(4) Any persons possessing a petroleum product where such possession first occurred before the effective date of this section.

(5) Any possession of (a) natural gas, (b) petroleum coke, or (c) liquid fuel or fuel gas used in petroleum processing.

(6) Any possession of petroleum products that are exported for use or sale outside this state as fuel.

(7) Any possession of petroleum products packaged for sale to ultimate consumers.

NEW SECTION. Sec. 18. (1) Credit shall be allowed in accordance with rules of the department of revenue for taxes paid under this chapter with respect to fuel carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle.

(2) Credit shall be allowed, in accordance with rules of the department, against the taxes imposed in this chapter for any petroleum product tax paid to another state with respect to the same petroleum product. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to that petroleum product. For the purpose of this subsection:

(a) "Petroleum product tax" means a tax:

(i) That is imposed on the act or privilege of possessing petroleum products, and that is not generally imposed on other activities or privileges; and

(ii) That is measured by the value of the petroleum product, in terms of wholesale value or other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax.

(b) "State" means (i) a state of the United States other than Washington, or any political subdivision of such other state, (ii) the District of Columbia, and (iii) any foreign country or political subdivision thereof.

NEW SECTION. Sec. 19. The sum of four hundred thousand dollars, or as much thereof as may be necessary, is appropriated from the pollution liability reinsurance program trust account to the Washington pollution liability reinsurance program for the biennium ending June 30, 1991, to carry out the purposes of this act.

NEW SECTION. Sec. 20. 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. 21. Sections 1 through 13 of this act constitute a new chapter in Title 70 RCW. Sections 14 through 18 of this act shall constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 22. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately, except sections 14 through 19 of this act shall take effect July 1, 1989.

Passed the House April 20, 1989.

Passed the Senate April 19, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 384

[Substitute House Bill No. 1574]

## NATURAL AND MANUFACTURED GAS—TAXATION

AN ACT Relating to the taxation of utilities and natural gas; amending RCW 82.14.030; adding a new section to chapter 82.14 RCW; adding new sections to chapter 82.12 RCW; adding a new section to chapter 82.08 RCW; creating a new section; and providing an effective date.

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

**NEW SECTION.** Sec. 1. Due to a change in the federal regulations governing the sale of brokered natural gas, cities have lost significant revenues from the utility tax on natural gas. It is therefore the intent of the legislature to adjust the utility and use tax authority of the state and cities to maintain this revenue source for the municipalities and provide equality of taxation between intrastate and interstate transactions.

**NEW SECTION.** Sec. 2. A new section is added to chapter 82.14 RCW to read as follows:

(1) The governing body of any city, while not required by legislative mandate to do so, may, by resolution or ordinance for the purposes authorized by this chapter, fix and impose on every person a use tax for the privilege of using natural gas or manufactured gas in the city as a consumer.

(2) The tax shall be imposed in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the tax on natural gas businesses under RCW 35.21.870 in the city in which the article is used. The "value of the article used," does not include any amounts that are paid for the hire or use of a natural gas business in transporting the gas subject to tax under this subsection if those amounts are subject to tax under RCW 35.21.870.

(3) The tax imposed under this section shall not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under RCW 35.21.870 with respect to the gas for which exemption is sought under this subsection.

(4) There shall be a credit against the tax levied under this section in an amount equal to any tax paid by:

(a) The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by another state with respect to the gas for which a credit is sought under this subsection; or

(b) The person consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another state with respect to the gas for which a credit is sought under this subsection.

(5) The use tax hereby imposed shall be paid by the consumer. The administration and collection of the tax hereby imposed shall be pursuant to RCW 82.14.050.

**NEW SECTION.** Sec. 3. A new section is added to chapter 82.12 RCW to read as follows:

(1) There is hereby levied and there shall be collected from every person in this state a use tax for the privilege of using natural gas or manufactured gas within this state as a consumer.

(2) The tax shall be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the public utility tax on gas distribution businesses under RCW 82.16.020(1)(b). The "value of the article used" does not include any amounts that are paid for the hire or use of a gas distribution business as defined in RCW 82.16.010(7) in transporting the gas subject to tax under this subsection if those amounts are subject to tax under that chapter.

(3) The tax levied in this section shall not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under RCW 82.16.020(1)(b) with respect to the gas for which exemption is sought under this subsection.

(4) There shall be a credit against the tax levied under this section in an amount equal to any tax paid by:

(a) The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to RCW 82.16.020(1)(b) by another state with respect to the gas for which a credit is sought under this subsection; or

(b) The person consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another state with respect to the gas for which a credit is sought under this subsection.

(5) The use tax hereby imposed shall be paid by the consumer to the department.

(6) There is imposed a reporting requirement on the person who delivered the gas to the consumer to make a quarterly report to the department. Such report shall contain the volume of gas delivered, name of the consumer to whom delivered, and such other information as the department shall require by rule.

(7) The department may adopt rules under chapter 34.05 RCW for the administration and enforcement of sections 1 through 6 of this act.

**NEW SECTION.** Sec. 4. A new section is added to chapter 82.08 RCW to read as follows:

The tax levied by RCW 82.08.020 shall not apply to sales of natural or manufactured gas.

**NEW SECTION.** Sec. 5. A new section is added to chapter 82.12 RCW to read as follows:

The tax levied by RCW 82.12.020 shall not apply in respect to the use of natural or manufactured gas.

Sec. 6. Section 4, chapter 94, Laws of 1970 ex. sess. as amended by section 17, chapter 49, Laws of 1982 1st ex. sess. and RCW 82.14.030 are each amended to read as follows:

(1) The governing body of any county or city while not required by legislative mandate to do so, may, by resolution or ordinance for the purposes authorized by this chapter, fix and impose a sales and use tax in accordance with the terms of this chapter. Such tax shall be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW, upon the occurrence of any taxable event within the county or city as the case may be: PROVIDED, That except as provided in section 2 of this act, this sales and use tax shall not apply to natural or manufactured gas. The rate of such tax imposed by a county shall be five-tenths of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The rate of such tax imposed by a city shall not exceed five-tenths of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax): **PROVIDED, HOWEVER,** That in the event a county shall impose a sales and use tax under this subsection, the rate of such tax imposed under this subsection by any city therein shall not exceed four hundred and twenty-five one-thousandths of one percent.

(2) Subject to the enactment into law of the 1982 amendment to RCW 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., in addition to the tax authorized in subsection (1) of this section, the governing body of any county or city may by resolution or ordinance impose an additional sales and use tax in accordance with the terms of this chapter. Such additional tax shall be collected upon the same taxable events upon which the tax imposed under subsection (1) of this section is levied. The rate of such additional tax imposed by a county shall be up to five-tenths of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The rate of such additional tax imposed by a city shall be up to five-tenths of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax): **PROVIDED HOWEVER,** That in the event a county shall impose a sales and use tax under this subsection at a rate equal to or greater than the rate imposed under this subsection by a city within the county, the county shall receive fifteen percent of the city tax: **PROVIDED FURTHER,** That in the event that the county shall impose a sales and use tax under this subsection at a rate which is less than the rate imposed under this subsection by a city within the county, the county shall receive that amount of revenues from the city tax equal to fifteen percent of the rate of tax imposed by the county under this subsection. The authority to impose a tax under this subsection is

intended in part to compensate local government for any losses from the phase-out of the property tax on business inventories.

NEW SECTION. Sec. 7. This act shall take effect July 1, 1990.

Passed the House April 18, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

CHAPTER 385

[House Bill No. 2060]

HORSE RACING INDUSTRY—WORKERS' COMPENSATION COVERAGE

AN ACT Relating to the horse racing industry; amending RCW 51.16.140, 51.32.073, and 67.16.020; adding a new section to chapter 51.16 RCW; adding a new section to chapter 67.16 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 51.16 RCW to read as follows:

(1) The department shall assess premiums, under the provisions of this section, for certain horse racing employments licensed in accordance with chapter 67.16 RCW. This premium assessment shall be for the purpose of providing industrial insurance coverage for employees of trainers licensed under chapter 67.16 RCW, including but not limited to exercise riders, pony riders, and grooms, and including all on or off track employment. For the purposes of sections 1 through 5 of this act a hotwalker shall be considered a groom. The department may adopt rules under chapter 34.05 RCW to carry out the purposes of this section, including rules providing for alternative reporting periods and payment due dates for coverage under this section. The department rules shall ensure that no licensee licensed prior to the effective date of this act shall pay more than the assessment fixed at the basic manual rate.

(2) The department shall compute industrial insurance premium rates on a per license basis, which premiums shall be assessed at the time of each issuance or renewal of the license for owners, trainers, and grooms in amounts established by department rule for coverage under this section. Premium assessments shall be determined in accordance with the requirements of this title, except that assessments shall not be experience rated and shall be fixed at the basic manual rate. However, rates may vary according to differences in working conditions at major tracks and fair tracks.

(3) For the purposes of paying premiums and assessments under this section and making reports under this title, individuals licensed as trainers by the Washington horse racing commission shall be considered employers. The premium assessment for a groom's license shall be paid by the trainer

responsible for signing the groom's license application and shall be payable at the time of license issuance or renewal.

(4) The fee to be assessed on owner licenses as required by this section shall not exceed one hundred fifty dollars. However, those owners having less than a full ownership in a horse or horses shall pay a percentage of the required license fee that is equal to the total percentage of the ownership that the owner has in the horse or horses. In no event shall an owner having an ownership percentage in more than one horse pay more than a one hundred fifty-dollar license fee. The assessment on each owner's license shall not imply that an owner is an employer, but shall be required as part of the privilege of holding an owner's license.

(5) Premium assessments under this section shall be collected by the Washington horse racing commission and deposited in the industrial insurance trust funds as provided under department rules.

NEW SECTION. Sec. 2. A new section is added to chapter 67.16 RCW to read as follows:

In addition to the license fees authorized by this chapter, the commission shall collect the industrial insurance premium assessments required under section 1 of this act from trainers, grooms, and owners. The industrial insurance premium assessments required under section 1 of this act shall be retroactive to January 1, 1989, and shall be collected from all licensees whose licenses were issued after that date. The commission shall deposit the industrial insurance premium assessments in the industrial insurance trust fund as required by rules adopted by the department of labor and industries.

Sec. 3. Section 51.16.140, chapter 23, Laws of 1961 as last amended by section 29, chapter 350, Laws of 1977 ex. sess. and RCW 51.16.140 are each amended to read as follows:

(1) Every employer who is not a self-insurer shall deduct from the pay of each of his or her workers one-half of the amount he or she is required to pay, for medical benefits within each risk classification. Such amount shall be periodically determined by the director and reported by him or her to all employers under this title: **PROVIDED**, That the state governmental unit shall pay the entire amount into the medical aid fund for volunteers, as defined in RCW 51.12.035, and the state apprenticeship council shall pay the entire amount into the medical aid fund for registered apprentices or trainees, for the purposes of RCW 51.12.130. The deduction under this section is not authorized for premiums assessed under section 1 of this 1989 act.

(2) It shall be unlawful for the employer, unless specifically authorized by this title, to deduct or obtain any part of the premium or other costs required to be by him or her paid from the wages or earnings of any of his or her workers, and the making of or attempt to make any such deduction shall be a gross misdemeanor.

Sec. 4. Section 9, chapter 14, Laws of 1980 and RCW 51.32.073 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, each employer shall retain from the earnings of each worker that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. The money so retained shall be matched in an equal amount by each employer, and all such moneys shall be remitted to the department in such manner and at such intervals as the department directs and shall be placed in the supplemental pension fund: PROVIDED, That the state apprenticeship council shall pay the entire amount into the supplemental pension fund for registered apprentices or trainees during their participation in supplemental and related instruction classes. The moneys so collected shall be used exclusively for the additional payments from the supplemental pension fund prescribed in this title and for the amount of any increase payable under the provisions of RCW 51.32.075, as now or hereafter amended, and shall be no more than necessary to make such payments on a current basis. The department may require a self-insurer to make any additional payments which are payable from the supplemental pension fund and thereafter such self-insurer shall be reimbursed therefrom.

(2) None of the amount assessed for the supplemental pension fund under section 1 of this 1989 act may be retained from the earnings of workers covered under section 1 of this 1989 act.

Sec. 5. Section 4, chapter 55, Laws of 1933 as last amended by section 2, chapter 146, Laws of 1985 and RCW 67.16.020 are each amended to read as follows:

It shall be the duty of the commission, as soon as it is possible after its organization, to prepare and promulgate a complete set of rules and regulations to govern the race meets in this state. It shall determine and announce the place, time and duration of race meets for which license fees are exacted; and it shall be the duty of each person holding a license under the authority of this chapter, and every owner, trainer, jockey, and attendant at any race course in this state, to comply with all rules and regulations promulgated and all orders issued by the commission. It shall be unlawful for any person to hold any race meet without having first obtained and having in force and effect a license issued by the commission as in this chapter provided; and it shall be unlawful for any owner, trainer or jockey to participate in race meets in this state without first securing a license therefor from the state racing commission, the fee for which shall be set by the commission which shall offset the cost of administration and shall not be for a period exceeding ((three)) one year((s)).

***\*NEW SECTION. Sec. 6. The house commerce and labor committee and the senate economic development and labor committee, in conjunction with the horse racing commission and the department of labor and industries,***



*shall conduct a study of industrial insurance coverage of the horse racing industry, specifically including coverage for jockeys. The committees shall report the results of the study to the house of representatives and the senate by December 1, 1989.*

\*Sec. 6 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 21, 1989.

Passed the Senate April 21, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to section 6, House Bill No. 2060 entitled:

"AN ACT Relating to the horse racing industry."

The main objective of House Bill No. 2060 is to improve the process by which industrial insurance premiums for the horse racing industry are assessed, and in so doing, to improve the industrial insurance coverage of the horse racing industry as a whole. With the exception of section 6, I fully endorse this bill.

Section 6 requires the House Commerce and Labor Committee and the Senate Economic Development and Labor Committee, in conjunction with the Horse Racing Commission and the Department of Labor and Industries, to conduct a study of industrial insurance coverage of the horse racing industry in general and coverage for jockeys specifically. Although I concur with the Legislature in the need for such a study, I feel that the practice of placing legislative studies into statute is both unnecessary and unwarranted. Although I am vetoing this section, I am directing the Horse Racing Commission and the Department of Labor and Industries to participate and cooperate fully in this study.

With the exception of section 6, House Bill No. 2060 is approved."

## CHAPTER 386

[Substitute Senate Bill No. 5713]

### MEDICAL TEST SITES—LICENSURE

AN ACT Relating to medical test site licensure; adding a new chapter to Title 70 RCW; prescribing penalties; providing effective dates; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature intends that medical test sites meet criteria known to promote accurate and reliable analysis, thus improving health care through uniform test site licensure and regulation including quality control, quality assurance, and proficiency testing. The legislature also intends to meet the requirements of federal laws licensing and regulating medical testing.

The legislature intends that nothing in this chapter shall be interpreted to place any liability whatsoever on the state for the action or inaction of test sites or test site personnel. The legislature further intends that nothing in this chapter shall be interpreted to expand the state's role regarding medical testing beyond the provisions of this chapter.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of health if enacted, otherwise the department of social and health services.

(2) "Designated test site supervisor" means the available individual who is responsible for the technical functions of the test site and who meets the department's qualifications set out in rule by the department.

(3) "Person" means any individual, or any public or private organization, agent, agency, corporation, firm, association, partnership, or business.

(4) "Proficiency testing program" means an external service approved by the department which provides samples to evaluate the accuracy, reliability and performance of the tests at each test site.

(5) "Quality assurance" means a comprehensive set of policies, procedures, and practices to assure that a test site's results are accurate and reliable. Quality assurance means a total program of internal and external quality control, equipment preventative maintenance, calibration, record-keeping, and proficiency testing evaluation, including a written quality assurance plan.

(6) "Quality control" means internal written procedures and day-to-day analysis of laboratory reference materials at each test site to insure precision and accuracy of test methodology, equipment, and results.

(7) "Test" means any examination or procedure conducted on a sample taken from the human body, including screening.

(8) "Test site" means any facility or site, public or private, which analyzes materials derived from the human body for the purposes of health care, treatment, or screening. A test site does not mean a facility or site, including a residence, where a test approved for home use by the federal food and drug administration is used by an individual to test himself or herself without direct supervision or guidance by another and where this test is not part of a commercial transaction.

**NEW SECTION.** Sec. 3. After July 1, 1990, no person may advertise, operate, manage, own, conduct, open, or maintain a test site without first obtaining a license for the tests to be performed, except as provided in section 4 of this act.

**NEW SECTION.** Sec. 4. (1) As a part of the application for licensure, a test site may request a waiver from licensure under this chapter if the test site performs only examinations which are determined to have insignificant risk of an erroneous result, including those which (a) are approved by the

federal food and drug administration for home use; (b) are so simple and accurate as to render the likelihood of erroneous results negligible; or (c) pose no reasonable risk of harm to the patient if performed incorrectly.

(2) The department shall determine by rule which tests meet the criteria in subsection (1) of this section and shall be exempt from coverage of this chapter. The standards applied in developing the list shall be consistent with federal law and regulations.

(3) The department shall grant a waiver from licensure for two years for a valid request based on subsections (1) and (2) of this section.

(4) Any test site which has received a waiver under subsection (3) of this section shall report to the department any changes in the type of tests it intends to perform thirty days in advance of the changes. In no case shall a test site with a waiver perform tests which require a license under this chapter.

NEW SECTION. Sec. 5. Test sites accredited, certified, or licensed by an organization or agency approved by the department consistent with federal law and regulations shall receive a license under section 12 of this act.

NEW SECTION. Sec. 6. A licensee that desires to perform tests for which it is not currently licensed shall notify the department. To the extent allowed by federal law and regulations, upon notification and pending the department's determination, the department shall grant the licensee temporary permission to perform the additional tests. The department shall amend the license if it determines that the licensee meets all applicable requirements.

NEW SECTION. Sec. 7. The department shall adopt standards established in rule governing test sites for quality control, quality assurance, recordkeeping, and personnel consistent with federal laws and regulations. "Recordkeeping" for purposes of this chapter means books, files, or records necessary to show compliance with the quality control and quality assurance requirements adopted by the department.

NEW SECTION. Sec. 8. (1) Except where there is no reasonable proficiency test, each licensed test site must participate in a department-approved proficiency testing program appropriate to the test or tests which it performs. The department may approve proficiency testing programs offered by private or public organizations when the program meets the standards set by the department. Testing shall be conducted quarterly except as otherwise provided for in rule.

(2) The department shall establish proficiency testing standards by rule which include a measure of acceptable performance for tests, and a system for grading proficiency testing performance for tests. The standards may include an evaluation of the personnel performing tests.

NEW SECTION. Sec. 9. A test site shall have a designated test site supervisor who shall meet the qualifications determined by the department

in rule. The designated test site supervisor shall be responsible for the testing functions of the test site.

**NEW SECTION.** Sec. 10. (1) The department shall establish a schedule of fees for license applications, renewals, amendments, and waivers. In fixing said fees, the department shall set the fees at a sufficient level to defray the cost of administering the licensure program. All such fees shall be fixed by rule adopted in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW. In determining the fee schedule, the department shall consider the following: (a) Complexity of the license required; (b) number and type of tests performed at the test site; (c) degree of supervision required from the department staff; (d) whether the license is granted under section 5 of this act; and (e) general administrative costs of the test site licensing program established under this chapter. For each category of license, fees charged shall be related to program costs.

(2) The medical test site licensure account is created in the state treasury. The state treasurer shall transfer into the medical test site licensure account all revenue received from medical test site license fees. Funds for this account may only be appropriated for the support of the activities defined under this chapter.

(3) The department may establish separate fees for repeat inspections and repeat audits it performs under section 18 of this act.

**NEW SECTION.** Sec. 11. An applicant for issuance or renewal of a medical test site license shall:

(1) File a written application on a form provided by the department;

(2) Demonstrate ability to comply with this chapter and the rules adopted under this chapter;

(3) Cooperate with any on-site review which may be conducted by the department prior to licensure or renewal.

**NEW SECTION.** Sec. 12. Upon receipt of an application for a license and the license fee, the department shall issue a license if the applicant meets the requirements established under this chapter. All persons operating test sites before July 1, 1990, shall submit applications by July 1, 1990. A license issued under this chapter shall not be transferred or assigned without thirty days' prior notice to the department and the department's timely approval. A license, unless suspended or revoked, shall be effective for a period of two years. The department may establish penalty fees or take other appropriate action pursuant to this chapter for failure to apply for licensure or renewal as required by this chapter.

**NEW SECTION.** Sec. 13. Under this chapter, and chapter 34.05 RCW, the department may deny a license to any applicant who:

(1) Refuses to comply with the requirements of this chapter or the standards or rules adopted under this chapter;

(2) Was the holder of a license under this chapter which was revoked for cause and never reissued by the department;

(3) Has knowingly or with reason to know made a false statement of a material fact in the application for a license or in any data attached thereto or in any record required by the department;

(4) Refuses to allow representatives of the department to examine any book, record, or file required by this chapter to be maintained;

(5) Willfully prevented, interfered with, or attempted to impede in any way the work of a representative of the department; or

(6) Misrepresented, or was fraudulent in, any aspect of the applicant's business.

**NEW SECTION.** Sec. 14. Under this chapter, and chapter 34.05 RCW, the department may place conditions on a license which limit or cancel a test site's authority to conduct any of the tests or groups of tests of any licensee who:

(1) Fails or refuses to comply with the requirements of this chapter or the rules adopted under this chapter;

(2) Has knowingly or with reason to know made a false statement of a material fact in the application for a license or in any data attached thereto or in any record required by the department;

(3) Refuses to allow representatives of the department to examine any book, record, or file required by this chapter to be maintained;

(4) Willfully prevented, interfered with, or attempted to impede in any way the work of a representative of the department;

(5) Willfully prevented or interfered with preservation of evidence of a known violation of this chapter or the rules adopted under this chapter; or

(6) Misrepresented, or was fraudulent in, any aspect of the licensee's business.

**NEW SECTION.** Sec. 15. Under this chapter, and chapter 34.05 RCW, the department may suspend the license of any licensee who:

(1) Fails or refuses to comply with the requirements of this chapter or the rules adopted under this chapter;

(2) Has knowingly or with reason to know made a false statement of a material fact in the application for a license or in any data attached thereto or in any record required by the department;

(3) Refuses to allow representatives of the department to examine any book, record, or file required by this chapter to be maintained;

(4) Willfully prevented, interfered with, or attempted to impede in any way the work of a representative of the department;

(5) Willfully prevented or interfered with preservation of evidence of a known violation of this chapter or the rules adopted under this chapter;

(6) Misrepresented, or was fraudulent in, any aspect of the licensee's business;

(7) Used false or fraudulent advertising; or

(8) Failed to pay any civil monetary penalty assessed by the department under this chapter within twenty-eight days after the assessment becomes final.

**NEW SECTION.** Sec. 16. Under this chapter, and chapter 34.05 RCW, the department may revoke the license of any licensee who:

(1) Fails or refuses to comply with the requirements of this chapter or the rules adopted under this chapter;

(2) Has knowingly or with reason to know made a false statement of a material fact in the application for a license or in any data attached thereto or in any record required by the department;

(3) Refuses to allow representatives of the department to examine any book, record, or file required by this chapter to be maintained;

(4) Willfully prevented, interfered with, or attempted to impede in any way the work of a representative of the department;

(5) Willfully prevented or interfered with preservation of evidence of a known violation of this chapter or the rules adopted under this chapter;

(6) Misrepresented, or was fraudulent in, any aspect of the licensee's business;

(7) Used false or fraudulent advertising; or

(8) Failed to pay any civil monetary penalty assessed by the department pursuant to this chapter within twenty-eight days after the assessment becomes final.

The department may summarily revoke a license when it finds continued licensure of a test site immediately jeopardizes the public health, safety, or welfare.

**NEW SECTION.** Sec. 17. Under this chapter, and chapter 34.05 RCW, the department may assess monetary penalties of up to ten thousand dollars per violation in addition to or in lieu of conditioning, suspending, or revoking a license. A violation occurs when a licensee:

(1) Fails or refuses to comply with the requirements of this chapter or the standards or rules adopted under this chapter;

(2) Has knowingly or with reason to know made a false statement of a material fact in the application for a license or in any data attached thereto or in any record required by the department;

(3) Refuses to allow representatives of the department to examine any book, record, or file required by this chapter to be maintained;

(4) Willfully prevents, interferes with, or attempts to impede in any way the work of any representative of the department;

(5) Willfully prevents or interferes with preservation of evidence of any known violation of this chapter or the rules adopted under this chapter;

(6) Misrepresents or was fraudulent in any aspect of the applicant's business; or

(7) Uses advertising which is false or fraudulent.

Each day of a continuing violation is a separate violation.

**NEW SECTION.** Sec. 18. The department may at any time conduct an on-site review of a licensee or applicant in order to determine compliance with this chapter. When the department has reason to believe a waived site is conducting tests requiring a license, the department may conduct an on-site review of the waived site in order to determine compliance. The department may also examine and audit records necessary to determine compliance with this chapter. The right to conduct an on-site review and audit and examination of records shall extend to any premises and records of persons whom the department has reason to believe are opening, owning, conducting, maintaining, managing, or otherwise operating a test site without a license.

Following an on-site review, the department shall give written notice of any violation of this chapter or the rules adopted under this chapter. The notice shall describe the reasons for noncompliance and inform the licensee or applicant or test site operator that it shall comply within a specified reasonable time. If the licensee or applicant or test site operator fails to comply, the department may take disciplinary action under sections 13 through 16 of this act, or further action as authorized by this chapter.

**NEW SECTION.** Sec. 19. Notwithstanding the existence or use of any other remedy, the department may, in the manner provided by law and upon the advice of the attorney general, who shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the advertising, operating, maintaining, managing, or opening of a test site without a license under this chapter. It is a misdemeanor to own, operate, or maintain a test site without a license.

**NEW SECTION.** Sec. 20. Any test site which has had a denial, condition, suspension, or revocation of its license, or a civil monetary penalty upheld after administrative review under chapter 34.05 RCW, may, within sixty days of the administrative determination, petition the superior court for review of the decision.

**NEW SECTION.** Sec. 21. No person who has owned or operated a test site that has had its license revoked may own or operate a test site within two years of the final adjudication of a license revocation.

**NEW SECTION.** Sec. 22. All information received by the department through filed reports, audits, or on-site reviews, as authorized under this chapter shall not be disclosed publicly in any manner that would identify persons who have specimens of material from their bodies at a test site, absent a written release from the person, or a court order.

**NEW SECTION.** Sec. 23. The department shall adopt rules under chapter 34.05 RCW necessary to implement the purposes of this chapter.

**NEW SECTION.** Sec. 24. Sections 1 through 23 of this act shall constitute a new chapter in Title 70 RCW.

**NEW SECTION.** Sec. 25. (1) Sections 1 through 22 of this act shall take effect July 1, 1990.

(2) Section 23 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

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## CHAPTER 387

[Substitute Senate Bill No. 6048]

### HIV TESTING FOR INSURANCE PURPOSES

AN ACT Relating to HIV testing for coverage under Title 48 RCW; adding a new section to chapter 70.24 RCW; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 70.24 RCW to read as follows:

(1) This section shall apply to counseling and consent for HIV testing administered as part of an application for coverage authorized under Title 48 RCW.

(2) Persons subject to regulation under Title 48 RCW who are requesting an insured, a subscriber, or a potential insured or subscriber to furnish the results of an HIV test for underwriting purposes as a condition for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:

(a) Provide written information to the individual prior to being tested which explains:

(i) What an HIV test is;

(ii) Behaviors that place a person at risk for HIV infection;

(iii) That the purpose of HIV testing in this setting is to determine eligibility for coverage;

(iv) The potential risks of HIV testing; and

(v) Where to obtain HIV pretest counseling.

(b) Obtain informed specific written consent for an HIV test. The written informed consent shall include:

(i) An explanation of the confidential treatment of the test results which limits access to the results to persons involved in handling or determining applications for coverage or claims of the applicant or claimant and to those persons designated under (c)(iii) of this subsection; and

(ii) Requirements under (c)(iii) of this subsection.

(c) Establish procedures to inform an applicant of the following:



(i) That post-test counseling, as specified under WAC 248-100-209(4), is required if an HIV test is positive or indeterminate;

(ii) That post-test counseling occurs at the time a positive or indeterminate HIV test result is given to the tested individual;

(iii) That the applicant may designate a health care provider or health care agency to whom the insurer, the health care service contractor, or health maintenance organization will provide positive or indeterminate test results for interpretation and post-test counseling. When an applicant does not identify a designated health care provider or health care agency and the applicant's test results are either positive or indeterminate, the insurer, the health care service contractor, or health maintenance organization shall provide the test results to the local health department for interpretation and post-test counseling; and

(iv) That positive or indeterminate HIV test results shall not be sent directly to the applicant.

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

Passed the Senate April 18, 1989.

Passed the House April 14, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

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## CHAPTER 388

[Substitute House Bill No. 1853]

### OIL SPILL DAMAGE ASSESSMENT, COMPENSATION, AND PENALTIES

AN ACT Relating to oil spill damage assessment, compensation, and penalties under the state water pollution control act; amending RCW 90.48.315, 90.48.390, 90.48.400, and 90.48-.350; adding new sections to chapter 90.48 RCW; creating new sections; prescribing penalties; making an appropriation; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. **INTENT.** The legislature finds that oil spills can cause significant damage to the environment and natural resources held in trust by and for the people of this state. Some of these damages are unquantifiable, and others cannot be quantified at a reasonable cost. Both quantifiable and unquantifiable damages often occur despite prompt containment and cleanup measures. Due to the inability to measure the exact nature and extent of certain types of damages, current damage assessment methodologies used by the state inadequately assess the damage caused by oil spills.

In light of the magnitude of environmental and natural resource damage which may be caused by oil spills, and the importance of fishing, tourism, recreation, and Washington's natural abundance and beauty to the quality of life and economic future of the people of this state, the legislature declares that compensation should be sought for those damages that cannot be quantified at a reasonable cost and for those unquantifiable damages that result from oil spills. This compensation is intended to ensure that the public does not bear substantial losses caused by oil pollution for which compensation may not otherwise be received.

**NEW SECTION.** Sec. 2. **COMPENSATION SCHEDULE.** By July 1, 1991, the department, in consultation with the departments of fisheries, wildlife, and natural resources, and the parks and recreation commission, shall adopt rules establishing a compensation schedule for the discharge of oil in violation of RCW 90.48.320, by persons liable under RCW 90.48.336. The department shall establish a scientific advisory board to assist in establishing the compensation schedule. The amount of compensation assessed under this schedule shall be no less than one dollar per gallon of oil spilled and no greater than fifty dollars per gallon of oil spilled. The compensation schedule shall reflect adequate compensation for unquantifiable damages or for damages not quantifiable at reasonable cost for any adverse environmental, recreational, aesthetic, or other effects caused by the oil spill and shall take into account:

(1) Characteristics of the oil spilled, such as toxicity, dispersibility, solubility, and persistence, that may affect the severity of the effects on the receiving environment, living organisms, and recreational and aesthetic resources;

(2) The sensitivity of the affected area as determined by such factors as: (a) The location of the spill; (b) habitat and living resource sensitivity; (c) seasonal distribution or sensitivity of living resources; (d) areas of recreational use or aesthetic importance; (e) the proximity of the spill to important habitats for birds, aquatic mammals, fish, or to species listed as threatened or endangered under state or federal law; and (f) other areas of special ecological or recreational importance, as determined by the department; and

(3) Actions taken by the party who spilled the oil or any party liable for the spill that: (a) Demonstrate a recognition and affirmative acceptance of responsibility for the spill, such as the immediate removal of oil and the amount of oil removed from the environment; or (b) enhance or impede the detection of the spill, the determination of the number of gallons spilled, or the extent of damage, including the unauthorized removal of evidence such as oiled fish or wildlife.

**NEW SECTION.** Sec. 3. **ASSESSMENT OF COMPENSATION.**  
(1) Prior to assessing compensation under section 2 of this act, the department shall conduct a formal preassessment screening as provided in section

4 of this act. The department shall use the compensation schedule established under section 2 of this act if the preassessment screening committee determines that: (a) Restoration or enhancement of the injured resources is not technically feasible; (b) damages are not quantifiable at a reasonable cost; and (c) the restoration and enhancement projects or studies proposed by the liable parties are insufficient to adequately compensate the people of the state for damages sustained as a result of the oil spill.

(2) Compensation shall not be assessed under this section for oil spills for which damages have been or will be assessed under RCW 90.48.142.

(3) Compensation assessed under this section shall be recoverable in an action brought by the attorney general on behalf of the people of the state of Washington in the superior court of Thurston county or any county in which damages occurred. Moneys recovered by the attorney general under this section shall be deposited in the coastal protection fund established under RCW 90.48.390, and shall only be used for the purposes stated in RCW 90.48.400.

(4) Compensation assessed under this section for a particular oil spill shall preclude claims under this chapter by local governments for compensation for damages to publicly owned resources resulting from the same spill.

**NEW SECTION.** Sec. 4. PREASSESSMENT SCREENING. (1) The department shall adopt rules establishing a formal process for preassessment screening of damages resulting from oil spills. The rules shall specify the conditions under which the department shall convene a preassessment screening committee. The preassessment screening process shall occur concurrently with reconnaissance activities. The committee shall use information obtained from oil spill reconnaissance activities as well as any other relevant resource and resource use information. For each oil spill, the committee shall determine whether a damage assessment investigation should be conducted under RCW 90.48.142, or alternatively, whether the compensation schedule authorized under sections 2 and 3 of this act should be used to assess damages. The committee may accept restoration or enhancement projects or studies proposed by the liable parties in lieu of some or all of: (a) The compensation schedule authorized under this chapter; or (b) the claims from damage assessment studies authorized under RCW 90.48.142.

(2) A preassessment screening committee may consist of representatives of the departments of ecology, fisheries, wildlife, natural resources, social and health services, and emergency management, the parks and recreation commission, as well as other federal, state, and local agencies, and tribal and local governments whose presence would enhance the reconnaissance or damage assessment aspects of oil spill response. The department shall chair the committee and determine which representatives will be needed on a spill-by-spill basis.

(3) The committee shall consider the following factors when determining whether a damage assessment study authorized under RCW 90.48.142 should be conducted: (a) Whether evidence from reconnaissance investigations suggests that injury has occurred or is likely to occur to publicly owned resources; (b) the potential loss in services provided by resources injured or likely to be injured and the expected value of the potential loss; (c) whether a restoration project to return lost services is technically feasible; (d) the accuracy of damage quantification methods that could be used and the anticipated cost-effectiveness of applying each method; (e) the extent to which likely injury to resources can be verified with available quantification methods; and (f) whether the injury, once quantified, can be translated into monetary values with sufficient precision or accuracy.

(4) Oil spill damage assessment studies authorized under RCW 90.48.142 may only be conducted if the committee, after considering the factors enumerated in subsection (3) of this section, determines that the damages to be investigated are quantifiable at a reasonable cost and that proposed assessment studies are clearly linked to quantification of the damages incurred.

(5) As new information becomes available, the committee may reevaluate the scope of damage assessment using the factors listed in subsection (3) of this section and may reduce or expand the scope of damage assessment as appropriate.

(6) The preassessment screening process shall provide for the ongoing involvement of persons who may be liable for damages resulting from an oil spill. The department may negotiate with a potentially liable party to perform restoration and enhancement projects or studies which may substitute for all or part of the compensation authorized under sections 2 and 3 of this act or the damage assessment studies authorized under RCW 90.48.142.

(7) For the purposes of this section and section 3 of this act, the cost of a damage assessment shall be considered "reasonable" when the anticipated cost of the damage assessment is expected to be less than the anticipated damage that may have occurred or may occur.

**NEW SECTION.** Sec. 5. ANNUAL REPORT. The department shall submit an annual report to the appropriate standing committees of the legislature for the next five years beginning January 1, 1990. The annual report shall cover the implementation of this act and shall include information on each oil spill for which a preassessment screening committee was convened, the outcome of each process, any compensation claims imposed or damage assessment studies conducted, and the revenues to and expenditures from the coastal protection fund.

Sec. 6. Section 10, chapter 133, Laws of 1969 ex. sess. as last amended by section 5, chapter 316, Laws of 1985 and RCW 90.48.315 are each amended to read as follows:

For purposes of RCW 90.48.315 through 90.48.365 (~~and RCW~~), 78-.52.020, 78.52.125, 82.36.330, 90.48.315, 90.48.370 through 90.48.410, 90-.48.903, 90.48.906 and 90.48.907, and sections 2 through 5 of this act, the following definitions shall apply unless the context indicates otherwise:

(1) "Board" shall mean the pollution control hearings board.

(2) "Committee" shall mean the preassessment screening committee established under section 4 of this act.

(3) "Department" shall mean the department of ecology.

~~((3))~~ (4) "Director" shall mean the director of the department of ecology.

~~((4))~~ (5) "Discharge" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

~~((5))~~ (6) "Fund" shall mean the state coastal protection fund as provided in RCW 90.48.390 and 90.48.400.

~~((6))~~ (7) "Having control over oil" shall include but not be limited to any person using, storing, or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

~~((7))~~ (8) "Necessary expenses" means the expenses incurred by the department and assisting state agencies for (a) investigating the source of the discharge; (b) investigating the extent of the environmental damage caused by the discharge; and (c) conducting actions necessary to clean up the discharge.

~~((8))~~ (9) "Oil" or "oils" shall mean oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse, liquid natural gas, propane, butane, oils distilled from coal, and other liquid hydrocarbons regardless of specific gravity, or any other petroleum related product.

~~((9))~~ (10) "Person" shall mean any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever and any owner, operator, master, officer, or employee of a ship.

~~((10))~~ (11) "Ship" shall mean any boat, ship, vessel, barge, or other floating craft of any kind.

~~((11))~~ (12) "Technical feasibility" or "technically feasible" shall mean that given available technology, a restoration or enhancement project can be successfully completed at a cost that is not disproportionate to the value of the resource prior to the injury.

(13) "Waters of the state" shall include lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

Sec. 7. Section 4, chapter 180, Laws of 1971 ex. sess. and RCW 90-.48.390 are each amended to read as follows:

The coastal protection fund is established to be used by the department as a revolving fund for carrying out the purposes of RCW 90.48.315 through 90.48.365 (~~and RCW~~), 78.52.020, 78.52.125, 82.36.330, 90.48.315, 90.48.370 through 90.48.410, 90.48.903, 90.48.906 and 90.48.907, and sections 2 through 4 of this act. To this fund there shall be credited penalties, fees, and charges received pursuant to the provisions of RCW 90.48.315 through 90.48.365, compensation for damages received under sections 2 through 4 of this act, and an amount equivalent to one cent per gallon from each marine use refund claim under RCW 82.36.330.

Moneys in the fund not needed currently to meet the obligations of the department in the exercise of its powers, duties, and functions under RCW 90.48.315 through 90.48.365 and \*RCW 78.52.020, 78.52.125, 82.36.330, 90.48.315, 90.48.370 through 90.48.410, 90.48.903, 90.48.906 and 90.48.907 shall be deposited with the state treasurer to the credit of the fund and may be invested in such manner as is provided for by law. Interest received on such investment shall be credited to the fund.

Sec. 8. Section 5, chapter 180, Laws of 1971 ex. sess. and RCW 90.48.400 are each amended to read as follows:

(1) Moneys in the coastal protection fund shall be disbursed for the following purposes and no others:

(a) All costs of the department related to the enforcement of RCW 90.48.315 through 90.48.365 (~~and RCW~~), 78.52.020, 78.52.125, 82.36.330, 90.48.315, 90.48.370 through 90.48.410, 90.48.903, 90.48.906 and 90.48.907, and sections 2 through 4 of this act including but not limited to equipment rental and contracting costs.

(b) All costs involved in the abatement of pollution related to the discharge of oil.

(c) The director may allocate a portion of the fund to be devoted to research and development in the causes, effects, and removal of pollution caused by the discharge of oil.

(2) Moneys disbursed from the coastal protection fund for the abatement of pollution caused by the discharge of oil shall be reimbursed to the fund whenever:

(a) Moneys are available under any federal program; or

(b) Moneys are available from a recovery made by the department from the person liable for the discharge of oil.

(3) A steering committee consisting of representatives of the department of ecology, fisheries, wildlife, and natural resources, and the parks and recreation commission shall authorize the expenditure of the moneys collected under sections 2 through 4 of this act, after consulting impacted local agencies and local and tribal governments. The moneys collected under sections 2 through 4 of this act shall only be used for the following purposes:  
(a) Environmental restoration and enhancement projects intended to restore or enhance environmental, recreational, or aesthetic resources for the benefit

of Washington's citizens; (b) investigations of the long-term effects of oil spills on state resources; and (c) reimbursement of agencies for reasonable reconnaissance and damage assessment costs. Agencies may not be reimbursed under this section for the salaries and benefits of permanent employees for routine operational support. Agencies may only be reimbursed under this section if money for reconnaissance and damage assessment activities is unavailable from other sources.

Sec. 9. Section 7, chapter 133, Laws of 1969 ex. sess. as last amended by section 20, chapter 109, Laws of 1987 and RCW 90.48.350 are each amended to read as follows:

Any person who ~~((intentionally or))~~ negligently discharges oil, or causes or permits the entry of the same, shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to twenty thousand dollars for every such violation, and for each day ~~((of a continuing violation, said amount to))~~ the spill poses risks to the environment as determined by the director. Any person who intentionally or recklessly discharges or causes or permits the entry of oil into the waters of the state shall incur, in addition to any other penalty authorized by law, a penalty of up to one hundred thousand dollars for every such violation and for each day the spill poses risks to the environment as determined by the director. The amount of the penalty shall be determined by the director after taking into consideration the gravity of the violation, the previous record of the violator in complying, or failing to comply, with the provisions of chapter 90.48 RCW, the speed and thoroughness of the collection and removal of the oil, and such other considerations as the director deems appropriate. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for. The penalty herein provided for shall be imposed pursuant to RCW 43.21B.300.

NEW SECTION. Sec. 10. The sum of seventy-five thousand dollars, or as much thereof as may be necessary, is appropriated from the state toxics control account to the department of ecology for the biennium ending June 30, 1991, for the purpose of preparing the compensation schedule required under section 2 of this act.

NEW SECTION. Sec. 11. Sections 2 through 5 of this act are each added to chapter 90.48 RCW.

NEW SECTION. Sec. 12. This act applies prospectively only, and not retroactively. It applies only to causes of action which arise after the effective date of this act.

NEW SECTION. Sec. 13. Section headings as used in this act do not constitute any part of the law.

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, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 15, 1989.

Passed the Senate April 5, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

**CHAPTER 389**

[Substitute Senate Bill No. 6013]

**WATER AND SEWER CONNECTION AND CAPACITY CHARGES**

AN ACT Relating to water and sewer connection or capacity charges; amending RCW 56.08.010, 56.16.030, 57.08.010, and 57.16.010; adding a new section to chapter 35.58 RCW; adding a new chapter to Title 56 RCW; and adding a new chapter to Title 57 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 35.58 RCW to read as follows:

(1) A metropolitan municipal corporation that is engaged in the transmission, treatment, and disposal of sewage may impose a capacity charge on users of the metropolitan municipal corporation's sewage facilities when the user connects, reconnects, or establishes a new service. The capacity charge shall be approved by the council of the metropolitan municipal corporation and reviewed and reapproved annually.

(2) The capacity charge shall be based upon the cost of the sewage facilities' excess capacity that is necessary to provide sewerage treatment for new users to the system. The capacity charge, which may be collected over a period of fifteen years, shall not exceed:

(a) Seven dollars per month per residential customer equivalent for connections and reconnections occurring prior to January 1, 1996; and

(b) Ten dollars and fifty cents per month per residential customer equivalent for connections and reconnections occurring after January 1, 1996, and prior to January 1, 2001.

For connections and reconnections occurring after January 1, 2001, the capacity charge shall not exceed fifty percent of the basic sewer rate per residential customer equivalent established by the metropolitan municipal corporation at the time of the connection or reconnection.

(3) The capacity charge for a building other than a single-family residence shall be based on the projected number of residential customer equivalents to be represented by the building, considering its intended use.



(4) The council of the metropolitan municipal corporation shall enforce the collection of the capacity charge in the same manner provided for the collection, enforcement, and payment of rates and charges for sewer districts provided in RCW 56.16.100 and 56.16.110. At least thirty days before commencement of an action to foreclose a lien for a capacity charge, the metropolitan municipal corporation shall send written notice of delinquency in payment of the capacity charge to any first mortgage or deed of trust holder of record at the address of record.

(5) As used in this section, "sewage facilities" means capital projects identified since January 1, 1982, to the effective date of this section in the metropolitan municipal corporation's comprehensive water pollution abatement plan. "Residential customer equivalent" shall have the same meaning used by the metropolitan municipal corporation in determining rates and charges at the time the capacity charge is imposed.

Sec. 2. Section 1, chapter 449, Laws of 1987 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 and towns, 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, approved septic tanks or approved septic tank systems, other facilities and systems for the collection, interception, treatment, and disposal of wastewater, and for the control of pollution from wastewater and for the protection, preservation, and rehabilitation of surface and underground waters, 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. Such sewage facilities may include facilities which result in combined sewage disposal, treatment, or drainage and electric generation, provided that the electricity generated thereby is a byproduct of the system of sewers. Such electricity may be used by the sewer district or sold to any entity authorized

by law to distribute electricity. Such electricity is a byproduct when the electrical generation is subordinate to the primary purpose of sewage disposal, treatment, or drainage. 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. For the purposes of sewage facilities which include facilities which result in combined sewage disposal, treatment, or drainage and electric generation where the electric generation is a byproduct, nothing in this section may be construed to authorize a district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner. 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. For purposes of calculating a connection charge, the board of commissioners shall determine the pro rata share of the cost of existing facilities and facilities planned for construction within the next ten years and contained in an adopted comprehensive plan and other costs borne by the district which are directly attributable to the improvements required by property owners seeking to connect to the system. The cost of existing facilities shall not include those portions of the system which have been donated or which have been paid for by grants.

The connection charge may include interest charges applied from the date of construction of the sewer system until the connection, or for a period not to exceed ten years, whichever is shorter, at a rate commensurate with the rate of interest applicable to the district at the time of construction or major rehabilitation of the sewer system, or at the time of installation of the sewer lines to which the property owner is seeking to connect.

A district may permit payment of the cost of connection and the reasonable connection charge to be paid with interest in installments over a period not exceeding fifteen years. The county treasurer may charge and collect a fee of three dollars per parcel for each year for the treasurer's services. Such fees shall be a charge to be included as part of each annual installment, and shall be credited to the county current expense fund by the county treasurer. 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.

Revenues from connection charges excluding permit fees are to be considered payments in aid of construction as defined by department of revenue rule.

Sec. 3. Section 17, chapter 210, Laws of 1941 as last amended by section 47, chapter 186, Laws of 1984 and RCW 56.16.030 are each amended to read as follows:

(1) In the same manner as herein provided for the adoption of the general comprehensive plan, and after the adoption of the general comprehensive plan, a plan providing for additions and betterments to the general comprehensive plan, or reorganized district may be adopted. Without limiting its generality "additions and betterments" shall include any necessary change in, amendment of, or addition to the general comprehensive plan. The sewer district may incur a general indebtedness payable from annual tax levies to be made in excess of the constitutional and/or statutory tax limitations for the construction of the additions and betterments in the same way the general indebtedness may be incurred for the construction of the general comprehensive plan as provided in RCW 56.16.010. Upon ratification by the voters of the entire district, of the proposition to incur such indebtedness, the additions and betterments may be carried out by the sewer commissioners to the extent specified or referred to in the proposition to incur such general indebtedness. The sewer district may issue revenue bonds to pay for the construction of the additions and betterments by resolution of the board of sewer commissioners.

(2) After the effective date of this act, when the district adopts a general comprehensive plan or plans for an area annexed as provided for in RCW 56.08.020, the district shall include a long-term plan for financing the planned projects.

**NEW SECTION.** Sec. 4. If the sewer district approves an extension to the sewer system, the district shall contract with owners of real estate located within the district boundaries, at an owner's request, for the purpose of permitting extensions to the district's sewer system to be constructed by such owner at such owner's sole cost where such extensions are required as a prerequisite to further property development. The contract shall contain such conditions as the district may require pursuant to the district's adopted policies and standards. The district shall request comprehensive plan approval for such extension, if required, and connection of the extension to the district system is conditioned upon:

- (1) Construction of such extension according to plans and specifications approved by the district;
- (2) Inspection and approval of such extension by the district;
- (3) Transfer to the district of such extension without cost to the district upon acceptance by the district of such extension;
- (4) Payment of all required connection charges to the district;
- (5) Full compliance with the owner's obligations under such contract and with the district's rules and regulations;
- (6) Provision of sufficient security to the district to ensure completion of the extension and other performance under the contract;
- (7) Payment by the owner to the district of all of the district's costs associated with such extension including, but not limited to, the district's engineering, legal, and administrative costs; and
- (8) Verification and approval of all contracts and costs related to such extension.

**NEW SECTION.** Sec. 5. The contract shall also provide, subject to the terms and conditions in this section, for the reimbursement to the owner or the owner's assigns for a period not to exceed fifteen years of a portion of the costs of the sewer facilities constructed pursuant to such contract from connection charges received by the district from other property owners who subsequently connect to or use the sewer facilities within the fifteen-year period and who did not contribute to the original cost of such sewer facilities.

**NEW SECTION.** Sec. 6. The reimbursement shall be a pro rata share of construction and contract administration costs of the sewer project. Reimbursement for sewer projects shall include, but not be limited to, design, engineering, installation, and restoration.

**NEW SECTION.** Sec. 7. The procedures for reimbursement contracts shall be governed by the following:

(1) A reimbursement area shall be formulated by the board of commissioners within a reasonable time after the acceptance of the extension. The reimbursement shall be based upon a determination by the board of commissioners of which parcels would require similar sewer improvements upon development.

(2) The contract must be recorded in the appropriate county auditor's office after the final execution of the agreement.

**NEW SECTION.** Sec. 8. As an alternative to financing projects under this chapter solely by owners of real estate, sewer districts may join in the financing of improvement projects and may be reimbursed in the same manner as the owners of real estate who participate in the projects, if the board of commissioners has specified the conditions of its participation in a resolution.

Sec. 9. Section 8, chapter 114, Laws of 1929 as last amended by section 1, chapter 11, Laws of 1988 and RCW 57.08.010 are each amended to read as follows:

(1) (a) A water district may acquire by purchase or condemnation, or both, all property and property rights and all water and water rights, both within and without the district, necessary for its purposes.

(b) A water 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 water commissioners such property may not be needed permanently or substantial savings to the district can be effected thereby.

(c) 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 assessment rolls to be prepared and filed by eminent domain commissioners or commissioners appointed by the court shall be prepared and filed by the water district, and the duties devolving upon the city treasurer are hereby imposed upon the county treasurer.

(d) A water district may construct, condemn and purchase, purchase, add to, maintain and supply waterworks to furnish the district and inhabitants thereof, and any city or town therein and any other persons, both within and without the district, with an ample supply of water for all uses and purposes public and private with full authority to regulate and control the use, content, distribution, and price thereof in such a manner as is not in conflict with general law.

(e) A water district contiguous to Canada may contract with a Canadian corporation for the purchase of water and for the construction, purchase, maintenance and supply of waterworks to furnish the district and inhabitants thereof and residents of Canada with an ample supply of water under terms approved by the board of commissioners. Such waterworks may include facilities which result in combined water supply and electric generation, provided that the electricity generated thereby is a byproduct of the water supply system.

(f) Such electricity may be used by the water district or sold to any entity authorized by law to distribute electricity. Such electricity is a byproduct when the electrical generation is subordinate to the primary purpose of water supply.

(g) For such purposes, a water district may take, condemn and purchase, purchase, acquire and retain water from any public or navigable lake, river or watercourse, or any underflowing water and, by means of aqueducts or pipe line conduct the same throughout such water district and any city or town therein and carry it along and upon public highways, roads and streets, within and without such district.

(h) For the purpose of constructing or laying aqueducts or pipe lines, dams, or waterworks or other necessary structures in storing and retaining water or for any other lawful purpose such water district may occupy the beds and shores up to the high water mark of any such lake, river, or other watercourse, and may acquire by purchase or condemnation such property or property rights or privileges as may be necessary to protect its water supply from pollution.

(i) For the purposes of waterworks which include facilities for the generation of electricity as a byproduct, nothing in this section may be construed to authorize a water district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner.

(2) A water district may purchase and take water from any municipal corporation.

(3) A water district may fix rates and charges for water supplied and may charge property owners seeking to connect to the district's water supply system, 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) For purposes of calculating a connection charge, the board of commissioners shall determine the pro rata share of the cost of existing facilities and facilities planned for construction within the next ten years and contained in an adopted comprehensive plan and other costs borne by the district which are directly attributable to the improvements required by property owners seeking to connect to the system. The cost of existing facilities shall not include those portions of the system which have been donated or which have been paid for by grants.

(b) The connection charge may include interest charges applied from the date of construction of the water system until the connection, or for a period not to exceed ten years, whichever is shorter, at a rate commensurate with the rate of interest applicable to the district at the time of construction or major rehabilitation of the water system, or at the time of installation of the water lines to which the property owner is seeking to connect.

(4) (a) A district may permit payment of the cost of connection and the reasonable connection charge to be paid with interest in installments over a period not exceeding fifteen years. The county treasurer may charge and collect a fee of three dollars for each year for the treasurer's services. Such fees shall be a charge to be included as part of each annual installment, and shall be credited to the county current expense fund by the county treasurer.

(b) Revenues from connection charges excluding permit fees are to be considered payments in aid of construction as defined by department of revenue rule.

Sec. 10. Section 6, chapter 18, Laws of 1959 as last amended by section 2, chapter 213, Laws of 1982 and RCW 57.16.010 are each amended to read as follows:

The water district commissioners before ordering any improvements hereunder or submitting to vote any proposition for incurring any indebtedness shall adopt a general comprehensive plan of water supply for the district. They shall investigate the several portions and sections of the district for the purpose of determining the present and reasonably foreseeable future needs thereof; shall examine and investigate, determine and select a water supply or water supplies for such district suitable and adequate for present and reasonably foreseeable future needs thereof; and shall consider and determine a general system or plan for acquiring such water supply or water supplies; and the lands, waters and water rights and easements necessary therefor, and for retaining and storing any such waters, erecting dams, reservoirs, aqueducts and pipe lines to convey the same throughout such district. There may be included as part of the system the installation of fire hydrants at suitable places throughout the district, and the purchase and maintenance of necessary fire fighting equipment and apparatus, together with facilities for housing same. The water district commissioners shall determine a general comprehensive plan for distributing such water throughout such portion of the district as may then reasonably be served by means of subsidiary aqueducts and pipe lines, and the method of distributing the cost and expense thereof against such water district and against local improvement districts or utility local improvement districts within such water district for any lawful purpose, and including any such local improvement district or utility local improvement district lying wholly or partially within the limits of any city or town in such district, and shall determine whether the whole or part of the cost and expenses shall be paid from water revenue bonds. After the effective date of this act, when the district adopts a general comprehensive plan or plans for an area annexed as provided for in RCW 57.16.010, the district shall include a long-term plan for the planned projects. The commissioners may employ such engineering and legal service as in their discretion is necessary in carrying out their duties.

The general comprehensive plan shall be adopted by resolution and submitted to an engineer designated by the legislative authority of the county in which fifty-one percent or more of the area of the district is located, and to the director of health of the county in which the district or any portion thereof is located, and must be approved in writing by the engineer and director of health. The general comprehensive plan shall be approved, conditionally approved, or rejected by the director of health within

sixty days of the plan's receipt and by the designated engineer within sixty days of the plan's receipt.

Before becoming effective, the general comprehensive plan shall also be submitted to, and approved by resolution of, the legislative authority of every county within whose boundaries all or a portion of the water district lies. The general comprehensive plan shall be approved, conditionally approved, or rejected by each of these county legislative authorities pursuant to the criteria in RCW 57.02.040 for approving the formation, reorganization, annexation, consolidation, or merger of water districts, and the resolution, ordinance, or motion of the legislative body which rejects the comprehensive plan or a part thereof shall specifically state in what particular the comprehensive plan or part thereof rejected fails to meet these criteria. The legislative body may not impose requirements restricting the maximum size of the water supply facilities provided for in the comprehensive plan: PROVIDED, That nothing in this chapter shall preclude a county from rejecting a proposed plan because it is in conflict with the criteria in RCW 57.02.040. Each general comprehensive plan shall be deemed approved if the county legislative authority fails to reject or conditionally approve the plan within ninety days of the plan's submission to the county legislative authority or within thirty days of a hearing on the plan when the hearing is held within ninety days of submission to the county legislative authority: PROVIDED, That the water commissioners and the county legislative authority may mutually agree to an extension of the deadlines in this section. If the district includes portions or all of one or more cities or towns, the general comprehensive plan shall be submitted also to, and approved by resolution of, the legislative authority of cities and towns before becoming effective. The general comprehensive plan shall be deemed approved by the city or town legislative authority if the city or town legislative authority fails to reject or conditionally approve the plan within ninety days of the plan's submission to the city or town or within thirty days of a hearing on the plan when the hearing is held within ninety days of submission to the county legislative authority.

Before becoming effective, any amendment to, alteration of, or addition to, a general comprehensive plan shall also be subject to such approval as if it were a new general comprehensive plan: PROVIDED, That only if the amendment, alteration, or addition affects a particular city or town, shall the amendment, alteration or addition be subject to approval by such particular city or town legislative authority.

NEW SECTION. Sec. 11. If the water district approves an extension to the water system, the district shall contract with owners of real estate located within the district boundaries, at an owner's request, for the purpose of permitting extensions to the district's water system to be constructed by such owner at such owner's sole cost where such extensions are required as a prerequisite to further property development. The contract shall contain



such conditions as the district may require pursuant to the district's adopted policies and standards. The district shall request comprehensive plan approval for such extension, if required, and connection of the extension to the district system is conditioned upon:

- (1) Construction of such extension according to plans and specifications approved by the district;
- (2) Inspection and approval of such extension by the district;
- (3) Transfer to the district of such extension without cost to the district upon acceptance by the district of such extension;
- (4) Payment of all required connection charges to the district;
- (5) Full compliance with the owner's obligations under such contract and with the district's rules and regulations;
- (6) Provision of sufficient security to the district to ensure completion of the extension and other performance under the contract;
- (7) Payment by the owner to the district of all of the district's costs associated with such extension including, but not limited to, the district's engineering, legal, and administrative costs; and
- (8) Verification and approval of all contracts and costs related to such extension.

**NEW SECTION.** Sec. 12. The contract shall also provide, subject to the terms and conditions in this section, for the reimbursement to the owner or the owner's assigns for a period not to exceed fifteen years of a portion of the costs of the water facilities constructed pursuant to such contract from connection charges received by the district from other property owners who subsequently connect to or use the water facilities within the fifteen-year period and who did not contribute to the original cost of such water facilities.

**NEW SECTION.** Sec. 13. The reimbursement shall be a pro rata share of construction and reimbursement of contract administration costs of the water project. Reimbursement for water projects shall include, but not be limited to, design, engineering, installation, and restoration.

**NEW SECTION.** Sec. 14. The procedures for reimbursement contracts shall be governed by the following:

(1) A reimbursement area shall be formulated by the board of commissioners within a reasonable time after the acceptance of the extension. The reimbursement shall be based upon a determination by the board of commissioners of which parcels would require similar water improvements upon development.

(2) The contract must be recorded in the appropriate county auditor's office after the final execution of the agreement.

**NEW SECTION.** Sec. 15. As an alternative to financing projects under this chapter solely by owners of real estate, a water district may join in the financing of improvement projects and may be reimbursed in the same

manner as the owners of real estate who participate in the projects, if the water district has specified the conditions of its participation in a resolution.

**NEW SECTION.** Sec. 16. (1) Sections 4 through 8 of this act shall constitute a new chapter in Title 56 RCW.

(2) Sections 11 through 15 of this act shall constitute a new chapter in Title 57 RCW.

Passed the Senate April 18, 1989.

Passed the House April 14, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

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## CHAPTER 390

[Substitute Senate Bill No. 5850]

### FUNERAL HOMES—PREARRANGEMENT FUNERAL SERVICE CONTRACTS

AN ACT Relating to funeral establishments; amending RCW 18.39.010, 18.39.240, 18.39.250, 18.39.260, 18.39.280, 18.39.300, 18.39.320, 18.39.330, 18.39.350, and 18.39.360; adding new sections to chapter 18.39 RCW; and prescribing penalties.

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

Sec. 1. Section 1, chapter 108, Laws of 1937 as last amended by section 1, chapter 66, Laws of 1982 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.

(1) "Funeral director" means a person engaged in the profession or business of conducting funerals and supervising or directing the burial and disposal of dead human bodies.

(2) "Embalmer" means a person engaged in the profession or business of disinfecting, preserving or preparing for disposal or transportation of dead human bodies.

(3) "Two-year college course" means the completion of sixty semester hours or ninety quarter hours of college credit, 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.

(7) "Prearrangement funeral service contract" means any contract (~~(; other than a contract entered into by an insurance company,)~~) under which, for a specified consideration (~~((paid in advance in a lump sum or by installments)),~~) a funeral establishment promises, upon the death of (~~((a beneficiary))~~) the person named or implied in the contract, to furnish funeral merchandise or services.

(8) "Funeral merchandise or services" means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

(9) "Qualified public depository" means a depository defined by RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, a savings and loan association as governed by Title 33 RCW, or a federal credit union or a federal savings and loan association organized, operated, and governed by any act of congress, in which prearrangement funeral service contract funds are deposited by any funeral establishment.

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 66, Laws of 1982 and RCW 18.39.240 are each amended to read as follows:

Only a funeral establishment licensed pursuant to this chapter may enter into prearrangement funeral service contracts(~~(; subject to the provisions of this chapter)~~).

Sec. 3. Section 3, chapter 66, Laws of 1982 and RCW 18.39.250 are each amended to read as follows:

(1) Any funeral establishment selling funeral merchandise or services by prearrangement funeral service contract (~~((any funeral merchandise or services))~~) and accepting moneys therefore shall establish and maintain one or more prearrangement funeral service (~~((trust funds))~~) trusts under Washington state law with two or more designated trustees, for the benefit of the beneficiary of the prearrangement funeral service contract or may join with one or more other Washington state licensed funeral establishments in a "master trust" provided that each member of the "master trust" shall comply individually with the requirements of this chapter.

(2) (~~((Fifteen))~~) Up to ten percent of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment unless otherwise provided in this chapter. If the prearrangement funeral service contract is canceled within thirty calendar days of its signing, then the purchaser shall receive a full refund of

all moneys paid under the contract. ((Deposits to the prearrangement funeral service trust fund shall be made not later than the twentieth day of the month following the receipt of each payment made on the last eighty-five percent of each prearrangement funeral service contract, excluding sales tax:))

(3) At least ninety percent of the cash purchase price of each prearrangement funeral service contract, paid in advance, excluding sales tax, shall be placed in the trust established or utilized by the funeral establishment. Deposits to the prearrangement funeral service trust shall be made not later than the twentieth day of the month following receipt of each payment made on the last ninety percent of each prearrangement funeral service contract, excluding sales tax.

(4) All prearrangement funeral service trust ((funds)) moneys shall be deposited in an insured account in a qualified public depository or shall be invested in instruments issued or insured by any agency of the federal government if these securities are held in a public depository. The account shall be designated as the prearrangement funeral service trust ((fund)) of the ((particular)) funeral establishment for the benefit of the beneficiaries named in the prearrangement funeral service contracts. The prearrangement funeral service trust shall not be considered as, nor shall it be used as, an asset of the funeral establishment.

((4)) (5) After deduction of reasonable fees for the administration of the trust, taxes paid or withheld, or other expenses of the trust, all interest, dividends, increases, or accretions of whatever nature earned by a trust ((fund)) shall be kept unimpaired and shall become a part of the trust ((fund, and)). Adequate records shall be maintained to allocate the share ((thereof)) of principal and interest to each contract. Fees deducted for the administration of the trust shall not exceed one percent of the face amount of the prearrangement funeral service contract per annum. In no instance shall the administrative charges deducted from the prearrangement funeral service trust reduce, diminish, or in any other way lessen the value of the trust so that the services or merchandise provided for under the contract are reduced, diminished, or in any other way lessened.

((A depository designated as the depository)) (6) Except as otherwise provided in this chapter, the trustees of a prearrangement funeral service trust ((fund)) shall permit withdrawal of all funds deposited under a prearrangement funeral service contract, plus accruals thereon, under the following circumstances and conditions:

(a) If the funeral establishment files a verified statement with the ((depository)) trustees that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(b) If the funeral establishment files a verified statement with the ((depository)) trustees that the prearrangement funeral merchandise and

services covered by the contract have been canceled in accordance with its terms.

~~((6))~~ (7) Subsequent to the thirty calendar day cancellation period provided for in this chapter, any purchaser or beneficiary who has (~~procured~~) a revocable prearrangement funeral service contract has the right to demand a refund of the (~~entire~~) amount (~~paid on the contract, together with all interest, dividends, increases, or accretions to the funds~~) in trust.

~~((7))~~ (8) Prearrangement funeral service contracts (~~shall automatically terminate~~) which have or should have an account in a prearrangement funeral service trust may be terminated by the board if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, has its prearrangement funeral service certificate of registration revoked, or for any other reason is unable to fulfill the obligations under the contract. In such event, (~~and~~) or upon demand by the purchaser or beneficiary of the prearrangement funeral service contract, the (~~depository of the prearrangement funeral service contract funds~~) funeral establishment shall refund to the purchaser or beneficiary all (~~funds~~) moneys deposited (~~under the contract~~) in the trust and allocated to the contract unless otherwise ordered by a court of competent jurisdiction. The purchaser or beneficiary may, in lieu of a refund, elect to transfer the prearrangement funeral service contract and all amounts in trust to another funeral establishment licensed under this chapter which will agree, by endorsement to the contract, to be bound by the contract and to provide the funeral merchandise or services. Election of this option shall not relieve the defaulting funeral establishment of its obligation to the purchaser or beneficiary for any amounts required to be, but not placed, in trust.

(9) Prior to the sale or transfer of ownership or control of any funeral establishment which has contracted for prearrangement funeral service contracts, any person, corporation, or other legal entity desiring to acquire such ownership or control shall apply to the director in accordance with RCW 18.39.145. Persons and business entities selling or relinquishing, and persons and business entities purchasing or acquiring ownership or control of such funeral establishments shall each verify and attest to a report showing the status of the prearrangement funeral service trust or trusts on the date of the sale. This report shall be on a form prescribed by the board and shall be considered part of the application for a funeral establishment license. In the event of failure to comply with this subsection, the funeral establishment shall be deemed to have gone out of business and the provisions of subsection (8) of this section shall apply.

~~((8))~~ (10) Prearrangement funeral service trust (~~funds~~) moneys shall not be used, directly or indirectly, for the benefit of the funeral establishment or any director, officer, agent, or employee of the funeral establishment including, but not limited to, any encumbrance, pledge, or other

use of prearrangement funeral service trust (~~(funds)~~) moneys as collateral or other security.

~~((9))~~ (11) If, at the time of the signing of the prearrangement funeral service contract, the beneficiary of the trust is a recipient of public assistance as defined in RCW 74.04.005, or reasonably anticipates being so defined, the contract may provide that the trust will be irrevocable. If after the contract is entered into, the beneficiary becomes eligible or seeks to become eligible for public assistance under Title 74 RCW, the contract may provide for an election by the beneficiary, or by the purchaser on behalf of the beneficiary, to make the trust irrevocable thereafter in order to become or remain eligible for such assistance.

(12) Every prearrangement funeral service contract (~~shall contain language which informs the purchaser of the prearrangement funeral service trust fund and the amount to be deposited in the trust fund, which shall not be less than eighty-five percent of the cash purchase price of the contract.~~) financed through a prearrangement funeral service trust shall contain language which:

(a) Informs the purchaser of the prearrangement funeral service trust and the amount to be deposited in the trust;

(b) Indicates if the contract is revocable or not in accordance with subsection (11) of this section;

(c) Specifies that a full refund of all moneys paid on the contract will be made if the contract is canceled within thirty calendar days of its signing;

(d) Specifies that, in the case of cancellation by a purchaser or beneficiary eligible to cancel under the contract or under this chapter, up to ten percent of the contract amount may be retained by the seller to cover the necessary expenses of selling and setting up the contract;

(e) Identifies the trust to be used and contains information as to how the trustees may be contacted.

NEW SECTION. Sec. 4. A new section is added to chapter 18.39 RCW to read as follows:

Prearranged funeral service contracts funded through insurance shall contain language which:

(1) States the amount of insurance;

(2) Informs the purchaser of the name and address of the insurance company through which the insurance will be provided, the policy number, and the name of the beneficiary; and

(3) Informs the purchaser that amounts paid for insurance may not be refundable.

Sec. 5. Section 4, chapter 66, Laws of 1982 as amended by section 67, chapter 259, Laws of 1986 and RCW 18.39.260 are each amended to read as follows:

A funeral establishment shall not enter into prearrangement funeral service contracts in this state unless the funeral establishment has obtained a certificate of registration issued by the board and such certificate is then in force.

Certificates of registration shall be maintained by funeral establishments ~~((until all prearrangement contract obligations have been fulfilled;))~~ and the funeral establishment shall comply with all requirements related to the sale of prearrangement contracts until all obligations have been fulfilled. The board may, for just cause, release a funeral establishment from specific registration or reporting requirements.

Sec. 6. Section 7, chapter 66, Laws of 1982 as amended by section 68, chapter 259, Laws of 1986 and RCW 18.39.280 are each amended to read as follows:

To apply for an original certificate of registration, a funeral establishment must:

- (1) File with the board its request showing:
  - (a) Its name, location, and organization date;
  - (b) The kinds of funeral business it proposes to transact;
  - (c) A statement of its financial condition, management, and affairs on a form satisfactory to or furnished by the ~~((director, and))~~ board;
  - (d) Documents establishing its trust, or its affiliation with a master trust, and the names and addresses of the trustees if a trust is to be used to finance prearrangement funeral service contracts;
  - (e) Documents establishing its relationship with insurance carriers if insurance is to be used to finance;
  - (f) Documents establishing any other financing relationships; and
  - (g) Such other documents, stipulations, or information as the board may reasonably require to evidence compliance with the provisions of this chapter.
- (2) Deposit with the director the fees required by this chapter to be paid for filing the accompanying documents, and for the certificate of registration, if granted.

Sec. 7. Section 6, chapter 66, Laws of 1982 as amended by section 70, chapter 259, Laws of 1986 and RCW 18.39.300 are each amended to read as follows:

In addition to the grounds for action set forth in RCW 18.130.170 and 18.130.180, the board may take the disciplinary action set forth in RCW 18.130.160 against the funeral establishment's license, the license of any funeral director and/or the funeral establishment's certificate of registration, if the licensee or registrant:

- (1) Fails to comply with any provisions of this chapter, chapter 18.130 RCW, or any proper order or regulation of the board;

(2) Is found by the board to be in such condition that further execution of prearrangement contracts could be hazardous to purchasers or beneficiaries and the people of this state;

(3) Refuses to be examined, or refuses to submit to examination (~~(or to produce its accounts, records and files for examination)~~) by the board when required; (~~(or)~~)

(4) Fails to pay the expense of an examination; or

(5) Is found by the board after investigation or receipt of reliable information to be managed by persons who are incompetent or untrustworthy or so lacking in managerial experience as to make the proposed or continued (~~(operation)~~) execution or servicing of prearrangement funeral service contracts hazardous to purchasers, beneficiaries, or to the public.

Sec. 8. Section 10, chapter 66, Laws of 1982 as amended by section 71, chapter 259, Laws of 1986 and RCW 18.39.320 are each amended to read as follows:

(1) Each (~~(authorized)~~) funeral establishment which has prearrangement funeral service contracts outstanding shall annually, (~~(at the time of its registration renewal)~~) as required by the board, file with the board a true and accurate statement of its financial condition(~~(;)~~) and transactions(~~(;)~~) and affairs involving prearrangement funeral service contracts for its preceding fiscal year. The statement shall be on such forms and shall contain such information as required by this chapter and by the board.

(2) The board shall take disciplinary action against the certificate of registration of any funeral establishment which fails to file its annual statement when due or after any extension of time which the board has, for good cause, granted.

Sec. 9. Section 11, chapter 66, Laws of 1982 as amended by section 72, chapter 259, Laws of 1986 and RCW 18.39.330 are each amended to read as follows:

No prearrangement funeral contract forms shall be used without the prior approval of the board.

The board shall disapprove any such contract form, or withdraw prior approval, when such form:

(1) Violates or does not comply with this chapter;

(2) Contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the merchandise or service purported to be provided in the general coverage of the contract;

(3) Has any title, heading, or other part of its provisions which is misleading; (~~(or)~~)

(4) Is being solicited by deceptive advertising;

(5) Fails to disclose fully the terms of the funeral service being provided by the contract, including but not limited to, any discounts, guarantees,



provisions for merchandise or service substitutions or other significant items;  
or

(6) Is not written in language which the board considers to be easily understood by the purchaser.

NEW SECTION. Sec. 10. A new section is added to chapter 18.39 RCW to read as follows:

(1) The board shall examine a prearrangement funeral service trust whenever it deems it necessary, but at least once every three years, or whenever the licensee fails after reasonable notice from the board to file the reports required by this chapter or the board.

(2) The expense of the prearrangement funeral service trust examination shall be paid by the licensee and shall not be deducted from the earnings of the trust. In the case of a "master trust," the expense of the prearrangement funeral service trust examination shall be shared jointly by all funeral establishments participating in such trust.

(3) Such examination shall be conducted in private in the principal office of the licensee and the records relating to prearrangement funeral service contracts and prearrangement funeral service trusts shall be available at such office.

Sec. 11. Section 13, chapter 66, Laws of 1982 and RCW 18.39.350 are each amended to read as follows:

Any person who violates or fails to comply with, or aids or abets any person in the violation of, or failure to comply with any of the provisions of this chapter is guilty of a (~~gross misdemeanor~~) class C felony pursuant to chapter 9A.20 RCW. Any such violation constitutes an unfair practice under chapter 19.86 RCW and this chapter and conviction thereunder is grounds for license revocation under this chapter. Retail installment (~~transactions~~) contracts under this chapter shall be governed by chapter 63.14 RCW.

Sec. 12. Section 14, chapter 66, Laws of 1982 and RCW 18.39.360 are each amended to read as follows:

This chapter does not apply to any funeral right or benefit issued or granted as an incident to or by reason of membership in any fraternal or benevolent association or cooperative or society, or labor union not organized for profit.

NEW SECTION. Sec. 13. A new section is added to chapter 18.39 RCW to read as follows:

Any trust which has not matured or been refunded and for which no beneficiary can be located fifty years after its creation shall be considered

abandoned and will be handled in accordance with the escheat laws of the state of Washington.

Passed the Senate April 17, 1989.

Passed the House April 12, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

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## CHAPTER 391

[Substitute Senate Bill No. 5085]

### FINANCIAL PLANNERS—REGISTRATION

AN ACT Relating to financial planners; and amending RCW 21.20.005 and 21.20.040.

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

Sec. 1. Section 60, chapter 282, Laws of 1959 as last amended by section 1, chapter 68, Laws of 1979 ex. sess. and RCW 21.20.005 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Director" means the director of licensing of this state.

(2) "Salesperson" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities, but "salesperson" does not include an individual who represents an issuer in (a) effecting a transaction in a security exempted by RCW 21.20.310(1), (2), (3), (4), (9), (10), (11), (12), or (13), as now or hereafter amended, (b) effecting transactions exempted by RCW 21.20.320, or (c) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state.

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for that person's own account. "Broker-dealer" does not include (a) a salesperson, issuer, bank, savings institution, or trust company, (b) a person who has no place of business in this state if the person effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (c) a person who has no place of business in this state if during any period of twelve consecutive months that person does not direct more than fifteen offers to sell or to buy into this state in any manner to persons other than those specified in subsection (b) above.

(4) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(5) "Full business day" means all calendar days, excluding therefrom Saturdays, Sundays, and all legal holidays, as defined by statute.

(6) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" also includes financial planners and other persons who, as an integral component of other financially related services, (a) provide the foregoing investment advisory services to others for compensation as part of a business or (b) hold themselves out as providing the foregoing investment advisory services to others for compensation. Investment adviser shall also include any person who holds himself out as a financial planner.

"Investment adviser" does not include (a) a bank, savings institution, or trust company, (b) a lawyer, accountant, certified public accountant licensed under chapter 18.04 RCW, engineer, or teacher whose performance of these services is solely incidental to the practice of his or her profession, (c) a broker-dealer, (d) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation, (e) a radio or television station, (f) a person whose advice, analyses, or reports relate only to securities exempted by RCW 21.20.310(1), ~~((f))~~ (g) a person who has no place of business in this state if (i) that person's only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trust, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during any period of twelve consecutive months that person does not direct business communications into this state in any manner to more than five clients other than those specified in clause (i) above, or ~~((g))~~ (h) such other persons not within the intent of this paragraph as the director may by rule or order designate.

(7) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type; the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(8) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(9) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(10) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(11) "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", and "Investment Company Act of 1940" means the federal statutes of those names as amended before or after June 10, 1959.

(12) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; investment of money or other consideration in the risk capital of a venture with the expectation of some valuable benefit to the investor where the investor does not receive the right to exercise practical and actual control over the managerial decisions of the venture; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; charitable gift annuity; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; or any sale of or indenture, bond or contract for the conveyance of land or any interest therein where such land is situated outside of the state of Washington and such sale or its offering is not conducted by a real estate broker licensed by the state of Washington. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or some other specified period.

(13) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

(14) "Investment adviser salesperson" means a person retained or employed by an investment adviser to solicit clients or offer the services of the investment adviser or manage the accounts of said clients.

(15) "Relatives", as used in RCW 21.20.310(11) as now or hereafter amended, shall include:

- (a) A member's spouse;
- (b) Parents of the member or the member's spouse;
- (c) Grandparents of the member or the member's spouse;
- (d) Natural or adopted children of the member or the member's spouse;
- (e) Aunts and uncles of the member or the member's spouse; and
- (f) First cousins of the member or the member's spouse.

Sec. 2. Section 4, chapter 282, Laws of 1959 as last amended by section 2, chapter 68, Laws of 1979 ex. sess. and RCW 21.20.040 are each amended to read as follows:

(1) It is unlawful for any person to transact business in this state as a broker-dealer or salesperson, unless he or she is registered under this chapter: PROVIDED, That an exemption from registration as a broker-dealer or salesperson to sell or resell condominium units sold in conjunction with an investment contract, may be provided by rule or regulation of the director as to persons who are licensed pursuant to the provisions of chapter 18.85 RCW. It is unlawful for any broker-dealer or issuer to employ a salesperson unless the salesperson is registered or exempted from registration. It is unlawful for any person to transact business in this state as an investment adviser unless ~~((1))~~ (a) the person is so registered under this chapter, or ~~((2))~~ (b) the person is registered as a broker-dealer under this chapter, or ~~((3))~~ (c) the person's only clients in this state are investment companies as defined in the Investment Company Act of 1940, or insurance companies. It is unlawful for any person to transact business in this state as an investment adviser salesperson or for any investment adviser to employ an investment adviser salesperson unless such person is registered.

(2) It is unlawful for any person to hold himself out as, or otherwise represent that he or she is a "financial planner", "investment counselor", or other similar term, as may be specified in rules adopted by the director, unless the person is registered as an investment adviser or investment adviser sales person, is exempt from registration under RCW 21.20.040(1), or is excluded from the definition of investment adviser under RCW 21.20.005(6).

Passed the Senate February 13, 1989.

Passed the House April 20, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 392

[House Bill No. 1778]

## NONPROFIT TRADE AND PROFESSIONAL ORGANIZATIONS—TRADE SHOW EXPENSES—BUSINESS AND OCCUPATION TAX DEDUCTION

AN ACT Relating to the business and occupation tax on nonprofit trade and professional organizations for convention, educational seminar, and trade show registration income; amending RCW 82.04.4282; and providing an effective date.

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

Sec. 1. Section 3, chapter 37, Laws of 1980 and RCW 82.04.4282 are each amended to read as follows:

In computing tax there may be deducted from the measure of tax amounts derived from (1) bona fide initiation fees, (2) dues, (3) contributions, (4) donations, (5) tuition fees, (6) charges made by a nonprofit trade or professional organization for attending or occupying space at a trade show, convention, or educational seminar sponsored by the nonprofit trade or professional organization, which trade show, convention, or educational seminar is not open to the general public, (7) charges made for operation of privately operated kindergartens, and (8) endowment funds. This paragraph shall not be construed to exempt any person, association, or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others. If dues are in exchange for any significant amount of goods or services rendered by the recipient thereof to members without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered, the value of such goods or services shall not be considered as a deduction hereunder.

***\*NEW SECTION. Sec. 2. This act shall take effect July 1, 1991.***

\*Sec. 2 was vetoed, see message at end of chapter.

Passed the House April 18, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to section 2, Engrossed House Bill No. 1778 entitled:

"AN ACT Relating to the business and occupation tax on nonprofit trade and professional organizations for convention, educational seminar and trade show registration income."

Engrossed House Bill No. 1778 creates a specific exemption for income received by nonprofit organizations for trade shows and educational seminars. No other state besides Washington treats this type of income in the way that our current law does.

This creates a competitive disadvantage for these organizations and entities operating facilities which host these events.

Section 2 would make the provisions of section 1 effective on July 1, 1991. In making changes that affect the state's revenues, it is sound public policy to recognize the effect of the changes in the same biennium that the legislation is passed. Where possible, these costs should not be pushed forward into future biennia.

With the exception of section 2, Engrossed House Bill No. 1778 is approved.\*

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## CHAPTER 393

[Second Substitute Senate Bill No. 5372]

### BOATING—SEWAGE DISPOSAL, ENVIRONMENTAL EDUCATION AND PROTECTION, AND PUBLIC ACCESS TO WATERWAYS

AN ACT Relating to recreational boating; amending RCW 82.49.030, 88.02.040, and 88.02.030; adding a new section to chapter 75.10 RCW; adding a new chapter to Title 88 RCW; and creating new sections.

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

**NEW SECTION.** Sec. 1. The legislature finds that the waters of Washington state provide a unique and valuable recreational resource to large and growing numbers of boaters. Proper stewardship of, and respect for, these waters requires that, while enjoying them for their scenic and recreational benefits, boaters must exercise care to assure that such activities do not contribute to the despoliation of these waters, and that watercraft be operated in a safe and responsible manner. The legislature has specifically addressed the topic of access to clean and safe waterways by requiring the 1987 boating safety study and by establishing the Puget Sound water quality authority.

The legislature finds that there is a need to educate Washington's boating community about safe and responsible actions on our waters and to increase the level and visibility of the enforcement of boating laws. To address the incidence of fatalities and injuries due to recreational boating on our state's waters, local and state efforts directed towards safe boating must be stimulated. To provide for safe waterways and public enjoyment, portions of the watercraft excise tax and boat registration fees should be made available for boating safety and other boating recreation purposes.

In recognition of the need for clean waterways, and in keeping with the Puget Sound water quality authority's 1987 management plan, the legislature finds that adequate opportunities for responsible disposal of boat sewage must be made available. There is hereby established a five-year initiative to install sewage pumpout or sewage dump stations at appropriate marinas.

To assure the use of these sewage facilities, a boater environmental education program must accompany the five-year initiative and continue to educate boaters about boat wastes and aquatic resources.

The legislature also finds that, in light of the increasing numbers of boaters utilizing state waterways, a program to acquire and develop sufficient waterway access facilities for boaters must be undertaken.

To support boating safety, environmental protection and education, and public access to our waterways, the legislature declares that a portion of the income from boating-related activities, as specified in RCW 82.49-.030 and 88.02.040, should support these efforts.

**NEW SECTION.** Sec. 2. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Boat wastes" shall include, but are not limited to, sewage, garbage, marine debris, plastics, contaminated bilge water, cleaning solvents, paint scrapings or discarded petroleum products associated with the use of vessels.

(2) "Boater" means any person on a vessel on waters of the state of Washington.

(3) "Commission" means the Washington state parks and recreation commission.

(4) "Environmentally sensitive area" means a restricted body of water where discharge of untreated sewage from boats is especially detrimental because of limited flushing, shallow water, commercial or recreational shellfish, swimming areas, diversity of species, the absence of other pollution sources, or other characteristics.

(5) "Marina" means a facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(6) "Polluted area" means a body of water used by boaters that is contaminated by boat wastes at unacceptable levels, based on applicable water quality and shellfish standards.

(7) "Public entities" means all elected or appointed bodies, including tribal governments, responsible for collecting and spending public funds.

(8) "Sewage dump station" means any receiving chamber or tank designed to receive vessel sewage from a "porta-potty" or a portable container.

(9) "Sewage pumpout station" means a mechanical device, generally stationed on a dock, pier, float, barge, or other location convenient to boaters, designed to remove sewage waste from holding tanks on vessels.

(10) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

**NEW SECTION.** Sec. 3. The commission, in consultation with the departments of ecology, fisheries, wildlife, natural resources, social and health services, and the Puget Sound water quality authority shall conduct a literature search and analyze pertinent studies to identify areas which are polluted or environmentally sensitive within the state's waters. Based on this



review the commission shall designate appropriate areas as polluted or environmentally sensitive, for the purposes of this act only.

**NEW SECTION.** Sec. 4. (1) A marina which meets one or more of the following criteria shall be designated by the commission as appropriate for installation of a sewage pumpout or sewage dump station:

(a) The marina is located in an environmentally sensitive or polluted area; or

(b) The marina has one hundred twenty-five slips or more and there is a lack of sewage pumpouts within a reasonable distance.

(2) In addition to subsection (1) of this section, the commission may at its discretion designate a marina as appropriate for installation of a sewage pumpout or sewage dump station if there is a demonstrated need for a sewage pumpout or sewage dump station at the marina based on professionally conducted studies undertaken by federal, state, or local government, or the private sector; and it meets the following criteria:

(a) The marina provides commercial services, such as sales of food, fuel or supplies, or overnight or live-aboard moorage opportunities;

(b) The marina is located at a heavily used boating destination or on a heavily traveled route, as determined by the commission; or

(c) There is a lack of adequate sewage pumpout station capacity within a reasonable distance.

(3) Exceptions to the designation made under this section may be made by the commission if no sewer, septic, water, or electrical services are available at the marina.

(4) In addition to marinas, the commission may designate boat launches or boater destinations as appropriate for installation of a sewage pumpout or sewage dump station based on the criteria found in subsections (1) and (2) of this section.

**NEW SECTION.** Sec. 5. (1) Marinas and boat launches designated as appropriate for installation of a sewage pumpout or sewage dump station under section 4 of this act shall be eligible for funding support for installation of such facilities from funds specified in section 11 of this act. The commission shall notify owners or operators of all designated marinas and boat launches of the designation, and of the availability of funding to support installation of appropriate sewage disposal facilities. The commission shall encourage the owners and operators to apply for available funding.

(2) The commission shall contract with, or enter into an interagency agreement with another state agency to contract with, applicants based on the criteria specified below:

(a)(i) Contracts may be awarded to publicly owned, tribal, or privately owned marinas or boat launches.

(ii) Contracts may provide for state reimbursement to cover eligible costs as deemed reasonable by commission rule. Eligible costs include purchase, installation, or major renovation of the sewage pumpout or sewage

dump stations, including sewer, water, electrical connections, and those costs attendant to the purchase, installation, and other necessary appurtenances, such as required pier space, as determined by the commission.

(iii) Ownership of the sewage pumpout or sewage dump station will be retained by the state through the commission in privately owned marinas. Ownership of the sewage pumpout or sewage dump station in publicly owned marinas will be held by the public entity.

(iv) Operation, normal and expected maintenance, and ongoing utility costs will be the responsibility of the marina or boat launch operator. The sewage pumpout or sewage dump station must be kept in operating condition and available for public use at all times during operating hours of the facility, excluding necessary maintenance periods.

(v) The marina owner agrees to allow the installation, existence and use of the sewage pumpout or sewage dump station by granting an easement at no cost for such purposes.

(b) Contracts awarded pursuant to (a) of this subsection shall be subject, for a period of at least ten years, to the following conditions:

(i) Any facility entering into a contract under this section must allow the boating public access to the sewage pumpout or sewage dump station during operating hours.

(ii) The applicant must agree to monitor and encourage the use of the sewage pumpout or sewage dump station, and to cooperate in any related boater environmental education program administered or approved by the commission.

(iii) The applicant must agree not to charge a fee for the use of the sewage pumpout or sewage dump station.

(iv) The applicant must agree to arrange and pay a reasonable fee for a periodic inspection of the sewage pumpout facility by the local health department or appropriate authority.

(v) Use of a free sewage pumpout or sewage dump station by the boating public shall be deemed to be included in the term "outdoor recreation" for the purposes of chapter 4.24 RCW.

**NEW SECTION.** Sec. 6. The department of ecology, in consultation with the commission, shall, for initiation of the state-wide program only, develop criteria for the design, installation, and operation of sewage pumpout and sewage dump stations, taking into consideration the ease of access to the station by the boating public. The department of ecology may adopt rules to administer the provisions of this section.

**NEW SECTION.** Sec. 7. The commission shall undertake a state-wide boater environmental education program concerning the effects of boat wastes. The boater environmental education program shall provide informational materials on proper boat waste disposal methods, environmentally safe boat maintenance practices, locations of sewage pumpout and sewage dump stations, and boat oil recycling facilities.

**NEW SECTION.** Sec. 8. The commission shall award grants to local government entities for boater environmental education or boat waste management planning. Grants shall be allocated according to criteria developed by the commission.

**NEW SECTION.** Sec. 9. The commission shall, in consultation with interested parties, review progress on installation of sewage pumpout and sewage dump stations, the boater environmental education program, and the boating safety program. The commission shall report its findings to the legislature by December 1994.

Sec. 10. Section 10, chapter 7, Laws of 1983 and RCW 82.49.030 are each amended to read as follows:

(1) The excise tax imposed under this chapter is due and payable to the department of licensing or its agents at the time of registration of a vessel. The department of licensing shall not issue or renew a registration for a vessel until the tax is paid in full.

(2) The excise tax collected under this chapter shall be deposited in the general fund.

(3) Until June 30, 1995, the watercraft excise tax revenues exceeding five million dollars in each fiscal year, but not exceeding six million dollars, may, subject to appropriation by the legislature, be used for the purposes specified in section 11 of this act.

**NEW SECTION.** Sec. 11. The amounts allocated in accordance with RCW 82.49.030(3) shall be expended upon appropriation in accordance with the following limitations:

(1) Thirty percent of the funds shall be appropriated to the interagency committee for outdoor recreation and be expended for use by state and local government for public recreational waterway boater access and boater destination sites. Priority shall be given to critical site acquisition. The interagency committee for outdoor recreation shall administer such funds as a competitive grants program. The amounts provided for in this subsection shall be evenly divided between state and local governments.

(2) Thirty percent of the funds shall be expended by the commission exclusively for sewage pumpout or sewage dump stations at publicly and privately owned marinas as provided for in sections 4 and 5 of this act.

(3) Twenty-five percent of the funds shall be expended for grants to state agencies and other public entities to enforce boating safety and registration laws and to carry out boating safety programs. The commission shall administer such grant program.

(4) Fifteen percent shall be expended for instructional materials, programs or grants to the public school system, public entities, or other non-profit community organizations to support boating safety and boater environmental education or boat waste management planning. The commission shall administer this program.

Sec. 12. Section 17, chapter 7, Laws of 1983 and RCW 88.02.040 are each amended to read as follows:

The department shall provide for the issuance of vessel registrations and may appoint agents for collecting fees and issuing registration numbers and decals. Fees for vessel registrations collected by the director shall be deposited in the general fund; PROVIDED, That any amount above one million one hundred thousand dollars per fiscal year shall be allocated to counties by the state treasurer for boating safety/education and law enforcement programs. Eligibility for such allocation shall be contingent upon approval of the local boating safety program by the state parks and recreation commission. Fund allocation shall be based on the numbers of registered vessels by county of moorage. Each benefiting county shall be responsible for equitable distribution of such allocation to other jurisdictions with approved boating safety programs within said county. Any fees not allocated to counties due to the absence of an approved boating safety program, shall be allocated to the commission for awards to local governments to offset law enforcement and boating safety impacts of boaters recreating in jurisdictions other than where registered.

Sec. 13. Section 16, chapter 7, Laws of 1983 as last amended by section 1, chapter 452, Laws of 1985 and RCW 88.02.030 are each amended to read as follows:

Vessel registration is required under this chapter except for the following:

(1) Military or public vessels of the United States, except recreational-type public vessels;

(2) Vessels owned by a state or subdivision thereof, used principally for governmental purposes and clearly identifiable as such;

(3) Vessels owned by a resident of a country other than the United States if the vessel is not physically located upon the waters of this state for a period of more than sixty days;

(4) Vessels owned by a resident of another state if the vessel is registered in accordance with the laws of the state in which the owner resides, but only to the extent that a similar exemption or privilege is granted under the laws of that state for vessels registered in this state: PROVIDED, That any vessel which is validly registered in another state and which is physically located in this state for a period of more than sixty days is subject to registration under this chapter;

(5) Vessels used as a ship's lifeboat;

(6) Vessels equipped with propulsion machinery of less than ten horse power that:

(a) Are owned by the owner of a vessel for which a valid vessel number has been issued;

(b) Display the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and

(c) Are used as a tender for direct transportation between that vessel and the shore and for no other purpose;

(7) Vessels under sixteen feet in overall length which have no propulsion machinery of any type or which are not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States and are powered by propulsion machinery of ten or less horsepower;

(8) Vessels with no propulsion machinery of any type for which the primary mode of propulsion is human power;

(9) Vessels which are temporarily in this state undergoing repair or alteration;

(10) Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States. Commercial vessels which the department of revenue determines have the external appearance of vessels which would otherwise be required to register under this chapter, must display decals issued annually by the department of revenue that indicate the vessel's exempt status; and

(11) Vessels primarily engaged in commerce which are owned by a resident of a country other than the United States.

NEW SECTION. Sec. 14. The commission shall adopt rules as are necessary to carry out all sections of this act except for sections 6, 10, and 11(1) of this act. The commission shall comply with all applicable provisions of chapter 34.05 RCW in adopting the rules.

NEW SECTION. Sec. 15. The interagency committee for outdoor recreation shall adopt rules as are necessary to carry out section 11(1) of this act. The interagency committee for outdoor recreation shall comply with all applicable provisions of chapter 34.05 RCW in adopting the rules.

NEW SECTION. Sec. 16. A new section is added to chapter 75.10 RCW to read as follows:

Fisheries patrol officers are authorized to enforce all provisions of chapter 88.02 RCW and any rules adopted thereunder, and the provisions of RCW 43.51.400 and any rules adopted thereunder.

NEW SECTION. Sec. 17. On or before January 1, 1992, the department of fisheries shall report to the legislature on the number of citations issued or other enforcement actions taken regarding the provisions enumerated in section 16 of this act. The report shall provide an accounting of the registration fees, penalties, and other funds accruing of the state, and the expenses to the department in undertaking the enforcement actions.

NEW SECTION. Sec. 18. By January 1, 1991, the commission shall issue a report to the appropriate committees of the house of representatives and senate showing how funds have been allocated under sections 1 through 17 of this act and the extent to which the allocations have resulted in additional vessel registrations and increased watercraft excise tax revenues.

NEW SECTION. Sec. 19. Sections 1 through 9 and 11 of this act shall constitute a new chapter in Title 88 RCW.

Passed the Senate April 23, 1989.

Passed the House April 23, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

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CHAPTER 394

[House Bill No. 1019]

HOME DETENTION—DRUG OFFENDERS—ELIGIBILITY

AN ACT Relating to home detention; and reenacting and amending RCW 9.94A.030.

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

Sec. 1. Section 11, chapter 145, Laws of 1988, section 1, chapter 153, Laws of 1988, section 2, chapter 154, Laws of 1988, and section 1, chapter 157, Laws of 1988 and RCW 9.94A.030 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commission" means the sentencing guidelines commission.

(2) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(3) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(4) "Community placement" means a one-year period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(5) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(6) "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 RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers,

RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(7) "Confinement" means total or partial confinement as defined in this section.

(8) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(9) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(10) (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 prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(6)(a); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(11) "Department" means the department of corrections.

(12) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a 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.

(13) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(14) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to comply with any limitations on the inmate's movements while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(15) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(16) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(17) (a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction.

(18) "Nonviolent offense" means an offense which is not a violent offense.

(19) "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.

(20) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention has been ordered by the court, in the residence of either the defendant or a member of the defendant's immediate family, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release and home detention as defined in this section.



(21) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(22) "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.

(23) "Serious traffic offense" means:

(a) Driving while intoxicated (RCW 46.61.502), actual physical control while intoxicated (RCW 46.61.504), reckless driving (RCW 46.61-.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(24) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(25) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(26) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A-.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(27) "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.

(28) "Victim" means any person who has sustained physical or financial injury to person or property as a direct result of the crime charged.

(29) "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,

child molestation in the first degree, 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, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(30) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(31) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance. Home detention may not be imposed for offenders convicted of a violent offense, any sex offense, ~~((for the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug))~~ any drug offense, reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third degree as defined in RCW 9A.36.031, unlawful imprisonment as defined in RCW 9A.40.040, ~~((burglary in the second degree as defined in RCW 9A.52.030;))~~ or harassment as defined in RCW 9A.46.020. Home detention may be imposed for offenders convicted of possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403) if the offender fulfills the participation conditions set forth in this subsection and is monitored for drug use by treatment alternatives to street crime (TASC) or a comparable court or agency-referred program. Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 conditioned upon the offender: (a) Successfully completing twenty-one days in a work release program, (b) having no convictions for burglary in the second degree during the preceding two years and not more than two prior convictions for burglary, (c) having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense, (d) having no prior charges of escape, and (e) fulfilling the other conditions of the home detention program. Participation in a home detention program

shall be conditioned upon: (a) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender, (b) abiding by the rules of the home detention program, and (c) compliance with court-ordered restitution. The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution.

Passed the House April 17, 1989.

Passed the Senate April 7, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

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## CHAPTER 395

[Substitute House Bill No. 1071]

### CRIMINAL JUDGMENTS AND SENTENCES—COLLATERAL ATTACKS—ONE YEAR TIME LIMIT

AN ACT Relating to criminal procedure; amending RCW 7.36.130; adding new sections to chapter 10.73 RCW; and creating new sections.

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

**NEW SECTION.** Sec. 1. (1) No petition or motion for collateral attack on a judgment and sentence in a criminal case may be filed more than one year after the judgment becomes final if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction.

(2) For the purposes of this section, "collateral attack" means any form of postconviction relief other than a direct appeal. "Collateral attack" includes, but is not limited to, a personal restraint petition, a habeas corpus petition, a motion to vacate judgment, a motion to withdraw guilty plea, a motion for a new trial, and a motion to arrest judgment.

(3) For the purposes of this section, a judgment becomes final on the last of the following dates:

(a) The date it is filed with the clerk of the trial court;

(b) The date that an appellate court issues its mandate disposing of a timely direct appeal from the conviction; or

(c) The date that the United States Supreme Court denies a timely petition for certiorari to review a decision affirming the conviction on direct appeal. The filing of a motion to reconsider denial of certiorari does not prevent a judgment from becoming final.

**NEW SECTION.** Sec. 2. The time limit specified in section 1 of this act does not apply to a petition or motion that is based solely on one or more of the following grounds:

- (1) Newly discovered evidence, if the defendant acted with reasonable diligence in discovering the evidence and filing the petition or motion;
- (2) The statute that the defendant was convicted of violating was unconstitutional on its face or as applied to the defendant's conduct;
- (3) The conviction was barred by double jeopardy under Amendment V of the United States Constitution or Article I, section 9 of the state Constitution;
- (4) The defendant pled not guilty and the evidence introduced at trial was insufficient to support the conviction;
- (5) The sentence imposed was in excess of the court's jurisdiction; or
- (6) There has been a significant change in the law, whether substantive or procedural, which is material to the conviction, sentence, or other order entered in a criminal or civil proceeding instituted by the state or local government, and either the legislature has expressly provided that the change in the law is to be applied retroactively, or a court, in interpreting a change in the law that lacks express legislative intent regarding retroactive application, determines that sufficient reasons exist to require retroactive application of the changed legal standard.

Sec. 3. Section 445, page 213, Laws of 1854 as last amended by section 3, chapter 256, Laws of 1947 and RCW 7.36.130 are each amended to read as follows:

No court or judge shall inquire into the legality of any judgment or process whereby the party is in custody, or discharge (~~(him)~~) the party when the term of commitment has not expired, in either of the cases following:

(1) Upon any process issued on any final judgment of a court of competent jurisdiction except where it is alleged in the petition that rights guaranteed the petitioner by the Constitution of the state of Washington or of the United States have been violated and the petition is filed within the time allowed by sections 1 and 2 of this act.

(2) For any contempt of any court, officer or body having authority in the premises to commit; but an order of commitment, as for a contempt upon proceedings to enforce the remedy of a party, is not included in any of the foregoing specifications.

(3) Upon a warrant issued from the superior court upon an indictment or information.

**NEW SECTION.** Sec. 4. At the time judgment and sentence is pronounced in a criminal case, the court shall advise the defendant of the time limit specified in sections 1 and 2 of this act.

**NEW SECTION.** Sec. 5. As soon as practicable after the effective date of this section, the department of corrections shall attempt to advise the following persons of the time limit specified in sections 1 and 2 of this act: Every person who, on the effective date of this section, is serving a term of incarceration, probation, parole, or community supervision pursuant to conviction of a felony.

**NEW SECTION.** Sec. 6. Sections 1 and 2 of this act apply only to petitions and motions filed more than one year after the effective date of this section.

**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, 2, 4, and 9 of this act are each added to chapter 10.73 RCW.

**NEW SECTION.** Sec. 9. If a person has previously filed a petition for personal restraint, the court of appeals will not consider the petition unless the person certifies that he or she has not filed a previous petition on similar grounds, and shows good cause why the petitioner did not raise the new grounds in the previous petition. Upon receipt of a personal restraint petition, the court of appeals shall review the petition and determine whether the person has previously filed a petition or petitions and if so, compare them. If upon review, the court of appeals finds that the petitioner has previously raised the same grounds for review, or that the petitioner has failed to show good cause why the ground was not raised earlier, the court of appeals shall dismiss the petition on its own motion without requiring the state to respond to the petition. Upon receipt of a first or subsequent petition, the court of appeals shall, whenever possible, review the petition and determine if the petition is based on frivolous grounds. If frivolous, the court of appeals shall dismiss the petition on its own motion without first requiring the state to respond to the petition.

Passed the House April 19, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

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## CHAPTER 396

[House Bill No. 1438]

### PUBLIC TRANSPORTATION SYSTEMS—REPORTING REQUIREMENTS

AN ACT Relating to public transportation reporting requirements; and adding new sections to chapter 35.58 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 35.58 RCW to read as follows:

By April 1st of each year, the legislative authority of each municipality, as defined in RCW 35.58.272, shall prepare a six-year transit development and financial program for that calendar year and the ensuing five years. The program shall contain information as to how the municipality intends to meet state and local long-range priorities for public transportation, capital improvements, significant operating changes planned for the system, and how the municipality intends to fund program needs. Each municipality shall file the six-year program with the state department of transportation, the transportation improvement board, and cities, counties, and regional planning councils within which the municipality is located.

In developing its program, the municipality shall consider those policy recommendations affecting public transportation contained in the state transportation policy plan approved by the state transportation commission and, where appropriate, adopted by the legislature. The municipality shall conduct one or more public hearings while developing its program and for each annual update.

**NEW SECTION.** Sec. 2. A new section is added to chapter 35.58 RCW to read as follows:

The department of transportation shall develop an annual report summarizing the status of public transportation systems in the state. By September 1st of each year, copies of the report shall be submitted to the legislative transportation committee and to each municipality, as defined in RCW 35.58.272, and to individual members of the municipality's legislative authority. The department shall prepare and submit a preliminary report by December 1, 1989.

To assist the department with preparation of the report, each municipality shall file a system report by April 1st of each year with the state department of transportation identifying its public transportation services for the previous calendar year and its objectives for improving the efficiency and effectiveness of those services. The system report shall address those items required for each public transportation system in the department's report.

The department report shall describe individual public transportation systems, including contracted transportation services and dial-a-ride services, and include a state-wide summary of public transportation issues and data. The descriptions shall include the following elements and such other elements as the department deems appropriate after consultation with the municipalities and the legislative transportation committee:

- (1) Equipment and facilities, including vehicle replacement standards;
- (2) Services and service standards;
- (3) Revenues, expenses, and ending balances, by fund source;

(4) Policy issues and system improvement objectives, including community participation in development of those objectives and how those objectives address state-wide transportation priorities;

(5) Operating indicators applied to public transportation services, revenues, and expenses. Operating indicators shall include operating cost per passenger trip, operating cost per revenue vehicle service hour, passenger trips per revenue service hour, passenger trips per vehicle service mile, vehicle service hours per employee, and farebox revenue as a percent of operating costs.

Passed the House April 17, 1989.

Passed the Senate April 11, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

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## CHAPTER 397

[House Bill No. 1467]

### TRANSPORTATION CAPITAL FACILITIES ACCOUNT

AN ACT Relating to the transportation capital facilities account; creating a new chapter in Title 47 RCW; providing an effective date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The transportation capital facilities account is created in the state treasury. All receipts from transactions by the department of transportation involving capital facility sales, transfers, and property leases shall be deposited into the account. The department may make expenditures from the account subject to appropriation for the purchase, acquisition, exchange, sale, construction, repair, replacement, maintenance, and operation of real property, buildings, or structures necessary or convenient for the planning, design, construction, operation, maintenance, and administration of the state transportation system under the jurisdiction of the department.

**NEW SECTION.** Sec. 2. By July 1, 1991, the department shall set and charge reasonable rental rates for the use of its real property, buildings, or structures. The department shall deposit receipts from the charges in the transportation capital facilities account.

The department may transfer to the account all federal moneys made available for the purpose of purchase, acquisition, exchange, sale, construction, repair, replacement, maintenance, or operation of real property, buildings, or structures necessary or convenient for the planning, design, construction, operation, maintenance, or administration of the state transportation system under the jurisdiction of the department.

NEW SECTION. Sec. 3. The department may exclude capital facilities necessary for the operation, maintenance, or administration of the state marine and aeronautic transportation systems.

NEW SECTION. Sec. 4. As used in this chapter, the term "capital facilities" includes all real property, buildings, or structures used for the planning, design, construction, maintenance, or administration of the state department of transportation's construction management and support program-program D.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act constitute a new chapter in Title 47 RCW.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the House April 17, 1989.  
Passed the Senate April 4, 1989.  
Approved by the Governor May 13, 1989.  
Filed in Office of Secretary of State May 13, 1989.

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CHAPTER 398

[House Bill No. 1502]

OVERSIZE AND OVERWEIGHT VEHICLE PERMIT FEES

AN ACT Relating to oversize and overweight vehicle permit fees; and amending RCW 46.44.0941, 46.44.092, 46.44.095, and 46.44.096.

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

Sec. 1. Section 2, chapter 137, Laws of 1965 as last amended by section 5, chapter 351, Laws of 1985 and RCW 46.44.0941 are each amended to read as follows:

The following fees, in addition to the regular license and tonnage fees, shall be paid for all movements under special permit made upon state highways. All funds collected, except the amount retained by authorized agents of the department as provided in RCW 46.44.096, shall be forwarded to the state treasury and shall be deposited in the motor vehicle fund:

All overlegal loads, except overweight, single trip .....	\$	<del>(5.00)</del>
		<u>10.00</u>
Continuous operation of overlegal loads having either overwidth or overheight features only, for a period not to exceed thirty days .....	\$	20.00



Continuous operations of overlegal loads having overlength features only, for a period not to exceed thirty days . . . . .	\$ 10.00
Continuous operation of a combination of vehicles having one trailing unit that exceeds forty-eight feet and is not more than fifty-six feet in length, for a period of one year . . . . .	\$100.00
Continuous operation of a combination of vehicles having two trailing units which together exceed sixty feet and are not more than sixty-eight feet in length, for a period of one year . . . . .	\$100.00
Continuous operation of a three-axle fixed load vehicle having less than 65,000 pounds gross weight, for a period not to exceed thirty days . . . . .	\$ 50.00
Continuous operation of overlegal loads having nonreducible features not to exceed eighty-five feet in length and fourteen feet in width, for a period of one year . . . . .	\$150.00
Continuous operation of farm implements under a permit issued as authorized by RCW 46.44.140 by:	
(1) Farmers in the course of farming activities, for any three-month period . . . . .	\$ 10.00
(2) Farmers in the course of farming activities, for a period not to exceed one year . . . . .	\$ 25.00
(3) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for any three-month period . . . . .	\$ 25.00
(4) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for a period not to exceed one year . . . . .	\$100.00

Overweight Fee Schedule

Weight over total registered gross weight plus additional gross weight purchased under RCW 46.44.095 or 46.44.047, or any other statute authorizing the state department of transportation to issue annual overweight permits. Fee per mile on state highways

1- 5,999 pounds .....	\$	.05
6,000-11,999 pounds .....	\$	.10
12,000-17,999 pounds .....	\$	.15
18,000-23,999 pounds .....	\$	.25
24,000-29,999 pounds .....	\$	.35
30,000-35,999 pounds .....	\$	.45
36,000-41,999 pounds .....	\$	.60
42,000-47,999 pounds .....	\$	.75
48,000-53,999 pounds .....	\$	.90
54,000-59,999 pounds .....	\$	1.05
60,000-65,999 pounds .....	\$	1.20
66,000-71,999 pounds .....	\$	1.45
72,000-79,999 pounds .....	\$	1.70
80,000 pounds or more .....	\$	2.00

PROVIDED: (1) The minimum fee for any overweight permit shall be \$((5.00)) 10.00, (2) the fee for issuance of a duplicate permit shall be \$((5.00)) 10.00, (3) when computing overweight fees that result in an amount less than even dollars the fee shall be carried to the next full dollar if fifty cents or over and shall be reduced to the next full dollar if forty-nine cents or under.

Sec. 2. Section 46.44.092, chapter 12, Laws of 1961 as last amended by section 1, chapter 63, Laws of 1981 and RCW 46.44.092 are each amended to read as follows:

Special permits may not be issued for movements on any state highway outside the limits of any city or town 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) Permits may be issued for vehicles with a total outside width, including the load, of nine feet or less when the vehicle is equipped with a mechanism designed to cover the load pursuant to RCW 46.61.655;

(4) 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))~~ (5) 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 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.

Sec. 3. Section 46.44.095, chapter 12, Laws of 1961 as last amended by section 1, chapter 55, Laws of 1988 and RCW 46.44.095 are each amended to read as follows:

When a combination of vehicles has been lawfully licensed to a total gross weight of eighty thousand pounds and when a three or more axle single unit vehicle has been lawfully licensed to a total gross weight of forty thousand pounds pursuant to provisions of RCW 46.44.041, a permit for additional gross weight may be issued by the department of transportation upon the payment of thirty-seven dollars and fifty cents per year for each one thousand pounds or fraction thereof of such additional gross weight: PROVIDED, That the tire limits specified in RCW 46.44.042 shall apply, and the gross weight on any single axle shall not exceed twenty thousand pounds, and the gross load on any group of axles shall not exceed the limits set forth in RCW 46.44.041: PROVIDED FURTHER, That within the tire limits of RCW 46.44.042, and notwithstanding RCW 46.44.041 and 46.44.091, a permit for an additional six thousand pounds may be purchased for the rear axles of a two-axle garbage truck or eight thousand pounds for the tandem axle of a three axle garbage truck at a rate not to exceed thirty dollars per thousand. Such additional weight in the case of garbage trucks shall not be valid or permitted on any part of the federal interstate highway system.

The annual additional tonnage permits provided for in this section shall be issued upon such terms and conditions as may be prescribed by the department pursuant to general rules adopted by the transportation commission. Such permits shall entitle the permittee to carry such additional load in an amount and upon highways or sections of highways as may be determined by the department of transportation to be capable of withstanding increased gross load without undue injury to the highway: PROVIDED, That the permits shall not be valid on any highway where the use of such permits would deprive this state of federal funds for highway purposes.

For those vehicles registered under chapter 46.87 RCW, the annual additional tonnage permits provided for in this section may be issued to coincide with the registration year of the base jurisdiction. For those vehicles registered under chapter 46.16 RCW and whose registration has staggered renewal dates, the annual additional tonnage permits may be issued to coincide with the expiration date of the registration. The permits may be purchased at any time, and if they are purchased for less than a full year, the fee shall be one-twelfth of the full fee multiplied by the number of months, including any fraction thereof, covered by the permit. When the department issues a duplicate permit to replace a lost or destroyed permit and where the department transfers a permit from one vehicle to another a fee of ~~((five))~~ ten dollars shall be charged for each duplicate issued or each transfer. The department of transportation shall issue permits on a temporary basis for periods not less than five days at ~~((one))~~ two dollars per day for each two thousands pounds or fraction thereof.

The fees levied in RCW 46.44.0941 and this section shall not apply to any vehicles owned and operated by the state of Washington, any county

within the state, or any city or town or metropolitan municipal corporation within the state, or by the federal government.

In the case of fleets prorating license fees under the provisions of chapter 46.87 RCW, the fees provided for in this section shall be computed by the department of transportation by applying the proportion of the Washington mileage of the fleet in question to the total mileage of the fleet as reported pursuant to chapter 46.87 RCW to the fees that would be required to purchase the additional weight allowance for all eligible vehicles or combinations of vehicles for which the extra weight allowance is requested.

When computing fees that result in an amount other than full dollars, the fee shall be increased to the next full dollar if fifty cents or over and shall be reduced to the next full dollar if forty-nine cents or under. The minimum fee for any prorated tonnage permit issued under this section shall be twenty-five dollars.

Sec. 4. Section 46.44.096, chapter 12, Laws of 1961 as last amended by section 56, chapter 7, Laws of 1984 and RCW 46.44.096 are each amended to read as follows:

In determining fees according to RCW 46.44.0941, mileage on state primary and secondary highways shall be determined from the planning survey records of the department of transportation, and the gross weight of the vehicle or vehicles, including load, shall be declared by the applicant. Overweight on which fees shall be paid will be gross loadings in excess of loadings authorized by law or axle loadings in excess of loadings authorized by law, whichever is the greater. Loads which are overweight and oversize shall be charged the fee for the overweight permit without additional fees being assessed for the oversize features.

Special permits issued under RCW 46.44.047, 46.44.0941, or 46.44-.095, may be obtained from offices of the department of transportation, ports of entry, or other agents appointed by the department.

The department may appoint agents for the purposes of selling special motor vehicle permits, additional tonnage permits, and log tolerance permits. Agents so appointed may retain three dollars and fifty cents for each permit sold to defray expenses incurred in handling and selling the permits. If the fee is collected by the department of transportation, the department shall certify the fee so collected to the state treasurer for deposit to the credit of the motor vehicle fund.

Fees established in RCW 46.44.0941 shall be paid to the political body issuing the permit if the entire movement is to be confined to roads, streets, or highways for which that political body is responsible. When a movement involves a combination of state highways, county roads, and/or city streets the fee shall be paid to the state department of transportation. When a movement is confined within the city limits of a city or town upon city streets, including routes of state highways on city streets, all fees shall be

paid to the city or town involved. A permit will not be required from city or town authorities for a move involving a combination of city or town streets and state highways when the move through a city or town is being confined to the route of the state highway. When a move involves a combination of county roads and city streets the fee shall be paid to the county authorities, but the fee shall not be collected nor the county permit issued until valid permits are presented showing the city or town authorities approve of the move in question. When the movement involves only county roads the fees collected shall be paid to the county involved. Fees established shall be paid to the political body issuing the permit if the entire use of the vehicle during the period covered by the permit shall be confined to the roads, streets, or highways for which that political body is responsible.

If, pursuant to RCW 46.44.090, cities or counties issue additional tonnage permits similar to those provided for issuance by the state department of transportation in RCW 46.44.095, the state department of transportation shall authorize the use of the additional tonnage permits on state highways subject to the following conditions:

(1) The owner of the vehicle covered by such permit shall establish to the satisfaction of the state department of transportation that the primary use of the vehicle is on the streets or roads of the city or county issuing the additional tonnage permit;

(2) That the fees paid for the additional tonnage are not less than those established in RCW 46.44.095;

(3) That the city or county issuing the permit shall allow the use of permits issued by the state pursuant to RCW 46.44.095 on the streets or roads under its jurisdiction;

(4) That all of the provisions of RCW 46.44.042 and 46.44.041 shall be observed.

When the department of transportation is satisfied that the above conditions have been met, the department of transportation, by suitable endorsement on the permit, shall authorize its use on such highways as the department has authorized for such permits pursuant to RCW 46.44.095, and all such use of such highways is subject to whatever rules and regulations the state department of transportation has adopted for the permits.

Passed the House April 17, 1989.

Passed the Senate April 11, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 399

[Substitute House Bill No. 1568]

LOCAL GOVERNMENT SOLID WASTE FACILITIES AND SERVICES  
PROCUREMENT

AN ACT Relating to local government solid waste facilities and services procurement; amending RCW 35.21.120, 35.21.152, 35.21.154, 35.22.625, 35.23.351, 35.92.020, 35.92.024, 36.32.265, 36.58.040, 36.58.090, and 39.04.175; recodifying RCW 35.92.024; and repealing RCW 35.23.353 and 35.92.022.

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

Sec. 1. Section 35.21.120, chapter 7, Laws of 1965 as amended by section 18, chapter 282, Laws of 1986 and RCW 35.21.120 are each amended to read as follows:

~~((Every))~~ A city or town may by ordinance provide for the establishment of a system ((of garbage collection and disposal)) or systems of solid waste handling for the entire city or town or for portions thereof((, and)). A city or town may provide for solid waste handling by or under the direction of officials and employees of the city or town or may award contracts for ((garbage collection and disposal or provide for it under the direction of officials and employees of the city or town)) any service related to solid waste handling including contracts entered into under RCW 35.21.152. Contracts for solid waste handling may provide that a city or town ((pay)) provide for a minimum periodic fee or other method of compensation in consideration of the operational availability of a solid waste handling system ((or)), plant, site, or other facility at a specified minimum level, without regard to the ownership of the system ((or)), plant, site, or other facility, or the amount of solid waste actually handled during all or any part of the contract period. ((There shall be included in the contract)) When a minimum level of solid waste is specified in a contract for solid waste handling, there shall be a specific allocation of financial responsibility ((in cases where)) in the event the amount of solid waste handled ((during the contract period)) falls below the minimum level provided in the contract.

As used in this chapter, the terms "solid waste" and "solid waste handling" shall be as defined in RCW 70.95.030.

Sec. 2. Section 1, chapter 208, Laws of 1975 1st ex. sess. as amended by section 1, chapter 164, Laws of 1977 ex. sess. and RCW 35.21.152 are each amended to read as follows:

A city or town may construct, lease, condemn, purchase, acquire, add to, alter, and extend systems ((and)), plants, sites, or other facilities for ((the collection and disposal of)) solid waste ((and for its processing and conversion into other valuable or useful products with)) handling, and shall have full jurisdiction and authority to manage, regulate, maintain, utilize, operate ((and)), control ((such)), and establish the rates and charges for

~~those solid waste handling systems ((and)), plants, ((and-to)) sites, or other facilities owned or operated by the city or town. A city or town may enter into agreements ((providing for the maintenance and operation of systems and plants for the processing and conversion of solid waste and for the sale of said products under such terms and conditions as may be determined by the legislative authority of said city or town: PROVIDED HOWEVER, That no such solid waste processing and conversion plant now in existence or hereafter constructed may be condemned: PROVIDED FURTHER, That agreements relating to the sale of solid materials recovered during the processing of solid waste shall take place only after the receipt of competitive written bids by such city or town: AND PROVIDED FURTHER, That all documentary material of any nature associated with the negotiation and formulation of agreement terms and conditions shall become matters of public record as it applies to:~~

~~(a) The maintenance and operation of systems and plants for the processing and conversion of solid waste;~~

~~(b) The sale of products resulting from such processing and conversion; and~~

~~(c) Any materials recovered during the processing of solid waste.~~

~~Agreements relating to systems and plants for the processing and conversion of solid wastes to useful products and agreements relating to sale of such products shall be in compliance with RCW 35.21.120. Any agreement for the sale of solid materials recovered during the processing of solid waste shall be entered into only after public advertisement and evaluation of competitive written bids)) with public or private parties to: (1) Construct, lease, purchase, acquire, manage, maintain, utilize, or operate publicly or privately owned or operated solid waste handling systems, plants, sites, or other facilities; (2) establish rates and charges for those systems, plants, sites, or other facilities; (3) designate particular publicly or privately owned or operated systems, plants, sites, or other facilities as disposal sites; and (4) sell the materials or products of those systems, plants, or other facilities. Any agreement entered into shall be for such term and under such conditions as may be determined by the legislative authority of the city or town.~~

Sec. 3. Section 3, chapter 208, Laws of 1975 1st ex. sess. and RCW 35.21.154 are each amended to read as follows:

Nothing in RCW 35.21.152 (~~and 35.92.022~~) will relieve a city or town of its obligations to comply with the requirements of chapter 70.95 RCW.

Sec. 4. Section 8, chapter 436, Laws of 1987 and RCW 35.22.625 are each amended to read as follows:

RCW 35.22.620 does not apply to (~~agreements entered into~~) the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under ((authority of chapter 70.150 RCW if there is compliance with the procurement procedure



~~under~~) RCW 70.150.040 or the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 35.92.024 as recodified by section 12 of this act.

Sec. 5. Section 10, chapter 244, Laws of 1986 and RCW 35.23.351 are each amended to read as follows:

RCW 35.23.352 does not apply to ~~((agreements entered into))~~ the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under ((authority of chapter 70.150 RCW provided there is compliance with the procurement procedure under)) RCW 70.150.040 or the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 35.92.024 as recodified by section 12 of this act.

Sec. 6. Section 35.92.020, chapter 7, Laws of 1965 as amended by section 5, chapter 445, Laws of 1985 and RCW 35.92.020 are each amended to read as follows:

A city or town may ~~((also))~~ construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate systems, plants, sites, or other facilities of sewerage, ~~((and systems and plants for garbage and refuse collection and disposal, with))~~ or solid waste handling as defined by RCW 70.95.030, and shall have full authority to manage, regulate, operate, ((and)) control ((them)), and to fix the price of service ((thereof;)) of those systems, plants, sites, or other facilities within and without the limits of the city or town((-PROVIDED, That)). The rates charged ~~((must))~~ shall be uniform for the same class of customers or service. In classifying customers served or service furnished by ~~((such))~~ a system or systems of sewerage, the legislative authority of the city or town ((governing body)) may in its discretion consider any or all of the following factors: The difference in cost of service to ~~((the various))~~ customers; the location of ~~((the various))~~ customers within and without the city or town; the difference in cost of maintenance, operation, repair, and replacement of the ~~((various))~~ parts of the system; the different character of the service furnished ~~((various))~~ customers; the quantity and quality of the sewage delivered and the time of its delivery; capital contributions made to the systems, plants, sites, or other facilities, including but not limited to, assessments; and any other ~~((matters which))~~ factors that present a reasonable difference as a ground for distinction.

Sec. 7. Section 17, chapter 282, Laws of 1986 and RCW 35.92.024 are each amended to read as follows:

(1) Notwithstanding the provisions of any city charter ((of any city)), or any law to the contrary, and in addition to any other authority provided by law, the legislative authority of a city or town may contract with one or

more ~~((private))~~ vendors for one or more of the design, construction, or operation ~~((function))~~ of, or other service related to, the systems ~~((and))~~,<sub>2</sub> plants, sites, or other facilities for solid waste handling~~((, as defined in RCW 70.95.030 and))~~ in accordance with the procedures set forth in ~~((subsections (2) and (3) of))~~ this section. ~~((Contracts shall be for facilities that are in substantial compliance with the solid waste management plans prepared pursuant to chapter 70.95 RCW. Such systems and plants may be owned, leased, and/or operated in whole or in part by the city or town, or owned, leased, and/or operated in whole or in part by the private vendor.))~~ Solid waste handling systems, plants, sites, or other facilities constructed, purchased, acquired, leased, added to, altered, extended, maintained, managed, utilized, or operated pursuant to this section, RCW 35.21.120 and 35.21.152, whether publicly or privately owned, shall be in substantial compliance with the solid waste management plan applicable to the city or town adopted pursuant to chapter 70.95 RCW. Agreements relating to such solid waste handling systems, plants, sites, or other facilities may be for such term and may contain such covenants, conditions, and remedies as the legislative authority of a city or town may deem necessary or appropriate. When a contract for design services is entered into separately from other services permitted under this section, procurement shall be in accordance with chapter 39.80 RCW.

(2) If the legislative authority of the city or town decides to proceed with the consideration of qualifications or proposals for services from vendors, the city or town shall publish notice of its requirements and request submission of qualifications ~~((for the design, construction, and operation of solid waste handling systems and plants))~~ statements or proposals. The notice shall be published in the official newspaper of the city or town at least once a week for two weeks not less than sixty days before the final date for the submission of qualifications statements or proposals. The notice shall ~~((a))~~ state in summary form~~((:))~~ (a) the general scope and nature of the ~~((system and plant or work for which the services are required))~~ design, construction, operation, or other service, (b) the name and address of a representative of the city or town who can provide further details, ~~((and))~~ (c) the final date for the submission of qualifications statements or proposals, (d) an estimated schedule for the consideration of qualifications, the selection of vendors, and the negotiation of a contract or contracts for services, (e) the location at which a copy of any request for qualifications or request for proposals will be made available, and (f) the criteria established by the legislative authority to select a vendor or vendors, which may include but shall not be limited to the vendor's prior experience, including design, construction, or operation of other similar facilities; respondent's management capability, schedule availability and financial resources; cost of the services, nature of facility design proposed by the vendor; system reliability; performance standards required for the facilities; compatibility with existing

service facilities operated by the public body or other providers of service to the public; project performance guarantees; penalty and other enforcement provisions; environmental protection measures to be used; consistency with the applicable comprehensive solid waste management plan; and allocation of project risks.

(3) If the legislative authority of the city or town decides to proceed with the ((construction of a resource recovery facility or one or more of the services to be provided for such a facility)) consideration of qualifications or proposals, it may designate a representative to evaluate the vendors who submitted qualifications statements or proposals and conduct discussions regarding qualifications or proposals with one or more vendors. The legislative authority or representative may request submission of qualifications statements and may later request more detailed proposals from one or more vendors who have submitted qualifications statements, or may request detailed proposals without having first received and evaluated qualifications statements. The legislative authority or its representative shall evaluate the qualifications or proposals, as applicable. If two or more vendors submit qualifications or proposals that meet the criteria established by the legislative authority of the city or town, discussions and interviews shall be held with at least two vendors. Any revisions to a request for qualifications or request for proposals shall be made available to all vendors then under consideration by the city or town and shall be made available to any other person who has requested receipt of that information.

(4) Based on criteria established by the legislative authority of the city or town, the representative ((of the legislative authority)) shall recommend to the legislative authority a vendor((, based upon criteria established by the city or town, which shall not be determined solely by price but by all terms of the contract, who is)) or vendors that are initially determined to be the best qualified to provide one or more of the ((services required for)) design, construction or operation of, or other service related to, the proposed project or services. ((If two or more vendors submit qualifications, at least two vendors shall be interviewed.)) The legislative authority may select one or more qualified vendors ((may be selected to provide)) for one or more of the design, construction, or operation of, or other service related to, the proposed project or services.

(5) The legislative authority or its representative ((shall)) may attempt to negotiate a contract with the ((first)) vendor or vendors selected for one or more of the design, construction, ((design;)) or operation ((portions)) of, or other service related to, the proposed project ((at a price and)) or services on ((other)) terms that the legislative authority determines to be fair and reasonable and in the best interest of the city or town. ((Only the legislative authority may approve and sign the contract. PROVIDED, That where a contract for design is entered into separately from other services permitted under this section, procurement shall be in accord with chapter

~~39.80-RCW-))~~ If the legislative authority or its representative is unable to negotiate such a contract with ~~((the first vendor))~~ any one or more of the vendors first selected on terms that it determines to be fair and reasonable and in the best interest of the city or town, negotiations with ((that vendor)) any one or more of the vendors shall be ((formally)) terminated or suspended and ((other)) another qualified vendor or vendors may be selected in accordance with the procedures set forth in ((subsections (2) and (3) of) this section. If the legislative authority decides to continue the process of selection, negotiations shall continue with a qualified vendor or vendors in accordance with this section at the sole discretion of the legislative authority until an agreement is reached with one or more qualified vendors, or the process is terminated by the legislative authority. The process may be repeated until an agreement is reached.

~~((4))~~ (6) Prior to entering into ~~((such))~~ a contract with a vendor, the legislative authority of the city or town ~~((must have made))~~ shall make written findings, after holding a public hearing on the proposal, that it is in the public interest to enter into the contract ~~((and))~~, that the contract is financially sound, and that it is advantageous for the city or town to use this method for awarding contracts compared to other methods.

~~((5))~~ (7) Each contract shall include a project performance bond or bonds or other security by the vendor ~~((which))~~ that in the judgment of the legislative authority of the city or town is sufficient to secure adequate performance by the vendor.

~~((6))~~ (8) The provisions of chapters 39.12, 39.19, and 39.25 RCW shall apply to a contract entered into under this section to the same extent as if the systems and plants were owned by a public body.

(9) The vendor selection process permitted by this section shall be supplemental to and shall not be construed as a repeal of or limitation on any other authority granted by law.

The alternative selection process provided by this section may not be used in the selection of a person or entity to construct a publicly owned facility for the storage or transfer of solid waste or solid waste handling equipment unless the facility is either (a) privately operated pursuant to a contract greater than five years, or (b) an integral part of a solid waste processing facility located on the same site. Instead, the applicable provisions of RCW 35.22.620, and 35.23.352, and chapters 39.04 and 39.30 RCW shall be followed.

Sec. 8. Section 9, chapter 436, Laws of 1987 and RCW 36.32.265 are each amended to read as follows:

RCW 36.32.240, 36.32.250, and 36.32.260 do not apply to ~~((agreements entered into))~~ the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control

services under ((the authority of chapter 70.150 RCW if there is compliance with the procurement procedure under)) RCW 70.150.040 or the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 36.58.090.

Sec. 9. Section 2, chapter 58, Laws of 1975-'76 2nd ex. sess. as amended by section 20, chapter 282, Laws of 1986 and RCW 36.58.040 are each amended to read as follows:

The legislative authority of ~~((each))~~ a county may by ordinance provide for the establishment of a system or systems of solid waste ~~((disposal))~~ handling for all ~~((the))~~ unincorporated areas of the county or for portions thereof. ~~((Each))~~ A county may designate a disposal site or sites for all solid waste collected in the unincorporated areas pursuant to the provisions of a comprehensive solid waste plan adopted pursuant to chapter 70.95 RCW ~~((PROVIDED, That))~~. However for any solid waste collected by a private hauler operating ~~((pursuant to))~~ under a certificate granted by the Washington utilities and transportation commission under the provisions of chapter 81.77 RCW and which certificate is for collection in a geographic area lying in more than one county, such designation of disposal sites shall be pursuant to an interlocal agreement between the involved counties.

~~((Such systems may also provide for the processing and conversion of solid wastes into other valuable or useful products with full jurisdiction and authority to))~~ A county may construct, lease, purchase, acquire, add to, alter, or extend solid waste handling systems, plants, sites, or other facilities and shall have full jurisdiction and authority to manage, regulate, maintain, utilize, operate, ((and)) control ((such system and)), and establish the rates and charges for those solid waste handling systems, plants, ((and to)) sites, or other facilities. A county may enter into agreements with public or private parties ((providing for the construction;)) to: (1) Construct, purchase, ((acquisition)) acquire, lease, ((maintenance, and operation of)) add to, alter, extend, maintain, manage, utilize, or operate publicly or privately owned or operated solid waste handling systems ((and)), plants ((for the processing and conversion of)), sites, or other facilities; (2) establish rates and charges for those systems, plants, sites, or other facilities; (3) designate particular publicly or privately owned or operated systems, plants, sites, or other facilities as disposal sites; (4) process, treat, or convert solid waste((s)) into other valuable or useful materials or products; and ((for the sale of said)) (5) sell the material or products of those systems, plants, or other facilities. ((Contracts shall be for facilities that are in substantial compliance with the solid waste management plans prepared pursuant to chapter 70.95 RCW:))

The legislative authority of a county may award contracts for solid waste handling ~~((; and such contracts may))~~ that provide that a county ~~((pay))~~ provide for a minimum periodic fee or other method of compensation in consideration of the operational availability of ~~((a))~~ those solid waste

handling systems ((or)), plants, sites, or other facilities at a specified minimum level, without regard to the ownership of the systems ((or)), plants, sites or other facilities, or the amount of solid waste actually handled during all or any part of the ((contractual period. There shall be included in the)) contract. When a minimum level of solid waste is specified in a contract entered into under this section, there shall be a specific allocation of financial responsibility ((in cases where)) in the event the amount of solid waste handled ((during the contract period)) falls below the minimum level provided in the contract. Solid waste handling systems, plants, sites, or other facilities constructed, purchased, acquired, leased, added to, altered, extended, maintained, managed, utilized, or operated pursuant to this section, whether publicly or privately owned, shall be in substantial compliance with the solid waste management plan applicable to the county adopted pursuant to chapter 70.95 RCW. Agreements relating to such solid waste handling systems, plans, sites, or other facilities may be for such term and may contain such covenants, conditions, and remedies as the legislative authority of the county may deem necessary or appropriate.

As used in this chapter, the terms "solid waste" and "solid waste handling" shall be as defined in RCW 70.95.030.

Nothing in this section shall be construed to authorize the operation of a solid waste collection system by counties or to authorize counties to affect the authority of the utilities and transportation commission under RCW 81.77.020.

The alternative selection process provided by this section may not be used in the selection of a person or entity to construct a publicly owned facility for the storage or transfer of solid waste or solid waste handling equipment unless the facility is either (a) privately operated pursuant to a contract greater than five years, or (b) an integral part of a solid waste processing facility located on the same site. Instead, the applicable provisions of RCW 36.32.250, and chapters 39.04 and 39.30 RCW shall be followed.

Sec. 10. Section 19, chapter 282, Laws of 1986 and RCW 36.58.090 are each amended to read as follows:

(1) Notwithstanding the provisions of any county charter ((of any county)) or any law to the contrary, and in addition to any other authority provided by law, the legislative authority of a county may contract with one or more ((private)) vendors for one or more of the design, construction, or operation ((function)) of, or other service related to, the solid waste handling systems ((and)), plants ((for solid waste handling, as defined in RCW 70.95.030 and)), sites, or other facilities in accordance with the procedures set forth in ((subsections (2) and (3) of)) this section. ((Such systems and plants may be owned, leased, and/or operated in whole or in part by the county, or owned, leased, and/or operated in whole or in part by the private vendor:)) When a contract for design services is entered into separately

from other services permitted under this section, procurement shall be in accord with chapter 39.80 RCW. For the purpose of this chapter, the term "legislative authority" shall mean the board of county commissioners or, in the case of a home rule charter county, the official, officials, or public body designated by the charter to perform the functions authorized therein.

(2) If the legislative authority of the county decides to proceed with the consideration of qualifications or proposals for services from vendors, the county shall publish notice of its requirements and request submission of qualifications ((for the design, construction, and operation of solid waste handling systems and plants)) statements or proposals. The notice shall be published in the official newspaper of the county at least once a week for two weeks not less than sixty days before the final date for the submission of qualifications statements or proposals. The notice shall state in summary form (a) the general scope and nature of the ((system and plant or work for which the services are required)) design, construction, operation, or other service, (b) the name and address of a representative of the county who can provide further details, ((and)) (c) the final date for the submission of qualifications statements or proposals, (d) an estimated schedule for the consideration of qualifications, the selection of vendors, and the negotiation of a contract or contracts for services, (e) the location at which a copy of any request for qualifications or request for proposals will be made available, and (f) the criteria established by the legislative authority to select a vendor or vendors, which may include but shall not be limited to the vendor's prior experience, including design, construction, or operation of other similar facilities; respondent's management capability, schedule availability and financial resources; cost of the services, nature of facility design proposed by the vendor; system reliability; performance standards required for the facilities; compatibility with existing service facilities operated by the public body or other providers of service to the public; project performance guarantees; penalty and other enforcement provisions; environmental protection measures to be used; consistency with the applicable comprehensive solid waste management plan; and allocation of project risks.

(3) If the legislative authority of the county decides to proceed with the ((construction of a resource recovery facility or one or more of the services to be provided for such a facility)) consideration of qualifications or proposals, it may designate a representative to evaluate the vendors who submitted qualifications statements or proposals and conduct discussions regarding qualifications or proposals with one or more vendors. The legislative authority or representative may request submission of qualifications statements and may later request more detailed proposals from one or more vendors who have submitted qualifications statements, or the representative may request detailed proposals without having first received and evaluated qualifications statements. The representative shall evaluate the qualifications or proposals, as applicable. If two or more vendors submit qualifications or

proposals that meet the criteria established by the legislative authority of the county, discussions and interviews shall be held with at least two vendors. Any revisions to a request for qualifications or request for proposals shall be made available to all vendors then under consideration by the city or town and shall be made available to any other person who has requested receipt of that information.

(4) Based on criteria established by the legislative authority of the county, the representative ((of the legislative authority)) shall recommend to the legislative authority a vendor(~~(-based upon criteria established by the county, which shall not be determined solely by price but by all terms of the contract, who is))~~ or vendors that are initially determined to be the best qualified to provide one or more of the ((~~services required for~~)) design, construction, or operation of, or other service related to, the proposed project or services. ((~~If two or more vendors submit qualifications, at least two vendors shall be interviewed.~~)) The legislative authority may select one or more qualified vendors ((may be interviewed and selected to provide)) for one or more of the design, construction, or operation of, or other service related to, the proposed project or services.

(5) The legislative authority or its representative ((shall)) may attempt to negotiate a contract with the ((first)) vendor or vendors selected for one or more of the design, construction, ((design;)) or operation ((portions)) of, or other service related to, the proposed project ((at a price and)) or services on ((other)) terms that the legislative authority determines to be fair and reasonable and in the best interest of the county. ((~~Only the legislative authority may approve and sign the contract. PROVIDED, That where a contract for design is entered into separately from other services permitted under this section, procurement shall be in accord with chapter 39.80 RCW.~~)) If the legislative authority or its representative is unable to negotiate such a contract with ((the first vendor)) any one or more of the vendors first selected on terms that it determines to be fair and reasonable and in the best interest of the county, negotiations with ((that vendor)) any one or more of the vendors shall be ((formally)) terminated or suspended and ((other)) another qualified vendor or vendors may be selected in accordance with the procedures set forth ((above)) in this section. If the legislative authority decides to continue the process of selection, negotiations shall continue with a qualified vendor or vendors in accordance with this section at the sole discretion of the legislative authority until an agreement is reached with one or more qualified vendors, or the process is terminated by the legislative authority. The process may be repeated until an agreement is reached.

~~((4))~~ (6) Prior to entering into ((such)) a contract with a vendor, the legislative authority of the county ((must have made)) shall make written findings, after holding a public hearing on the proposal, that it is in the



public interest to enter into the contract ~~((and))~~, that the contract is financially sound, and that it is advantageous for the county to use this method for awarding contracts compared to other methods.

~~((5))~~ (7) Each contract shall include a project performance bond or bonds or other security by the vendor ~~((which))~~ that in the judgment of the legislative authority of the county is sufficient to secure adequate performance by the vendor.

~~((6))~~ (8) The provisions of chapters 39.12, 39.19, and 39.25 RCW shall apply to a contract entered into under this section to the same extent as if the systems and plants were owned by a public body.

(9) The vendor selection process permitted by this section shall be supplemental to and shall not be construed as a repeal of or limitation on any other authority granted by law.

Sec. 11. Section 13, chapter 244, Laws of 1986 and RCW 39.04.175 are each amended to read as follows:

This chapter does not apply to ~~((agreements entered into))~~ the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under ((authority of chapter 70.150 RCW provided there is compliance with the procurement procedure under)) RCW 70.150.040 or the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 35.92.024 as recodified by section 12 of this act or under RCW 36.58.090.

NEW SECTION. Sec. 12. RCW 35.92.024 as amended by this act is recodified as a new section in chapter 35.21 RCW.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

(1) Section 35.23.353, chapter 7, Laws of 1965, section 3, chapter 120, Laws of 1987 and RCW 35.23.353; and

(2) Section 2, chapter 208, Laws of 1975 1st ex. sess., section 2, chapter 164, Laws of 1977 ex. sess., section 7, chapter 445, Laws of 1985 and RCW 35.92.022.

Passed the House April 18, 1989.

Passed the Senate April 12, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 400

[Substitute House Bill No. 2014]

SPECIAL EDUCATION—MEDICAL SERVICES FOR HANDICAPPED CHILDREN—  
REIMBURSEMENT OF SCHOOLS

AN ACT Relating to special education programs for handicapped children; amending RCW 28A.41.053 and 74.09.520; and creating new sections.

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

**NEW SECTION.** Sec. 1. The legislature finds that there is increasing demand for school districts' special education programs to include medical services necessary for handicapped children's participation and educational progress. In some cases, these services could qualify for federal funding under Title XIX of the social security act. The legislature intends to establish a process for school districts to obtain reimbursement for eligible services from medical assistance funds. In this way, state dollars for handicapped education can be leveraged to generate federal matching funds, thereby increasing the overall level of resources available for school districts' special education programs.

Sec. 2. Section 11, chapter 66, Laws of 1971 ex. sess. as amended by section 5, chapter 87, Laws of 1980 and RCW 28A.41.053 are each amended to read as follows:

The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for handicapped programs. Funding for programs operated by local school districts shall be ((funded)) on an excess cost basis from appropriations provided by the legislature for handicapped programs and shall take account of state funds accruing through RCW 28A.41.130, 28A.41.140, and other state and local funds, excluding special excess levies. Funding for local district programs may include payments from state and federal funds for medical assistance provided under RCW 74.09.500 through 74.09.910. However, the superintendent of public instruction shall reimburse the department of social and health services from state appropriations for handicapped education programs for the state-funded portion of any medical assistance payment made by the department for services provided under an individualized education program established pursuant to chapter 28A.13 RCW. The amount of such interagency reimbursement shall be deducted by the superintendent of public instruction in determining additional allocations to districts for handicapped education programs under this section.

Sec. 3. Section 5, chapter 30, Laws of 1967 ex. sess. as last amended by section 3, chapter 5, Laws of 1985 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(~~(- PROVIDED, That))~~; and (13) like services when furnished to a handicapped child by a school district as part of an individualized education program established pursuant to chapter 28A.13 RCW. For the purposes of this section, the department may not cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services. Services included in an individualized education program for a handicapped child under chapter 28A.13 RCW shall not qualify as medical assistance prior to the implementation of the funding process developed under section 4 of this act.

NEW SECTION. Sec. 4. The department of social and health services and the superintendent of public instruction shall jointly develop a process and plan to enable school districts to bill medical assistance for eligible services included in handicapped education programs, subject to the restrictions and limitations of this act. The process shall be implemented during the 1990-91 school year, with the intent that the billing system be in operation in selected regions of the state during the first half of that school year. The billing system shall be extended state-wide prior to the beginning of the 1991-92 school year. The planning shall include:

(1) Consideration of the types of services provided by school districts that would be eligible for medical assistance, and whether the state's medical assistance plan should be expanded to cover additional services for children;

(2) Establishment of categories of eligible services and the rates of reimbursement;

(3) Development of a state-wide billing system for use by school districts and educational service districts, which may include phased expansion of the system, providing billing services to the various regions of the state in stages;

(4) Measures for accountability and auditing of billings;

(5) Information bulletins and workshops for school districts and educational service districts;

(6) Contracting with educational service districts or other organizations for billing services or for other assistance in implementing the process established under this section;

(7) Formal agreements between the department and the superintendent of public instruction for notification of payments and for interagency reimbursement under section 2 of this act; and

(8) Review and approval of the plan by the office of financial management prior to submission to the legislature of the report under section 5 of this act.

**NEW SECTION.** Sec. 5. Prior to January 15, 1990, the superintendent of public instruction and the department of social and health services shall submit a joint report to the appropriations committee of the house of representatives and the ways and means committee of the senate on the agencies' progress in developing the medical assistance billing system for school districts established under this act.

Passed the House April 18, 1989.

Passed the Senate April 14, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 401

[House Bill No. 2054]

### INVOLUNTARY COMMITTED PERSONS—TEMPORARY RELEASE—NOTICE REQUIREMENTS

AN ACT Relating to notification of the release of dangerous persons committed under the involuntary treatment act; amending RCW 71.05.325; and declaring an emergency.

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

Sec. 1. Section 2, chapter 67, Laws of 1986 and RCW 71.05.325 are each amended to read as follows:

(1) Before a person committed under grounds set forth in RCW 71.05.280(3) is released from involuntary treatment because a new petition for involuntary treatment has not been filed under RCW 71.05.320(2), the superintendent, professional person, or designated mental health professional responsible for the decision whether to file a new petition shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision not to file a new petition for involuntary treatment. Notice shall be provided at least thirty days before the period of commitment expires.

(2)(a) Before a person committed under grounds set forth in RCW 71.05.280(3) is permitted temporarily to leave a treatment facility pursuant

to RCW 71.05.270 for any period of time without constant accompaniment by facility staff, the superintendent, professional person in charge of a treatment facility, or his or her professional designee shall in writing notify the prosecuting attorney of any county to which the person is to be released and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision conditionally to release the person. The notice shall be provided at least thirty days before the anticipated release and shall describe the conditions under which the release is to occur.

(b) The provisions of RCW 71.05.330(2) apply to proposed temporary releases, and either or both prosecuting attorneys receiving notice under this subsection may petition the court under RCW 71.05.330(2).

(3) Nothing in this section shall be construed to authorize detention of a person unless a valid order of commitment is in effect.

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

Passed the House March 15, 1989.

Passed the Senate April 5, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 402

[House Bill No. 2118]

### ELEMENTARY SCHOOL TEACHER CERTIFICATION FOR GRADES KINDERGARTEN THROUGH EIGHT

AN ACT Relating to the expansion of coverage from grade six to grade eight of certification for candidates for grades preschool through grade six certificates; amending RCW 28A.70.040; and creating a new section.

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

Sec. 1. Section 212, chapter 525, Laws of 1987 and RCW 28A.70.040 are each amended to read as follows:

(1) The state board of education shall adopt rules providing that all individuals qualifying for an initial-level teaching certificate after August 31, 1992, shall possess a baccalaureate degree in the arts, sciences, and/or humanities and have fulfilled the requirements for teacher certification pursuant to RCW 28A.04.120 (1) and (2). However, candidates for grades preschool through ~~((six))~~ eight certificates shall have fulfilled the requirements for a major as part of their baccalaureate degree. If the major is in early childhood education, elementary education, or special education, the candidate must have at least thirty quarter hours or twenty semester hours in one academic field.

(2) The state board of education shall study the impact of eliminating the major in education under subsection (1) of this section and submit a report to the legislature by January 15, 1990. The report shall include a recommendation on whether the major in education under subsection (1) of this section should be eliminated.

(3) The initial certificate shall be valid for two years.

(4) Certificate holders may renew the certificate for a three-year period by providing proof of acceptance and enrollment in an approved masters degree program. A second renewal, for a period of two years, may be granted upon recommendation of the degree-granting institution and if the certificate holder can demonstrate substantial progress toward the completion of the masters degree and that the degree will be completed within the two-year extension period. Under no circumstances may an initial certificate be valid for a period of more than seven years.

**NEW SECTION.** Sec. 2. (1) The state board of education shall review its provisions relating to the certification of teachers, and, as necessary, develop requirements for the certification of teachers for middle level grades six, seven, and eight.

(2) The state board shall complete the review and development of new requirements, if any, no later than May 31, 1990.

(3) This section shall expire June 30, 1990.

Passed the House March 15, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 403

[Substitute Senate Bill No. 5035]

### FOSTER PARENTS—LIABILITY COVERAGE

AN ACT Relating to foster-family homes; amending RCW 4.92.060 and 4.92.070; reenacting and amending RCW 4.92.150; and creating new sections.

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

**NEW SECTION.** Sec. 1. The legislature finds and declares that foster parents are a valuable resource providing an important service to the citizens of Washington. The legislature further recognizes that the current insurance crisis has adversely affected some foster-family homes in several ways: (1) In some locales, foster parents are unable to obtain liability insurance coverage over and above homeowner's or tenant's coverage for actions filed against them by the foster child or the child's parents or legal guardian. In addition, the monthly payment made to foster-family homes is not sufficient to cover the cost of obtaining this extended coverage and there is no mechanism in place by which foster parents can recapture this cost;

(2) foster parents' personal resources are at risk. Therefore, the legislature is providing relief to address these problems.

Sec. 2. Section 1, chapter 79, Laws of 1921 as last amended by section 5, chapter 126, Laws of 1986 and RCW 4.92.060 are each amended to read as follows:

Whenever an action or proceeding for damages shall be instituted against any state officer, including state elected officials, employee, ((or)) volunteer, or foster parent licensed in accordance with chapter 74.15 RCW, arising from acts or omissions while performing, or in good faith purporting to perform, official duties, or, in the case of a foster parent, arising from the good faith provision of foster care services, such officer, employee, ((or)) volunteer, or foster parent may request the attorney general to authorize the defense of said action or proceeding at the expense of the state.

Sec. 3. Section 2, chapter 79, Laws of 1921 as last amended by section 6, chapter 126, Laws of 1986 and RCW 4.92.070 are each amended to read as follows:

If the attorney general shall find that said officer, employee, or volunteer's acts or omissions were, or were purported to be in good faith, within the scope of that person's official duties, or, in the case of a foster parent, that the occurrence arose from the good faith provision of foster care services, said request shall be granted, in which event the necessary expenses of the defense of said action or proceeding shall be paid from the appropriations made for the support of the department to which such officer, employee, ((or)) volunteer, or foster parent is attached. In such cases the attorney general shall appear and defend such officer, employee, ((or)) volunteer, or foster parent, who shall assist and cooperate in the defense of such suit. However, the attorney general may not represent or provide private representation for a foster parent in an action or proceeding brought by the department of social and health services against that foster parent.

Sec. 4. Section 9, chapter 159, Laws of 1963 as last amended by section 9, chapter 188, Laws of 1985 and by section 5, chapter 217, Laws of 1985 and RCW 4.92.150 are each reenacted and amended to read as follows:

After commencement of an action in a court of competent jurisdiction upon a claim against the state, or any of its officers, employees, or volunteers arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq., or against a foster parent that the attorney general is defending pursuant to RCW 4.92.070, or upon petition by the state, the attorney general, with the prior approval of the risk management office and with the approval of the court, following such testimony as the court may require, may compromise and settle the same and stipulate for judgment against the state, the affected officer, employee, ((or)) volunteer, or foster parent.

**NEW SECTION.** Sec. 5. The department of social and health services, in cooperation with the office of risk management created in accordance with RCW 43.19.19362 and the office of the insurance commissioner, shall establish a task force to examine and report to the legislature by December 1, 1989, on the following subjects:

- (1) The number of foster care homes carrying homeowner's or tenant's liability insurance;
- (2) The number of insurance companies offering liability coverage to foster-family homes;
- (3) The provisions of liability coverage, including any exclusions relevant to foster-care status of the insured;
- (4) The premium cost and the difference, if any, between premium cost for nonfoster-family homes and foster-family homes;
- (5) The number of claims made against each insurer by insureds relevant to the foster-care relationship;
- (6) The feasibility of assisting foster families in obtaining commercial insurance;
- (7) The cost to the department of providing liability insurance to the foster parents; and
- (8) Any other items or suggestions that the task force deems appropriate to include in its report.

Passed the Senate April 17, 1989.

Passed the House April 10, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

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CHAPTER 404

[Substitute Senate Bill No. 5071]

SURROGATE PARENTING

AN ACT Relating to surrogate parenting; adding new sections to chapter 26.26 RCW; prescribing penalties; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. As used in sections 1 through 6 of this act:

(1) "Compensation" means a payment of money, objects, services, or anything else having monetary value except payment of expenses incurred as a result of the pregnancy and the actual medical expenses of a surrogate mother, and the payment of reasonable attorney fees for the drafting of a surrogate parentage contract.

(2) "Surrogate gestation" means the implantation in a female of an embryo not genetically related to that female and subsequent gestation of a child by that female.



(3) "Surrogate mother" means a female, who is not married to the contributor of the sperm, and who is naturally or artificially inseminated and who subsequently gestates a child conceived through the insemination pursuant to a surrogate parentage contract.

(4) "Surrogate parentage contract" means a contract, agreement, or arrangement in which a female, not married to the contributor of the sperm, agrees to conceive a child through natural or artificial insemination or in which a female agrees to surrogate gestation, and to voluntarily relinquish her parental rights to the child.

NEW SECTION. Sec. 2. A person shall not enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract under which an unemancipated minor female or a female diagnosed as being mentally retarded or as having a mental illness or developmental disability is the surrogate mother.

NEW SECTION. Sec. 3. No person, organization, or agency shall enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract, written or unwritten, for compensation.

NEW SECTION. Sec. 4. A surrogate parentage contract entered into for compensation, whether executed in the state of Washington or in another jurisdiction, shall be void and unenforceable in the state of Washington as contrary to public policy.

NEW SECTION. Sec. 5. Any person, organization, or agency who intentionally violates any provision of this act shall be guilty of a gross misdemeanor.

NEW SECTION. Sec. 6. If a child is born to a surrogate mother pursuant to a surrogate parentage contract, and there is a dispute between the parties concerning custody of the child, the party having physical custody of the child may retain physical custody of the child until the superior court orders otherwise. The superior court shall award legal custody of the child based upon the factors listed in RCW 26.09.187(3) and 26.09.191.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act are each added to chapter 26.26 RCW.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1989.

Passed the House April 21, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 405

[Senate Bill No. 5381]

## VEHICULAR HOMICIDE—PENALTY

AN ACT Relating to vehicular homicide; and reenacting and amending RCW 9.94A.320.

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

Sec. 1. Section 2, chapter 62, Laws of 1988, section 12, chapter 145, Laws of 1988, and section 2, chapter 218, Laws of 1988 and RCW 9.94A-.320 are each reenacted and amended to read as follows:

## TABLE 2

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XIV	Aggravated Murder 1 (RCW 10.95.020)
XIII	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XII	Murder 2 (RCW 9A.32.050)
XI	Assault 1 (RCW 9A.36.011)
X	Kidnapping 1 (RCW 9A.40.020) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1)) Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 ( <del>and 3 years junior</del> ) (RCW 69.50.406) Leading Organized Crime (RCW 9A.82.060(1)(a))
IX	Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) Explosive devices prohibited (RCW 70.74.180) Endangering life and property by explosives with threat to human being (RCW 70.74.270) Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406) Sexual Exploitation, Under 16 (RCW 9.68A.040(2)(a)) Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
VIII	Arson 1 (RCW 9A.48.020) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) Child Molestation 1 (RCW 9A.44.083) Promoting Prostitution 1 (RCW 9A.88.070)

- Selling heroin for profit (RCW 69.50.410)  
Vehicular Homicide, by being under the influence of intoxicating liquor or any drug or by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)  
Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)  
 Introducing Contraband 1 (RCW 9A.76.140)  
 Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))  
 Sexual Exploitation, Under 18 (RCW 9.68A.040(2)(b))  
 Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)  
 Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- VI Bribery (RCW 9A.68.010)  
 Manslaughter 2 (RCW 9A.32.070)  
 Child Molestation 2 (RCW 9A.44.086)  
 Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)  
 Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))  
 Endangering life and property by explosives with no threat to human being (RCW 70.74.270)  
 Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b))  
 Incest 1 (RCW 9A.64.020(1))  
 Selling for profit (controlled or counterfeit) any controlled substance (except heroin) (RCW 69.50.410)  
 Manufacture, deliver, or possess with intent to deliver heroin or narcotics from Schedule I or II (RCW 69.50.401(a)(1)(i))  
 Intimidating a Judge (RCW 9A.72.160)
- V Criminal Mistreatment 1 (RCW 9A.42.020)  
 Rape 3 (RCW 9A.44.060)  
 Kidnapping 2 (RCW 9A.40.030)  
 Extortion 1 (RCW 9A.56.120)  
 Incest 2 (RCW 9A.64.020(2))  
 Perjury 1 (RCW 9A.72.020)  
 Extortionate Extension of Credit (RCW 9A.82.020)  
 Advancing money or property for extortionate extension of credit (RCW 9A.82.030)  
 Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)  
 Rendering Criminal Assistance 1 (RCW 9A.76.070)

- IV
  - Theft of Livestock 1 (RCW 9A.56.080)
  - Robbery 2 (RCW 9A.56.210)
  - Assault 2 (RCW 9A.36.021)
  - Escape 1 (RCW 9A.76.110)
  - Arson 2 (RCW 9A.48.030)
  - Rape of a Child 3 (RCW 9A.44.079)
  - Bribing a Witness/Bribe Received by Witness (RCW 9A.72-.090, 9A.72.100)
  - Malicious Harassment (RCW 9A.36.080)
  - Willful Failure to Return from Furlough (RCW 72.66.060)
  - Hit and Run — Injury Accident (RCW 46.52.020(4))
  - Vehicular Assault (RCW 46.61.522)
  - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I–V (except marijuana) (RCW 69.50.401(a)(1)(ii) through (iv))
  - Influencing Outcome of Sporting Event (RCW 9A.82.070)
  - Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
  - Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III
  - Criminal mistreatment 2 (RCW 9A.42.030)
  - Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
  - Child Molestation 3 (RCW 9A.44.089)
  - Extortion 2 (RCW 9A.56.130)
  - Unlawful Imprisonment (RCW 9A.40.040)
  - Assault 3 (RCW 9A.36.031)
  - Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
  - Harassment (RCW 9A.46.020)
  - Promoting Prostitution 2 (RCW 9A.88.080)
  - Willful Failure to Return from Work Release (RCW 72.65.070)
  - Introducing Contraband 2 (RCW 9A.76.150)
  - Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
  - Patronizing a Juvenile Prostitute (RCW 9.68A.100)
  - Escape 2 (RCW 9A.76.120)
  - Perjury 2 (RCW 9A.72.030)
  - Intimidating a Public Servant (RCW 9A.76.180)
  - Tampering with a Witness (RCW 9A.72.120)
  - Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
  - Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
  - Theft of livestock 1 (RCW 9A.56.080)

- II Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Burglary 2 (RCW 9A.52.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
  
- I Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- Malicious Mischief 2 (RCW 9A.48.080)
- Reckless Burning 1 (RCW 9A.48.040)
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (RCW 69.50.401(d))

Passed the Senate April 18, 1989.

Passed the House April 14, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 406

[Substitute Senate Bill No. 5810]

### HAZARDOUS MATERIALS TRANSPORT—CLEAN-UP LIABILITY

AN ACT Relating to hazardous materials clean up; and amending RCW 4.24.314.

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

Sec. 1. Section 3, chapter 165, Laws of 1984 and RCW 4.24.314 are each amended to read as follows:

(1) Any person transporting hazardous materials shall clean up any hazardous materials incident that occurs during transportation, and shall

take such additional action as may be reasonably necessary after consultation with the designated incident command agency in order to achieve compliance with all applicable federal and state laws and regulations.

Any person transporting hazardous materials that is responsible for causing ((the)) a hazardous materials incident, as defined in RCW 70.136.020, other than the operating employees of a transportation company, is liable to the state or any political subdivision thereof for extraordinary costs incurred by the state or the political subdivision in the course of protecting the public from actual or threatened harm resulting from the hazardous materials incident.

(2) Any person, other than a person transporting hazardous materials or an operating employee of a company, responsible for causing a hazardous materials incident, as defined in RCW 70.136.020, is liable to a municipal fire department or fire district for extraordinary costs incurred by the municipal fire department or fire district, in the course of protecting the public from actual or threatened harm resulting from the hazardous materials incident, until the incident oversight is assumed by the department of ecology.

(3) "Extraordinary costs" as used in this section means those reasonable and necessary costs incurred by a governmental entity in the course of protecting life and property that exceed the normal and usual expenses anticipated for police and fire protection, emergency services, and public works. These shall include, but not be limited to, overtime for public employees, unusual fuel consumption requirements, any loss or damage to publicly owned equipment, and the purchase or lease of any special equipment or services required to protect the public during the hazardous materials incident.

Passed the Senate April 17, 1989.

Passed the House April 13, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 407

[Senate Bill No. 5833]

### JUVENILE OFFENDERS—DISPOSITION AND SENTENCING

AN ACT Relating to the disposition and sentencing of juvenile offenders; and amending RCW 13.40.020, 13.40.027, 13.40.030, 13.40.160, 13.40.280, and 13.40.070; adding new sections to chapter 13.40 RCW; repealing RCW 13.40.035 and 13.40.036; and prescribing penalties.

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

Sec. 1. Section 56, chapter 291, Laws of 1977 ex. sess. as last amended by section 17, chapter 145, Laws of 1988 and RCW 13.40.020 are each amended to read as follows:

For the purposes of this chapter:

(1) "Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:

- (a) A class A felony, or an attempt to commit a class A felony;
- (b) Manslaughter in the first degree or rape in the second degree; or
- (c) Assault in the second degree, extortion in the first degree, child molestation in the first or second degree, rape of a child in the second degree, kidnapping in the second degree, robbery in the second degree, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon or firearm as defined in RCW 9A.04.110;

(2) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense;

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth. A community supervision order for a single offense may be for a period of up to one year and include one or more of the following:

- (a) A fine, not to exceed one hundred dollars;
- (b) Community service not to exceed one hundred fifty hours of service;
- (c) Attendance of information classes;
- (d) Counseling; or
- (e) Such other services to the extent funds are available for such services, conditions, or limitations as the court may require which may not include confinement;

(4) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a facility operated by or pursuant to a contract with any county. Confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(5) "Court", when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(6) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history;

(7) "Department" means the department of social and health services;

(8) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender or any other person or entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.04.040, as now or hereafter amended, or any person or entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter;

(9) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(10) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court;

(11) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(12) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(13) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

(14) "Minor or first offender" means a person sixteen years of age or younger whose current offense(s) and criminal history fall entirely within one of the following categories:

(a) Four misdemeanors;

(b) Two misdemeanors and one gross misdemeanor;

(c) One misdemeanor and two gross misdemeanors;

(d) Three gross misdemeanors;

(e) One class C felony except manslaughter in the second degree and one misdemeanor or gross misdemeanor;

(f) One class B felony except: Any felony which constitutes an attempt to commit a class A felony; manslaughter in the first degree; rape in the second degree; assault in the second degree; extortion in the first degree; indecent liberties; kidnapping in the second degree; robbery in the second degree; burglary in the second degree; rape of a child in the second degree; vehicular homicide; child molestation in the first degree; or arson in the second degree.

For purposes of this definition, current violations shall be counted as misdemeanors;

(15) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;



(16) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(17) "Restitution" means financial reimbursement by the offender to the victim, and 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. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(18) "Secretary" means the secretary of the department of social and health services;

(19) "Services" mean services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(20) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(21) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration.

Sec. 2. Section 4, chapter 299, Laws of 1981 as amended by section 9, chapter 288, Laws of 1986 and RCW 13.40.027 are each amended to read as follows:

(1) It is the responsibility of the commission to: (a) (i) Evaluate the effectiveness of existing disposition standards and related statutes in implementing policies set forth in RCW 13.40.010 generally and (ii) specifically review the guidelines relating to the confinement of minor and first offenders as well as the use of diversion (~~(-The committee shall propose modifications to the legislature regarding subsection (1)(a)(ii) of this section by January 1, 1987)~~); (b) solicit the comments and suggestions of the juvenile justice community concerning disposition standards; and (c) (~~develop and propose~~) make recommendations to the legislature regarding revisions or modifications of the disposition standards in accordance with RCW 13.40.030.

(2) It is the responsibility of the department to: (a) Provide the commission with available data concerning the implementation of the disposition standards and related statutes and their effect on the performance of the department's responsibilities relating to juvenile offenders; (b) at the request of the commission, provide technical and administrative assistance to the commission in the performance of its responsibilities; and (c) provide the commission and legislature with recommendations for modification of the disposition standards.

Sec. 3. Section 57, chapter 291, Laws of 1977 ex. sess. as last amended by section 1, chapter 73, Laws of 1985 and RCW 13.40.030 are each amended to read as follows:

(1) (a) The juvenile disposition standards commission shall ~~((propose))~~ recommend to the legislature no later than November 1st of each ~~((even-numbered))~~ year disposition standards for all offenses. The standards shall establish, in accordance with the purposes of this chapter, ranges which may include terms of confinement and/or community supervision established on the basis of a youth's age, the instant offense, and the history and seriousness of previous offenses, but in no case may the period of confinement and supervision exceed that to which an adult may be subjected for the same offense(s). Standards ~~((proposed))~~ recommended for offenders listed in RCW 13.40.020(1) shall include a range of confinement which may not be less than thirty days. No standard range may include a period of confinement which includes both more than thirty, and thirty or less, days. Disposition standards ~~((proposed))~~ recommended by the commission shall provide that in all cases where a youth is sentenced to a term of confinement in excess of thirty days the department may impose an additional period of parole not to exceed eighteen months. Standards of confinement which may be proposed may relate only to the length of the proposed terms and not to the nature of the security to be imposed. In developing ~~((proposed))~~ recommended disposition standards, the commission shall consider the capacity of the state juvenile facilities and the projected impact of the proposed standards on that capacity.

(b) The secretary shall submit guidelines pertaining to the nature of the security to be imposed on youth placed in his or her custody based on the age, offense(s), and criminal history of the juvenile offender. Such guidelines shall be submitted to the legislature for its review no later than November 1st of each ~~((even-numbered))~~ year. At the same time the secretary shall submit a report on security at juvenile facilities during the preceding ~~((two-year period))~~ year. The report shall include the number of escapes from each juvenile facility, the most serious offense for which each escapee had been confined, the number and nature of offenses found to have been committed by juveniles while on escape status, the number of authorized leaves granted, the number of failures to comply with leave requirements, the number and nature of offenses committed while on leave, and the number and nature of offenses committed by juveniles while in the community on minimum security status; to the extent this information is available to the secretary. The department shall include security status definitions in the security guidelines it submits to the legislature pursuant to this section.

(2) ~~((If the commission fails to propose disposition standards as provided in this section, the existing standards shall remain in effect and may be adopted by the legislature or referred to the commission for modification~~

~~as provided in subsection (3) of this section. If the standards are referred for modification, the provisions of subsection (4) shall be applicable.~~

~~(3) The legislature may adopt the proposed standards or refer the proposed standards to the commission for modification. If the legislature fails to adopt or refer the proposed standards to the commission by February 15th of the following year, the proposed standards shall take effect without legislative approval on July 1st of that year.~~

~~(4) If the legislature refers the proposed standards to the commission for modification on or before February 15th, the commission shall resubmit the proposed modifications to the legislature no later than March 1st. The legislature may adopt or modify the resubmitted proposed standards. If the legislature fails to adopt or modify the resubmitted proposed standards by April 1st, the resubmitted proposed standards shall take effect without legislative approval on July 1st of that year.~~

~~(5)) In developing ((and promulgating)) recommendations for the permissible ranges of confinement under this section the commission shall be subject to the following limitations:~~

~~(a) Where the maximum term in the range is ninety days or less, the minimum term in the range may be no less than fifty percent of the maximum term in the range;~~

~~(b) Where the maximum term in the range is greater than ninety days but not greater than one year, the minimum term in the range may be no less than seventy-five percent of the maximum term in the range; and~~

~~(c) Where the maximum term in the range is more than one year, the minimum term in the range may be no less than eighty percent of the maximum term in the range.~~

Sec. 4. Section 70, chapter 291, Laws of 1977 ex. sess. as last amended by section 8, chapter 191, Laws of 1983 and RCW 13.40.160 are each amended to read as follows:

(1) When the respondent is found to be a serious offender, the court shall commit the offender to the department for the standard range of disposition for the offense, as indicated in option A of schedule D-3, section 7 of this act.

If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option B of schedule D-3, section 7 of this act. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(5), as now or hereafter amended, shall be used to determine the range. A disposition outside

the standard range is appealable under RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230 as now or hereafter amended.

(2) Where the respondent is found to be a minor or first offender, the court shall order that the respondent serve a term of community supervision as indicated in option A or option B of schedule D-1, section 7 of this act. If the court determines that a disposition of community supervision would effectuate a manifest injustice the court may impose another disposition under option C of schedule D-1, section 7 of this act. A disposition other than a community supervision may be imposed only after the court enters reasons upon which it bases its conclusions that imposition of community supervision would effectuate a manifest injustice. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(5), as now or hereafter amended, shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

Any disposition other than community supervision may be appealed as provided in RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition of community supervision may not be appealed under RCW 13.40.230 as now or hereafter amended.

(3) Where a respondent is found to have committed an offense for which the respondent declined to enter into a diversion agreement, the court shall impose a term of community supervision limited to the conditions allowed in a diversion agreement as provided in RCW 13.40.080(2) as now or hereafter amended.

(4) If a respondent is found to be a middle offender:

(a) The court shall impose a determinate disposition within the standard range(s) for such offense, as indicated in option A of schedule D-2, section 7 of this act: PROVIDED, That if the standard range includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement; or

(b) The court shall impose a determinate disposition of community supervision and/or up to thirty days confinement, as indicated in option B of schedule D-2, section 7 of this act in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150 as now or hereafter amended.

(c) Only if the court concludes, and enters reasons for its conclusions, that disposition as provided in subsection (4) (a) or (b) of this section would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(5), as now or hereafter amended, shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

(d) A disposition pursuant to subsection (4)(c) of this section is appealable under RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition pursuant to subsection (4) (a) or (b) of this section is not appealable under RCW 13.40.230 as now or hereafter amended.

(5) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(6) In its dispositional order, the court shall not suspend or defer the imposition or the execution of the disposition.

(7) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

**NEW SECTION.** Sec. 5. A new section is added to chapter 13.40 RCW to read as follows:

The sentencing guidelines and prosecuting standards apply equally to juvenile offenders in all parts of the state, without discrimination as to any element that does not relate to the crime or the previous record of the offender.

**NEW SECTION.** Sec. 6. A new section is added to chapter 13.40 RCW to read as follows:

The total current offense points for use in the standards range matrix of schedules D-1, D-2, and D-3 are computed as follows:

(1) The disposition offense category is determined by the offense of conviction. Offenses are divided into ten levels of seriousness, ranging from low (seriousness level E) to high (seriousness level A+), see schedule A, section 7 of this act.

(2) The prior offense increase factor is summarized in schedule B, section 7 of this act. The increase factor is determined for each prior offense by using the time span and the offense category in the prior offense increase factor grid. Time span is computed from the date of the prior offense to the date of the current offense. The total increase factor is determined by totaling the increase factors for each prior offense and adding a constant factor of 1.0.

(3) The current offense points are summarized in schedule C, section 7 of this act. The current offense points are determined for each current offense by locating the juvenile's age on the horizontal axis and using the offense category on the vertical axis. The juvenile's age is determined as of the time of the current offense and is rounded down to the nearest whole number.

(4) The total current offense points are determined for each current offense by multiplying the total increase factor by the current offense points. The total current offense points are rounded down to the nearest whole number.

NEW SECTION. Sec. 7. A new section is added to chapter 13.40 RCW to read as follows:

SCHEDULE A  
DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT BAILJUMP, CONSPIRACY OR SOLICITATION
<u>Arson and Malicious Mischief</u>		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+
<u>Assault and Other Crimes Involving Physical Harm</u>		
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
<u>Burglary and Trespass</u>		
B+	Burglary 1 (9A.52.020)	C+
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
D	Vehicle Prowling (9A.52.100)	E
<u>Drugs</u>		

**SCHEDULE A**  
**DESCRIPTION AND OFFENSE CATEGORY**

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT BAILJUMP, CONSPIRACY, OR SOLICITATION
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030)	D+
E	Possession of Legend Drug (69.41.030)	E
B+	Violation of Uniform Controlled Substances Act – Narcotic Sale (69.50.401(a)(1)(i))	B+
C	Violation of Uniform Controlled Substances Act – Nonnarcotic Sale (69.50.401(a)(1)(ii))	C
E	Possession of Marihuana <40 grams (69.50.401(e))	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Glue Sniffing (9.47A.050)	E
B	Violation of Uniform Controlled Substances Act – Narcotic Counterfeit Substances (69.50.401(b)(1)(i))	B
C	Violation of Uniform Controlled Substances Act – Nonnarcotic Counterfeit Substances (69.50.401(b)(1) (ii), (iii), (iv))	C
C	Violation of Uniform Controlled Substances Act – Possession of a Controlled Substance (69.50.401(d))	C
C	Violation of Uniform Controlled Substances Act – Possession of a Controlled Substance (69.50.401(c))	C
	<u>Firearms and Weapons</u>	
C+	Committing Crime When Armed (9.41.025)	D+

SCHEDULE A  
DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
E	Use of Firearms by Minor (<14) (9.41.240)	E
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
<u>Homicide</u>		
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
<u>Kidnapping</u>		
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
D	Custodial Interference (9A.40.050)	E
<u>Obstructing Governmental Operation</u>		
E	Obstructing a Public Servant (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
E	Criminal Contempt (9.23.010)	E
<u>Public Disturbance</u>		
C+	Riot with Weapon (9A.84.010)	D+
D+	Riot Without Weapon (9A.84.010)	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
<u>Sex Crimes</u>		



SCHEDULE A  
DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPTED BAILJUMP, CONSPIRACY OR SOLICITATION
A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+
B	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Public Indecency (Victim <14) (9A.88.010)	E
E	Public Indecency (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B+	Child Molestation 1 (9A.44.083)	C+
C+	Child Molestation 2 (9A.44.086)	C
	<u>Theft, Robbery, Extortion, and Forgery</u>	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock (9A.56.080)	C
C	Forgery (9A.56.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	<u>Motor Vehicle Related Crimes</u>	
E	Driving Without a License (46.20.021)	E

SCHEDULE A  
DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPTED BAILJUMP, CONSPIRACY OR SOLICITATION
C	Hit and Run – Injury (46.52.020(4))	D
D	Hit and Run–Attended (46.52.020(5))	E
E	Hit and Run–Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.515)	E
B+	Negligent Homicide by Motor Vehicle (46.61.520)	C+
D	Vehicle Prowling (9A.52.100)	E
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	<u>Other</u>	
B	Bomb Threat (9.61.160)	C
C	Escape 1* (9A.76.110)	C
C	Escape 2* (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
C	Failure to Appear in Court (10.19.130)	D
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)**	V

\*Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period – 4 weeks confinement

2nd escape or attempted escape during 12-month period – 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period – 12 weeks confinement

\*\*If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**SCHEDULE B  
PRIOR OFFENSE INCREASE FACTOR**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

OFFENSE CATEGORY	<u>TIME SPAN</u>		
	0-12 Months	13-24 Months	25 Months or More
A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

Prior history – Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

**SCHEDULE C  
CURRENT OFFENSE POINTS**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

AGE

OFFENSE 12 &  
CATEGORY Under 13 14 15 16 17

A+	STANDARD RANGE					180-224	WEEKS
A	250	300	350	375	375	375	375
A-	150	150	150	200	200	200	200
B+	110	110	120	130	140	140	150
B	45	45	50	50	57	57	57
C+	44	44	49	49	55	55	55
C	40	40	45	45	50	50	50
D+	16	18	20	22	24	24	26
D	14	16	18	20	22	22	24
E	4	4	4	6	8	8	10

JUVENILE SENTENCING STANDARDS  
SCHEDULE D-1

This schedule may only be used for minor/first offenders. After the determination is made that a youth is a minor/first offender, the court has the discretion to select sentencing option A, B, or C.

MINOR/FIRST OFFENDER

OPTION A  
STANDARD RANGE

<u>Points</u>	<u>Community Supervision</u>	<u>Community Service Hours</u>	<u>Fine</u>
1-9	0-3 months	and/or 0-8	and/or 0-\$10
10-19	0-3 months	and/or 0-8	and/or 0-\$10
20-29	0-3 months	and/or 0-16	and/or 0-\$10
30-39	0-3 months	and/or 8-24	and/or 0-\$25
40-49	3-6 months	and/or 16-32	and/or 0-\$25
50-59	3-6 months	and/or 24-40	and/or 0-\$25
60-69	6-9 months	and/or 32-48	and/or 0-\$50
70-79	6-9 months	and/or 40-56	and/or 0-\$50
80-89	9-12 months	and/or 48-64	and/or 0-\$100
90-109	9-12 months	and/or 56-72	and/or 0-\$100

OR

OPTION B  
STATUTORY OPTION

0-12 Months Community Supervision  
0-150 Hours Community Service

0-100 Fine

A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.

OR

**OPTION C**  
**MANIFEST INJUSTICE**

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(5), as now or hereafter amended, shall be used to determine the range.

**JUVENILE SENTENCING STANDARDS**  
**SCHEDULE D-2**

This schedule may only be used for middle offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B, or C.

**MIDDLE OFFENDER**

**OPTION A**  
**STANDARD RANGE**

Points	Community Supervision	Community Service Hours	Fine	Confinement Days Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
110-129				8-12
130-149				13-16
150-199				21-28
200-249				30-40
250-299				52-65
300-374				80-100
375+				103-129

Middle offenders with more than 110 points do not have to be committed. They may be assigned community supervision under option B.  
All A+ offenses 180–224 weeks

OR

**OPTION B**  
**STATUTORY OPTION**

- 0–12 Months Community Supervision
- 0–150 Hours Community Service
- 0–100 Fine

The court may impose a determinate disposition of community supervision and/or up to 30 days confinement; in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150, as now or hereafter amended.

OR

**OPTION C**  
**MANIFEST INJUSTICE**

If the court determines that a disposition under A or B would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(5), as now or hereafter amended, shall be used to determine range.

**JUVENILE SENTENCING STANDARDS**  
**SCHEDULE D–3**

This schedule may only be used for serious offenders. After the determination is made that a youth is a serious offender, the court has the discretion to select sentencing option A or B.

**SERIOUS OFFENDER**  
**OPTION A**  
**STANDARD RANGE**

<u>Points</u>	<u>Institution Time</u>
0–129	8–12 weeks
130–149	13–16 weeks
150–199	21–28 weeks
200–249	30–40 weeks
250–299	52–65 weeks
300–374	80–100 weeks
375+	103–129 weeks
All A+ Offenses	180–224 weeks

OR

OPTION B  
MANIFEST INJUSTICE

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(5), as now or hereafter amended, shall be used to determine the range.

Sec. 8. Section 22, chapter 191, Laws of 1983 and RCW 13.40.280 are each amended to read as follows:

(1) ~~((Notwithstanding the provisions of RCW 13.04.115,))~~ The secretary, with the consent of the secretary of the department of corrections, has the authority to transfer a juvenile presently or hereafter committed to the department of social and health services to the department of corrections for appropriate institutional placement in accordance with this section.

(2) The secretary of the department of social and health services may, with the consent of the secretary of the department of corrections, transfer a juvenile offender to the department of corrections if it is established at a hearing before a review board that continued placement of the juvenile offender in an institution for juvenile offenders presents a continuing and serious threat to the safety of others in the institution. The department of social and health services shall establish rules for the conduct of the hearing, including provision of counsel for the juvenile offender.

(3) A juvenile offender transferred to an institution operated by the department of corrections shall not remain in such an institution beyond the maximum term of confinement imposed by the juvenile court.

(4) A juvenile offender who has been transferred to the department of corrections under this section may, in the discretion of the secretary of the department of social and health services and with the consent of the secretary of the department of corrections, be transferred from an institution operated by the department of corrections to a facility for juvenile offenders deemed appropriate by the secretary.

Sec. 9. Section 61, chapter 291, Laws of 1977 ex. sess. as last amended by section 18, chapter 191, Laws of 1983 and RCW 13.40.070 are each amended to read as follows:

(1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

(a) The alleged facts bring the case within the jurisdiction of the court; and

(b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsections (1) (a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and (7) of this section. If the prosecutor ~~((neither files nor diverts the case, he))~~ finds that the requirements of subsection (1) (a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) Where a case is legally sufficient, the prosecutor shall file an information with the juvenile court if:

(a) An alleged offender is accused of a class A felony, a class B felony, an attempt to commit a class B felony, assault in the third degree, rape in the third degree, or any other offense listed in RCW 13.40.020(1) (b) or (c); or

(b) An alleged offender is accused of a felony and has a criminal history of at least one class A or class B felony, or two class C felonies, or at least two gross misdemeanors, or at least two misdemeanors and one additional misdemeanor or gross misdemeanor, or at least one class C felony and one misdemeanor or gross misdemeanor; or

(c) An alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion; or

(d) An alleged offender has three or more diversions on the alleged offender's criminal history within eighteen months of the current alleged offense.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense(s) in combination with the alleged offender's criminal history do not exceed ~~((three))~~ two offenses or violations and do not include any felonies: PROVIDED, That if the alleged offender is charged with a related offense that must or may be filed under subsections (5) and (7) of this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor shall be guided



only by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(8) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversionary interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile.

(9) The responsibilities of the prosecutor under subsections (1) through (8) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

- (1) Section 56, chapter 155, Laws of 1979 and RCW 13.40.035; and
- (2) Section 10, chapter 288, Laws of 1986 and RCW 13.40.036.

Passed the Senate April 22, 1989.

Passed the House April 21, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 408

[Substitute Senate Bill No. 5947]

### ABUSE SUFFERED BY DEFENDANT—CONSIDERATION AS MITIGATING CIRCUMSTANCE

AN ACT Relating to establishing a procedure for considering abuse suffered by a defendant as a mitigating circumstance for an exceptional sentence; and amending RCW 9.94A.390.

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

Sec. 1. Section 10, chapter 115, Laws of 183 as last amended by section 2, chapter 131, Laws of 1987 and RCW 9.94A.390 are each amended to read as follows:

If the sentencing court finds that an exceptional sentence outside the standard range should be imposed in accordance with RCW 9.94A.120(2), the sentence is subject to review only as provided for in RCW 9.94A.210(4).

The following are illustrative factors which the court may consider in the exercise of its discretion to impose an exceptional sentence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

- (1) Mitigating Circumstances

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law, was significantly impaired (voluntary use of drugs or alcohol is excluded).

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.

(c) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time;

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(d) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so; or

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use; or

(iii) The current offense involved the manufacture of controlled substances for use by other parties; or

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy; or

(v) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional); or

(e) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time; or

(f) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

Passed the Senate April 18, 1989.

Passed the House April 14, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 409

[Second Substitute Senate Bill No. 5960]

### INDIGENTS—PROVISION OF DEFENSE SERVICES

AN ACT Relating to indigent defense; creating new sections; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature finds that effective legal representation should be provided for indigent persons and persons who are indigent and able to contribute, consistent with the constitutional requirements of fairness, equal protection, and due process in all cases where the right to counsel attaches.

**NEW SECTION.** Sec. 2. The following definitions shall be applied in connection with this act:

(1) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Aid to families with dependent children, general assistance, poverty-related veterans' benefits, food stamps, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(2) "Indigent and able to contribute" means a person who, at any stage of a court proceeding, is unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are less than the anticipated cost of counsel but sufficient for the person to pay a portion of that cost.

(3) "Anticipated cost of counsel" means the cost of retaining private counsel for representation on the matter before the court.

(4) "Available funds" means liquid assets and disposable net monthly income calculated after provision is made for bail obligations. For the purpose of determining available funds, the following definitions shall apply:

(a) "Liquid assets" means cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in motor vehicles. A motor vehicle necessary to maintain employment and having a market value not greater than three thousand dollars shall not be considered a liquid asset.

(b) "Income" means salary, wages, interest, dividends, and other earnings which are reportable for federal income tax purposes, and cash payments such as reimbursements received from pensions, annuities, social security, and public assistance programs. It includes any contribution received from any family member or other person who is domiciled in the same residence as the defendant and who is helping to defray the defendant's basic living costs.

(c) "Disposable net monthly income" means the income remaining each month after deducting federal, state, or local income taxes, social security taxes, contributory retirement, union dues, and basic living costs.

(d) "Basic living costs" means the average monthly amount spent by the defendant for reasonable payments toward living costs, such as shelter, food, utilities, health care, transportation, clothing, loan payments, support payments, and court-imposed obligations.

**NEW SECTION.** Sec. 3. (1) A determination of indigency shall be made for all persons wishing the appointment of counsel in criminal, juvenile, involuntary commitment, and dependency cases, and any other case

where the right to counsel attaches. The court or its designee shall determine whether the person is indigent pursuant to the standards set forth in this chapter.

(2) In making the determination of indigency, the court shall also consider the anticipated length and complexity of the proceedings and the usual and customary charges of an attorney in the community for rendering services, and any other circumstances presented to the court which are relevant to the issue of indigency. The appointment of counsel shall not be denied to the person because the person's friends or relatives, other than a spouse who was not the victim of any offense or offenses allegedly committed by the person, have resources adequate to retain counsel, or because the person has posted or is capable of posting bond.

(3) The determination of indigency shall be made upon the defendant's initial contact with the court or at the earliest time circumstances permit. The court or its designee shall keep a written record of the determination of indigency. Any information given by the accused under this section or sections shall be confidential and shall not be available for use by the prosecution in the pending case.

(4) If a determination of eligibility cannot be made before the time when the first services are to be rendered, the court shall appoint an attorney on a provisional basis. If the court subsequently determines that the person receiving the services is ineligible, the court shall notify the person of the termination of services, subject to court-ordered reinstatement.

(5) All persons determined to be indigent and able to contribute, shall be required to execute a promissory note at the time counsel is appointed. The person shall be informed whether payment shall be made in the form of a lump sum payment or periodic payments. The payment and payment schedule must be set forth in writing. The person receiving the appointment of counsel shall also sign an affidavit swearing under penalty of perjury that all income and assets reported are complete and accurate. In addition, the person must swear in the affidavit to immediately report any change in financial status to the court.

(6) The office or individual charged by the court to make the determination of indigency shall provide a written report and opinion as to indigency on a form prescribed by the office of the administrator for the courts, based on information obtained from the defendant and subject to verification. The form shall include information necessary to provide a basis for making a determination with respect to indigency as provided by this chapter.

**NEW SECTION.** Sec. 4. Each county or city under this chapter shall adopt standards for the delivery of public defense services, whether those services are provided by contract, assigned counsel, or a public defender office. Standards shall include the following: Compensation of counsel, duties

and responsibilities of counsel, case load limits and types of cases, responsibility for expert witness fees and other costs associated with representation, administrative expenses, support services, reports of attorney activity and vouchers, training, supervision, monitoring and evaluation of attorneys, substitution of attorneys or assignment of contracts, limitations on private practice of contract attorneys, qualifications of attorneys, disposition of client complaints, cause for termination of contract or removal of attorney, and nondiscrimination. The standards endorsed by the Washington state bar association for the provision of public defense services may serve as guidelines to contracting authorities.

**NEW SECTION.** Sec. 5. City attorneys, county prosecutors, and law enforcement officers shall not select the attorneys who will provide indigent defense services.

**NEW SECTION.** Sec. 6. The indigent defense task force created in chapter 156, Laws of 1988 shall be reinstated and continued through June 1990. Two additional persons shall be members of the task force: A member appointed by the association of Washington cities and a member appointed by the Washington association of prosecuting attorneys. The task force shall examine the current methods of delivering appellate indigent defense services in the state and shall make recommendations to the 1990 legislature regarding alternative methods of delivering appellate services.

The task force shall also evaluate indigent trial defense services and make recommendations to the legislature regarding alternative methods at the county and city level of funding and providing such services.

In addition, the task force shall review the data collected pursuant to this act and shall advise the office of the administrator for the courts or the legislature of necessary modifications to the service delivery system. The task force shall also evaluate ongoing cost-recoupment studies and make recommendations to the legislature regarding an expanded cost recoupment program.

**NEW SECTION.** Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 7, 1989.

Passed the House April 22, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 410

[Senate Bill No. 5991]

## ASSAULTS ON JUVENILE CORRECTIONS STAFF MEMBERS

AN ACT Relating to juvenile offenders; amending RCW 13.40.280; and creating a new section.

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

**NEW SECTION.** Sec. 1. The legislature recognizes the ever-increasing severity of offenses committed by juvenile offenders residing in this state's juvenile detention facilities and the increasing aggressive nature of detained juveniles due to drugs and gang-related violence. The purpose of this act is to provide necessary protection to state employees and juvenile residents of these institutions from assaults committed against them by juvenile detainees.

Sec. 2. Section 22, chapter 191, Laws of 1983 and RCW 13.40.280 are each amended to read as follows:

(1) (~~Notwithstanding the provisions of RCW 13.04.115;~~) The secretary, with the consent of the secretary of the department of corrections, has the authority to transfer a juvenile presently or hereafter committed to the department of social and health services to the department of corrections for appropriate institutional placement in accordance with this section.

(2) The secretary of the department of social and health services may, with the consent of the secretary of the department of corrections, transfer a juvenile offender to the department of corrections if it is established at a hearing before a review board that continued placement of the juvenile offender in an institution for juvenile offenders presents a continuing and serious threat to the safety of others in the institution. The department of social and health services shall establish rules for the conduct of the hearing, including provision of counsel for the juvenile offender.

(3) Assaults made against any staff member at a juvenile corrections institution that are reported to a local law enforcement agency shall require a hearing held by the department of social and health services review board within ten judicial working days. The board shall determine whether the accused juvenile offender represents a continuing and serious threat to the safety of others in the institution.

(4) Upon conviction in a court of law for custodial assault as defined in RCW 9A.36.100, the department of social and health services review board shall conduct a second hearing, within five judicial working days, to recommend to the secretary of the department of social and health services that the convicted juvenile be transferred to an adult correctional facility if the review board has determined the juvenile offender represents a continuing and serious threat to the safety of others in the institution.

The juvenile has the burden to show cause why the transfer to an adult correctional facility should not occur.

(5) A juvenile offender transferred to an institution operated by the department of corrections shall not remain in such an institution beyond the maximum term of confinement imposed by the juvenile court.

((4)) (6) A juvenile offender who has been transferred to the department of corrections under this section may, in the discretion of the secretary of the department of social and health services and with the consent of the secretary of the department of corrections, be transferred from an institution operated by the department of corrections to a facility for juvenile offenders deemed appropriate by the secretary.

Passed the Senate April 17, 1989.

Passed the House April 13, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 411

[Senate Bill No. 6005]

### DOMESTIC VIOLENCE—RESTRAINING ORDERS TO PROTECT VICTIMS

AN ACT Relating to the protection of victims of domestic violence; and amending RCW 10.22.010, 26.50.060 and 26.50.070.

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

Sec. 1. Section 7, chapter 263, Laws of 1984 as last amended by section 55, chapter 460, Laws of 1987 and RCW 26.50.060 are each amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain a party from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

(c) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(d) Order the respondent to participate in treatment or counseling services;

(e) Order other relief as it deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter; ((and))

(f) Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner



has been granted leave to proceed in forma pauperis, the court may require the respondent to pay the filing fee and costs, including services fees, to the county or municipality incurring the expense; and

(g) Restrain any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household.

(2) Any relief granted by the order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year.

(3) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence.

Sec. 2. Section 8, chapter 263, Laws of 1984 and RCW 26.50.070 are each amended to read as follows:

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court; ~~((and))~~

(c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court; and

(d) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days, but may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order. The respondent shall be served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

Sec. 3. Section 84, page 115, Laws of 1854 as amended by section 1040 Code 1881, and RCW 10.22.010 are each amended to read as follows:

When a defendant is prosecuted in a criminal action for a misdemeanor, for which the person injured by the act constituting the offense has a

remedy by a civil action, the offense may be compromised as provided in RCW 10.22.020, except when it was committed:

- (1) By or upon an officer while in the execution of the duties of his office.
- (2) Riotously; ~~((or;))~~
- (3) With an intent to commit a felony; or
- (4) By one family or household member against another as defined in RCW 10.99.020(1) and was a crime of domestic violence as defined in RCW 10.99.020(2).

Passed the Senate April 17, 1989.

Passed the House April 12, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 412

[Senate Bill No. 5233]

### RESIDENTIAL BURGLARY

[Veto overridden: See chapter 1, 2nd Ex. Sess., infra.]

AN ACT Relating to burglary; amending RCW 9A.52.030; reenacting and amending RCW 9.94A.320; adding a new section to chapter 9A.52 RCW; prescribing penalties; and providing an effective date.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 9A.52 RCW to read as follows:

(1) A person is guilty of residential burglary if, with intent to commit a crime against a person or property therein, the person enters or remains unlawfully in a dwelling other than a vehicle.

(2) Residential burglary is a class B felony. In establishing sentencing guidelines and disposition standards, the sentencing guidelines commission and the juvenile disposition standards commission shall consider residential burglary as a more serious offense than second degree burglary.

Sec. 2. Section 9A.52.030, chapter 260, Laws of 1975 1st ex. sess. as amended by section 7, chapter 38, Laws of 1975-'76 2nd ex. sess. and RCW 9A.52.030 are each amended to read as follows:

(1) A person is guilty of burglary in the second degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a building other than a vehicle or a dwelling.

(2) Burglary in the second degree is a class B felony.

**\*Sec. 3. Section 2, chapter 62, Laws of 1988, section 12, chapter 145, Laws of 1988, and section 2, chapter 218, Laws of 1988 and RCW 9.94A-.320 are each reenacted and amended to read as follows:**

TABLE 2

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

<b>XIV</b>	<b><i>Aggravated Murder 1 (RCW 10.95.020)</i></b>
<b>XIII</b>	<b><i>Murder 1 (RCW 9A.32.030)</i></b> <b><i>Homicide by abuse (RCW 9A.32.055)</i></b>
<b>XII</b>	<b><i>Murder 2 (RCW 9A.32.050)</i></b>
<b>XI</b>	<b><i>Assault 1 (RCW 9A.36.011)</i></b>
<b>X</b>	<b><i>Kidnapping 1 (RCW 9A.40.020)</i></b> <b><i>Rape 1 (RCW 9A.44.040)</i></b> <b><i>Rape of a Child 1 (RCW 9A.44.073)</i></b> <b><i>Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1))</i></b> <b><i>Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 and 3 years junior (RCW 69.50.406)</i></b> <b><i>Leading Organized Crime (RCW 9A.82.060(1)(a))</i></b>
<b>IX</b>	<b><i>Robbery 1 (RCW 9A.56.200)</i></b> <b><i>Manslaughter 1 (RCW 9A.32.060)</i></b> <b><i>Explosive devices prohibited (RCW 70.74.180)</i></b> <b><i>Endangering life and property by explosives with threat to human being (RCW 70.74.270)</i></b> <b><i>Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)</i></b> <b><i>Sexual Exploitation, Under 16 (RCW 9.68A.040(2)(a))</i></b> <b><i>Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))</i></b>
<b>VIII</b>	<b><i>Arson 1 (RCW 9A.48.020)</i></b> <b><i>Rape 2 (RCW 9A.44.050)</i></b> <b><i>Rape of a Child 2 (RCW 9A.44.076)</i></b> <b><i>Child Molestation 1 (RCW 9A.44.083)</i></b> <b><i>Promoting Prostitution 1 (RCW 9A.88.070)</i></b> <b><i>Selling heroin for profit (RCW 69.50.410)</i></b>
<b>VII</b>	<b><i>Burglary 1 (RCW 9A.52.020)</i></b> <b><i>Vehicular Homicide (RCW 46.61.520)</i></b> <b><i>Introducing Contraband 1 (RCW 9A.76.140)</i></b> <b><i>Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))</i></b> <b><i>Sexual Exploitation, Under 18 (RCW 9.68A.040(2)(b))</i></b> <b><i>Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)</i></b>

- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)*
- VI** *Bribery (RCW 9A.68.010)*  
*Manslaughter 2 (RCW 9A.32.070)*  
*Child Molestation 2 (RCW 9A.44.086)*  
*Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)*  
*Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))*  
*Endangering life and property by explosives with no threat to human being (RCW 70.74.270)*  
*Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b))*  
*Incest 1 (RCW 9A.64.020(1))*  
*Selling for profit (controlled or counterfeit) any controlled substance (except heroin) (RCW 69.50.410)*  
*Manufacture, deliver, or possess with intent to deliver heroin or narcotics from Schedule I or II (RCW 69.50.401(a)(1)(i))*  
*Intimidating a Judge (RCW 9A.72.160)*
- V** *Criminal Mistreatment 1 (RCW 9A.42.020)*  
*Rape 3 (RCW 9A.44.060)*  
*Kidnapping 2 (RCW 9A.40.030)*  
*Extortion 1 (RCW 9A.56.120)*  
*Incest 2 (RCW 9A.64.020(2))*  
*Perjury 1 (RCW 9A.72.020)*  
*Extortionate Extension of Credit (RCW 9A.82.020)*  
*Advancing money or property for extortionate extension of credit (RCW 9A.82.030)*  
*Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)*  
*Rendering Criminal Assistance 1 (RCW 9A.76.070)*
- IV** *Residential Burglary (RCW 9A.52.----) (section 1 of this act)*  
*Theft of Livestock 1 (RCW 9A.56.080)*  
*Robbery 2 (RCW 9A.56.210)*  
*Assault 2 (RCW 9A.36.021)*  
*Escape 1 (RCW 9A.76.110)*  
*Arson 2 (RCW 9A.48.030)*  
*Rape of a Child 3 (RCW 9A.44.079)*  
*Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)*  
*Malicious Harassment (RCW 9A.36.080)*  
*Willful Failure to Return from Furlough (RCW 72.66.060)*  
*Hit and Run — Injury Accident (RCW 46.52.020(4))*  
*Vehicular Assault (RCW 46.61.522)*

- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana) (RCW 69.50.401(a)(1)(ii) through (iv))*  
*Influencing Outcome of Sporting Event (RCW 9A.82.070)*  
*Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))*  
*Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))*
- III** *Criminal mistreatment 2 (RCW 9A.42.030)*  
*Sexual Misconduct with a Minor 1 (RCW 9A.44.093)*  
*Child Molestation 3 (RCW 9A.44.089)*  
*Extortion 2 (RCW 9A.56.130)*  
*Unlawful Imprisonment (RCW 9A.40.040)*  
*Assault 3 (RCW 9A.36.031)*  
*Unlawful possession of firearm or pistol by felon (RCW 9.41.040)*  
*Harassment (RCW 9A.46.020)*  
*Promoting Prostitution 2 (RCW 9A.88.080)*  
*Willful Failure to Return from Work Release (RCW 72.65.070)*  
*Burglary 2 (RCW 9A.52.030)*  
*Introducing Contraband 2 (RCW 9A.76.150)*  
*Communication with a Minor for Immoral Purposes (RCW 9.68A.090)*  
*Patronizing a Juvenile Prostitute (RCW 9.68A.100)*  
*Escape 2 (RCW 9A.76.120)*  
*Perjury 2 (RCW 9A.72.030)*  
*Intimidating a Public Servant (RCW 9A.76.180)*  
*Tampering with a Witness (RCW 9A.72.120)*  
*Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))*  
*Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))*  
*Theft of livestock 1 (RCW 9A.56.080)*
- II** *Malicious Mischief 1 (RCW 9A.48.070)*  
*Possession of Stolen Property 1 (RCW 9A.56.150)*  
*Theft 1 (RCW 9A.56.030)*  
~~*(Burglary 2 (RCW 9A.52.030))*~~  
*Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))*  
*Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))*  
*Computer Trespass 1 (RCW 9A.52.110)*
- I** *Theft 2 (RCW 9A.56.040)*  
*Possession of Stolen Property 2 (RCW 9A.56.160)*  
*Forgery (RCW 9A.60.020)*

*Taking Motor Vehicle Without Permission (RCW 9A.56.070)*  
*Vehicle Prowl 1 (RCW 9A.52.095)*  
*Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)*  
*Malicious Mischief 2 (RCW 9A.48.080)*  
*Reckless Burning 1 (RCW 9A.48.040)*  
*Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)*  
*Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))*  
*False Verification for Welfare (RCW 74.08.055)*  
*Forged Prescription (RCW 69.41.020)*  
*Forged Prescription for a Controlled Substance (RCW 69.50.403)*  
*Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (RCW 69.50.401(d))*

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

NEW SECTION. Sec. 4. This act shall take effect July 1, 1990.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to section 3, Engrossed Senate Bill No. 5233 entitled:

"AN ACT Relating to burglary."

This legislation creates a new crime of residential burglary for those incidents in which an individual enters a dwelling for the purposes of committing "a crime against persons or property therein". The existing crime of burglary in the second degree is retained for cases involving buildings other than dwellings.

Section 3 of this measure increases the seriousness level of second degree burglary from range II to range III and ranks the new crime of residential burglary at an even higher level, range IV. These rankings have significant fiscal impacts on both state and local governments that are not fully addressed. Although the Legislature included funds in the Omnibus Budget for the purposes of this act, they fall far short of meeting the Department of Correction's needs. In addition, no funds were provided to address the impacts on local jails.

I support the intent of this bill. Residential burglary is a particularly offensive crime that not only results in material loss, but shatters the sense of privacy people enjoy within their homes. Persons who invade homes in this manner must be punished.

However, attempting to address this issue has highlighted some of the inflexibility of the state's Sentencing Reform Act. Because of the sentencing structure created by the Act, little can be done in response to the problem of burglary other than to raise the seriousness level, as accomplished by section 3.

I am retaining the new definition of residential burglary created by this bill, and the instructions in section 1 requiring the Sentencing Guidelines Commission to consider residential burglary as a more serious offense than burglary in the second degree. Because the provisions of the bill do not take effect until July 1990, I believe this veto allows us to more fully consider the ramifications of this sentencing change.

The long-term financial impact on the state adult and juvenile systems will mandate significant additional commitment of both capital and operating funds. I am concerned that the full financial reality of passing this bill has not settled upon the Legislature. The Legislature should also consider the consistency of punishment level in this bill related to punishment for other criminal offenses.

Particular attention must also be paid to the effect these changes have on our local jail system. We can no longer continue to ignore the overcrowding and potentially dangerous conditions facing these facilities. At the same time the Legislature was enacting a measure extending eligibility for home detention programs to burglars, it was removing over fifty percent of the eligible inmates by the definition change included in this bill. The Sentencing Guidelines Commission is the proper place to consider these system-wide impacts.

I am asking the Sentencing Guidelines Commission to take up this issue for the purpose of recommending a resolution to the 1990 Legislature. The commission will review the relative rankings of these crimes, and will explore the possibility of reordering the sentencing grid in such a way as to allow courts greater flexibility in determining appropriate sanctions. In addition, the Commission will review the potential for changing sentencing practices associated with rank changes, and the relationship of deadly weapons enhancements to these two offenses.

With the exception of section 3, Engrossed Senate Bill No. 5233 is approved.\*

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## CHAPTER 413

[Substitute House Bill No. 1889]

### STATE EMPLOYEES—STATE LIABILITY FOR JUDGMENTS FOR ACTS OR OMISSIONS WITHIN SCOPE OF EMPLOYMENT

AN ACT Relating to public employee immunity; amending RCW 4.92.070; adding a new section to chapter 4.24 RCW; adding a new section to chapter 4.92 RCW; and repealing RCW 4.92.060 and 10.01.150.

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

**\*Sec. 1. Section 2, chapter 79, Laws of 1921 as last amended by section 6, chapter 126, Laws of 1986 and RCW 4.92.070 are each amended to read as follows:**

**(1) If ~~((the attorney general shall find that said))~~ a civil action or proceeding for damages is instituted against a state officer, employee, or volunteer(~~s~~) arising ~~((acts or omissions were, or purported to be in good faith))~~ from acts or omissions in good faith and within the scope of that person's official duties, ~~((said request shall be granted, in which event))~~ or alleging a violation of 42 U.S.C. Sec. 1981 or 1983, the necessary expenses of the defense of ~~((said))~~ the civil action or proceeding shall be paid from the appropriations made for the support of the department to which such officer, employee, or volunteer is attached. In such cases the attorney general shall appear and defend such officer, employee, or volunteer, who shall assist and cooperate in the defense of such suit.**

**(2) If a criminal action or proceeding is instituted against a state officer, employee, or volunteer arising from acts or omissions within the scope of that person's official duties and in conformity with established agency policies, the necessary expenses of the defense of the criminal action or proceeding shall be paid from the appropriations made for the support of the department to which such officer, employee, or volunteer is attached. In such cases the attorney general shall appear and defend such officer, employee, or volunteer, who shall assist and cooperate in the defense of such action or proceeding.**

\*Sec. 1 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 2. A new section is added to chapter 4.92 RCW to read as follows:

When a state officer, employee, or volunteer has been represented by the attorney general pursuant to RCW 4.92.070, and the body presiding over the action or proceeding has found that the officer, employee, or volunteer was acting within the scope of his or her official duties, and a judgment has been entered against the officer, employee, or volunteer pursuant to chapter 4.92 RCW or 42 U.S.C. Sec. 1981 et seq., thereafter the judgment creditor shall seek satisfaction only from the state, and the judgment shall not become a lien upon any property of such officer, employee, or volunteer.

**NEW SECTION.** Sec. 3. A new section is added to chapter 4.24 RCW to read as follows:

(1) The state shall indemnify and hold harmless its employees in the amount of any judgment obtained or fine levied against an employee in any state or federal court, or in the amount of the settlement of a claim, or shall pay the judgment, fine, or settlement, if the act or omission that gave rise to the civil or criminal liability was in good faith and occurred while the employee was acting within the scope of his or her employment or duties and the employee is being represented in accordance with RCW 4.92.070.

(2) For purposes of this section "state employee" means a member of the civil service or an exempt person under chapter 41.06 RCW, or higher education personnel under chapter 28B.16 RCW.

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

*(1) Section 1, chapter 79, Laws of 1921, section 1, chapter 40, Laws of 1975, section 1, chapter 126, Laws of 1975 1st ex. sess., section 1, chapter 217, Laws of 1985, section 5, chapter 126, Laws of 1986 and RCW 4.92-.060; and*



**(2) Section 1, chapter 144, Laws of 1975 1st ex. sess. and RCW 10.01-.150.**

\*Sec. 4 was vetoed, see message at end of chapter.

Passed the House April 17, 1989.

Passed the Senate April 7, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to sections 1 and 4, Substitute House Bill No. 1889 entitled:

"AN ACT Relating to public employee immunity."

Under current law, state officers and employees can be defended by the Attorney General for acts or omissions performed in good faith within their official scope of duties, and the state will bear the cost of the litigation and any judgment or settlement that results. To qualify, the employing agency, after reviewing the facts and circumstances, must recommend that the state assume the responsibility for the defense. The Attorney General then either approves or declines the defense. This process of reviewing and evaluating such cases has proven to be effective. Although the state has rarely declined a defense, the right to decline has been upheld by the Supreme Court in State v. Herrmann, 89 Wn. 2d 349 (1977).

Amendments to RCW 4.92.070 in section 1 of the bill eliminate existing authority of the Attorney General to make a finding regarding whether or not the employee's acts or omissions were in good faith and within the scope of official duties. Additionally, section 1, when compared on a word-for-word basis with the existing statutes repealed by section 4, inappropriately expands and mandates the state via the Attorney General to represent state officers, employees, or volunteers charged with violation of criminal statutes. A review of several instances in which employees have requested criminal defense because they felt their actions were within the scope of their job does not support the need for expanding the present statutes.

The effect of these changes in section 1 would be to modify the law so that a defense by the state is more of an entitlement, with no administrative or executive officer being expressly empowered to determine eligibility or lack thereof. The current law has worked well. It has served the interests of both the state and its employees and has provided for the defense of employees in civil rights actions for alleged violations of 42 U.S.C. Sec. 1981 or 1983. I therefore see no valid reason to change the process.

Sections 2 and 3 of the bill represent important substantive additions to the law. They require the state to indemnify and hold harmless employees who are acting within the scope of their duties when the action that gave rise to the liability or civil or criminal lawsuit occurred. They also require judgment creditors in actions against employees to seek satisfaction of judgment only from the state.

With the exception of sections 1 and 4, Substitute House Bill No. 1889 is approved."

## CHAPTER 414

[House Bill No. 1917]

## REAL ESTATE APPRAISERS—LICENSING

AN ACT Relating to the licensing and certification of real estate appraisers; adding a new chapter to Title 18 RCW; creating new sections; providing effective dates; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. It is the intent of the legislature that only individuals who meet and maintain minimum standards of competence and conduct may provide certified appraisal services to the public.

**NEW SECTION.** Sec. 2. This chapter may be known and cited as the certified real estate appraiser act.

**NEW SECTION.** Sec. 3. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate, for or in expectation of compensation. An appraisal may be classified by subject matter into either a valuation or an analysis. A "valuation" is an estimate of the value of real estate or real property. An "analysis" is a study of real estate or real property other than estimating value.

(2) "Appraisal report" means any communication, written or oral, of an appraisal.

(3) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. The term "appraisal assignment" may apply to valuation work and analysis work.

(4) "Board" means the certified real estate appraiser certification board.

(5) "Certified appraisal" means an appraisal prepared or signed by a state-certified real estate appraiser. A certified appraisal represents to the public that it meets the appraisal standards defined in this chapter.

(6) "Department" means the department of licensing.

(7) "Director" means the director of the department of licensing.

(8) "Real estate" means an identified parcel or tract of land, including improvements, if any.

(9) "Real property" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

(10) "Specialized appraisal services" means all appraisal services which do not fall within the definition of appraisal assignment. The term "specialized appraisal service" may apply to valuation work and to analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion, the work is classified as an appraisal assignment and not a specialized appraisal service.

(11) "State-certified real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a valid certificate issued to him or her for either general or residential real estate under this chapter. A state-certificated real estate appraiser may designate or identify an appraisal rendered by him or her as a "certified appraisal" and indicate which type of certification is held.

**NEW SECTION.** Sec. 4. (1) No person, other than a state-certified real estate appraiser, may assume or use that title or any title, designation, or abbreviation likely to create the impression of certification as a real estate appraiser by this state. A person who is not certified under this chapter shall not describe or refer to any appraisal or real estate located in this state by the term "certified."

(2) This section does not preclude a person who is not certified as a state-certified real estate appraiser from appraising real estate in this state for compensation.

**\*NEW SECTION. Sec. 5. There is established a real estate appraiser certification board which shall consist of seven members, two of whom are public members and five of whom are real estate appraisers.**

**The governor shall appoint the members of the real estate appraiser certification board.**

**Each of the real estate appraiser members first appointed to the board shall possess a minimum of ten years of active experience as a real estate appraiser, and shall be appointed from a cross-section of real estate appraisal organizations.**

**Each real estate appraiser member of the board appointed after July 1, 1990, must be a state-certified real estate appraiser under this chapter at the time of appointment and during the entire term. At least two members of the board shall be state-certified general real estate appraisers. At least one member of the board shall be a state-certified residential real estate appraiser. The term of each member of the board shall be three years, except that, of the members first appointed, one shall serve for three years, three shall serve for two years, and three shall serve for one year. Upon the expiration of a term, a member of the board continues to hold office until the appointment of a successor. No person shall serve as a member of the board for more than two consecutive terms. The governor may remove a member for cause.**

*The public members of the board shall not be engaged in the practice of real estate appraising.*

*The governor shall appoint one of the members as a chairperson. The chairperson serves at the pleasure of the governor.*

*The board shall meet at least once a year or as necessary to conduct board business upon the call of the chairperson at times and places as the chairperson shall designate.*

*A quorum of the board shall be five members.*

*Members of the board shall receive compensation under RCW 43.03-.240 and shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.*

\*Sec. 5 was vetoed, see message at end of chapter.

**NEW SECTION.** *Sec. 6. The real estate appraiser certification board provides technical assistance to the director relating to real estate appraisal standards and real estate appraiser qualifications and has the following responsibilities, powers, and duties:*

*(1) To recommend to the director the experience, education, and examination requirements that are appropriate for each classification of state-certified real estate appraiser;*

*(2) To recommend to the director the examination specifications, and the minimum scaled score required to pass the certification examinations for each classification of certification required by this chapter;*

*(3) To make recommendations to the director regarding continuing education requirements; and*

*(4) To conduct administrative hearings, as requested by the director, in connection with disciplinary proceedings under this chapter.*

\*Sec. 6 was vetoed, see message at end of chapter.

**NEW SECTION.** *Sec. 7. The director shall have the following powers and duties:*

*(1) To adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;*

*(2) To receive and approve applications for certification as a state-certified real estate appraiser under this chapter; to establish appropriate administrative procedures for the processing of such applications; to issue certificates to qualified applicants pursuant to the provisions of this chapter; and to maintain a register of the names and addresses of individuals who are currently certified under this chapter;*

*(3) To provide administrative assistance to the real estate appraiser certification board to enable the board to carry out its responsibilities under this chapter;*

*(4) To solicit bids and enter into contracts with educational testing services or organizations for the preparation of questions and answers for certification examinations;*

(5) To administer or contract for administration of certification examinations at locations and times as may be required to carry out the responsibilities under this chapter;

(6) To consider recommendations by the real estate appraiser certification board relating to the experience, education, and examination requirements for each classification of state-certified appraiser;

(7) To impose continuing education requirements as a prerequisite to renewal of certification;

(8) To consider recommendations by the real estate appraiser certification board relating to standards of professional appraisal practice in the enforcement of this chapter;

(9) To issue an annual statement describing the receipts and expenditures in the administration of this chapter during each fiscal year;

(10) To establish appropriate administrative procedures for disciplinary proceedings conducted pursuant to the provisions of this chapter;

(11) To compel the attendance of witnesses and production of books, documents, records, and other papers; to administer oaths; and to take testimony and receive evidence concerning all matters within their jurisdiction. These powers may be exercised directly by the director or the director's authorized representatives acting by authority of law;

(12) To employ such professional, clerical, and technical assistance as may be necessary to properly administer the work of the director;

(13) To establish forms necessary to administer this chapter; and

(14) To do all other things necessary to carry out the provisions of this chapter and minimally meet the requirements of federal guidelines regarding state certification of appraisers that the director determines are appropriate for state-certified appraisers in this state.

**NEW SECTION.** Sec. 8. The director, members of the board, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties except for their intentional or willful misconduct.

**NEW SECTION.** Sec. 9. The director shall establish fees by rule, under RCW 43.24.086 and chapter 34.05 RCW and establish collection procedures for the fees.

**NEW SECTION.** Sec. 10. (1) Applications for examinations, original certification, and renewal certification shall be made in writing to the department on forms approved by the director. Applications for original and renewal certification shall include a statement confirming that the applicant shall comply with applicable rules and regulations and that the applicant understands the penalties for misconduct.

(2) The appropriate fees shall accompany all applications for examination, reexamination, original certification, and renewal certification.

**NEW SECTION.** Sec. 11. There shall be two categories of state-certified real estate appraisers:

(1) The state-certified residential real estate appraiser classification shall consist of those persons meeting the requirements for appraisal of residential real property of one to four units.

(2) The state-certified general real estate appraiser classification shall consist of those persons meeting the requirements for certification relating to the appraisal of all types of real property.

**NEW SECTION.** Sec. 12. (1) As a prerequisite to taking the examination for certification as a state-certified general real estate appraiser, an applicant shall present evidence satisfactory to the director that he or she has successfully completed the education requirements adopted by the director.

(2) As a prerequisite to taking the examination for certification as a state-certified residential real estate appraiser, an applicant shall present evidence satisfactory to the director that he or she has successfully completed the education requirements adopted by the director.

(3) The education requirements of subsections (1) and (2) of this section may be waived by the director if the applicant presents evidence to the satisfaction of the director that the applicant was practicing as a real estate appraiser in the state of Washington on the effective date of this section.

**NEW SECTION.** Sec. 13. As a prerequisite to taking the examination for certification as a state-certified real estate appraiser, an applicant must meet the experience requirements adopted by the director.

**NEW SECTION.** Sec. 14. An original certification as a state-certified real estate appraiser shall be issued to persons who have satisfactorily passed a written examination as adopted by the director.

**NEW SECTION.** Sec. 15. Every applicant for certification who is not a resident of this state shall submit, with the application for certification, an irrevocable consent that service of process upon him or her may be made by service on the director if, in an action against the applicant in a court of this state arising out of the applicant's activities as a state-certified real estate appraiser, the plaintiff cannot, in the exercise of due diligence, obtain personal service upon the applicant.

**NEW SECTION.** Sec. 16. An applicant for certification who is currently certified and in good standing under the laws of another state may obtain a certificate as a Washington state-certified real estate appraiser without being required to satisfy the examination requirements of this chapter if: The director determines that the certification requirements are substantially similar to those found in Washington state; and that the other state has a written reciprocal agreement to provide similar treatment to holders of Washington state certificates.

**NEW SECTION.** Sec. 17. (1) Each original and renewal certificate shall be for a period of two years.

(2) To be renewed as a state-certified real estate appraiser, the holder of a valid certificate shall apply and pay the prescribed fee to the director no earlier than one hundred twenty days prior to the expiration date of the certificate and shall demonstrate satisfaction of any continuing education requirements.

(3) If a person fails to renew a certificate prior to its expiration, the person may obtain a renewal certificate by satisfying all of the requirements for renewal and paying late renewal fees.

**NEW SECTION.** Sec. 18. (1) A certificate issued under this chapter shall bear the signature or facsimile signature of the director and a certificate number assigned by the director.

(2) Each state-certified real estate appraiser shall place his or her certificate number adjacent to or immediately below the title "state-certified residential real estate appraiser" or "state-certified general real estate appraiser" when used in an appraisal report or in a contract or other instrument used by the certificate holder in conducting real property appraisal activities.

**NEW SECTION.** Sec. 19. (1) The term "state-certified real estate appraiser" may only be used to refer to individuals who hold the certificate and may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, or group, or in such manner that it might be interpreted as referring to a firm, partnership, corporation, group, or anyone other than an individual holder of the certificate.

(2) No certificate may be issued under this chapter to a corporation, partnership, firm, or group. This shall not be construed to prevent a state-certified appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice.

**NEW SECTION.** Sec. 20. An application for certification or recertification may be denied, and the certification of any state-certified real estate appraiser may be revoked, suspended, or otherwise disciplined in accordance with the provisions of this chapter, for any of the following acts or omissions:

(1) Failing to meet the minimum qualifications for state certification established by or pursuant to this chapter;

(2) Procuring or attempting to procure state certification under this chapter by knowingly making a false statement, knowingly submitting false information, or knowingly making a material misrepresentation on any application filed with the director;

(3) Paying money other than the fees provided for by this chapter to any employee of the director or the board to procure state certification under this chapter;

(4) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(5) Negligence or incompetence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(6) Continuing to act as a certified real estate appraiser when his or her certificate is on an expired status;

(7) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book, or record in his or her possession for inspection of the director or the director's authorized representatives acting by authority of law; and

(8) Violating any provision of this chapter or any lawful rule or regulation made by the director pursuant thereto.

**NEW SECTION.** Sec. 21. The director may investigate the actions of a state-certified real estate appraiser or an applicant for certification or recertification. Upon receipt of information indicating that a state-certified real estate appraiser under this chapter may have violated this chapter, the director shall cause one or more of the staff investigators to make an investigation of the facts to determine whether or not there is admissible evidence of any such violation. If technical assistance is required, a staff investigator may consult with not more than one of the appraiser members of the board. If an appraiser member of the board is consulted and renders assistance in an investigation, the appraiser member is excused from service on the board in connection with any administrative hearing that may result from such investigation.

In any investigation made by the director's investigative staff, the director shall have the power to compel the attendance of witnesses and the production of books, documents, records, and other papers, to administer oaths, and to take testimony and receive evidence concerning all matters within the director's jurisdiction.

If the director determines, upon investigation, that a state-certified real estate appraiser under this chapter has violated this chapter, a statement of charges shall be prepared and served upon the state-certified real estate appraiser. This statement of charges shall require the accused party to file an answer to the statement of charges within twenty days of the date of service.

In responding to a statement of charges, the accused party may admit to the allegations, deny the allegations, or otherwise plea. Failure to make a timely response shall be deemed an admission of the allegations contained in the statement of charges.

**NEW SECTION.** Sec. 22. The administrative hearing on the allegations in the statement of charges may be heard by the board or an administrative law judge appointed under chapter 34.12 RCW at the time and place prescribed by the director and in accordance with the provisions of the



administrative procedure act, chapter 34.05 RCW. If the board or the administrative law judge determines that a state-certified real estate appraiser is guilty of a violation of any of the provisions of this chapter, a formal decision shall be prepared that contains findings of fact and recommendations to the director concerning the appropriate disciplinary action to be taken.

In such event the director shall enter an order to that effect and shall file the same in his or her office and immediately mail a copy thereof to the affected party at the addresses of record with the department. Such order shall not be operative for a period of ten days from the date thereof. Any licensee or applicant aggrieved by a final decision by the director in an adjudicative proceeding whether such decision is affirmative or negative in form, is entitled to a judicial review in the superior court under the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 23. The attorney general shall render to the director and board opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof that may be submitted by the director or board, and shall act as attorney for the director and board in all actions and proceedings brought by or against the director and board under or pursuant to any provisions of this chapter.

NEW SECTION. Sec. 24. Sections 2 through 23 of this act shall constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 25. If specific funding for the purposes of this act, referencing this act by bill number, is not provided by June 30, 1989, in the omnibus appropriations act, this act shall be null and void.

NEW SECTION. Sec. 26. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 27. (1) Sections 2, 3, 5 through 8, and 26 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

(2) Sections 1, 4, and 9 through 22 of this act shall take effect July 1, 1990.

Passed the House April 21, 1989.

Passed the Senate April 21, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

\*I am returning herewith, without my approval as to sections 5 and 6, Engrossed House Bill No. 1917 entitled:

"AN ACT Relating to the licensing and certification of real estate appraisers."

I support the approach in the bill to certify real estate appraisers. It is a voluntary certification program, which is the lowest level of regulation that will meet the anticipated need. It is also structured suitably, with the Department of Licensing responsible for actual certification and administration, assisted by an advisory board.

There are, however, several problems with the creation of the real estate appraiser certification board. I have expressed my concern with the proliferation of permanent statutory boards on numerous occasions. I believe that these boards create confusion in the public's mind and reduce government's accountability to the people. There are relatively few advisory functions that cannot be performed by temporary, nonstatutory bodies appointed by agency directors.

I am also concerned with the ambiguity surrounding this board's ability to conduct administrative hearings. The Administrative Procedure Act already specifies a hearings procedure in some detail. I think it advisable to use this procedure for hearings on real estate appraiser certification issues as it is used for numerous other matters.

Because I think advice from the public and industry representatives is indispensable to state agencies with regulatory responsibilities, I am asking the Director of the Department of Licensing to appoint an advisory body under existing statutory authority.

This partial veto will leave a number of inaccurate references in the remaining portions of the bill which should be corrected by the Legislature.

With the exception of sections 5 and 6, Engrossed House Bill No. 1917 is approved."

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## CHAPTER 415

[House Bill No. 1645]

### MOTOR VEHICLE MANUFACTURERS AND DEALERS—FRANCHISES—SALES, TRANSFERS, AND CANCELLATIONS

AN ACT Relating to the relationship between motor vehicle dealers and manufacturers; amending RCW 46.70.180 and 46.70.190; creating a new chapter in Title 46 RCW; and repealing RCW 46.70.200 and 46.70.210.

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

**NEW SECTION.** Sec. 1. The legislature finds and declares that the distribution and sale of motor vehicles in this state vitally affect the general economy of the state and the public interest and public welfare, that provision for warranty service to motor vehicles is of substantial concern to the people of this state, that the maintenance of fair competition among dealers and others is in the public interest, and that the maintenance of strong and sound dealerships is essential to provide continuing and necessary reliable services to the consuming public in this state and to provide stable employment to the citizens of this state. The legislature further finds that there is a substantial disparity in bargaining power between automobile manufacturers and their dealers, and that in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate the relationship between motor vehicle dealers and motor vehicle

manufacturers, importers, distributors, and their representatives doing business in this state, not only for the protection of dealers but also for the benefit for the public in assuring the continued availability and servicing of automobiles sold to the public.

The legislature recognizes it is in the best interest for manufacturers and dealers of motor vehicles to conduct business with each other in a fair, efficient, and competitive manner. The legislature declares the public interest is best served by dealers being assured of the ability to manage their business enterprises under a contractual obligation with manufacturers where dealers do not experience unreasonable interference and are assured of the ability to transfer ownership of their business without undue constraints. It is the intent of the legislature to impose a regulatory scheme and to regulate competition in the motor vehicle industry to the extent necessary to balance fairness and efficiency. These actions will permit motor vehicle dealers to better serve consumers and allow dealers to devote their best competitive efforts and resources to the sale and services of the manufacturer's products to consumers.

**NEW SECTION.** Sec. 2. In addition to the definitions contained in RCW 46.70.011, which are incorporated by reference into this chapter, the definitions set forth in this section apply only for the purposes of this chapter.

(1) A "new motor vehicle" is a vehicle that has not been titled by a state and ownership of which may be transferred on a manufacturer's statement of origin (MSO).

(2) "New motor vehicle dealer" means a motor vehicle dealer engaged in the business of buying, selling, exchanging, or otherwise dealing in new motor vehicles or new and used motor vehicles at an established place of business, under a franchise, sales and service agreement, or contract with the manufacturer of the new motor vehicles. However, the term "new motor vehicle dealer" does not include a miscellaneous vehicle dealer as defined in RCW 46.70.011(3)(c) or a motorcycle dealer as defined in chapter 46.94 RCW.

(3) "Franchise" means one or more agreements, whether oral or written, between a manufacturer and a new motor vehicle dealer, under which the new motor vehicle dealer is authorized to sell, service, and repair new motor vehicles, parts, and accessories under a common name, trade name, trademark, or service mark of the manufacturer.

"Franchise" includes an oral or written contract and includes a dealer agreement, either expressed or implied, between a manufacturer and a new motor vehicle dealer that purports to fix the legal rights and liabilities between the parties and under which (a) the dealer is granted the right to purchase and resell motor vehicles manufactured, distributed, or imported by the manufacturer; (b) the dealer's business is associated with the trademark, trade name, commercial symbol, or advertisement designating the

franchisor or the products distributed by the manufacturer; and (c) the dealer's business relies on the manufacturer for a continued supply of motor vehicles, parts, and accessories.

(4) "Good faith" means honesty in fact and fair dealing in the trade as defined and interpreted in RCW 62A.2-103.

(5) "Designated successor" means:

(a) The spouse, biological or adopted child, grandchild, parent, brother, or sister of the owner of a new motor vehicle dealership who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealership under the terms of the owner's will or similar document, and if there is no such will or similar document, then under applicable intestate laws;

(b) A qualified person experienced in the business of a new motor vehicle dealer who has been nominated by the owner of a new motor vehicle dealership as the successor in a written, notarized, and witnessed instrument submitted to the manufacturer; or

(c) In the case of an incapacitated owner of a new motor vehicle dealership, the person who has been appointed by a court as the legal representative of the incapacitated owner's property.

(6) "Owner" means a person holding an ownership interest in the business entity operating as a new motor vehicle dealer and who is the designated dealer in the new motor vehicle franchise agreement.

(7) "Person" means every natural person, partnership, corporation, association, trust, estate, or any other legal entity.

**NEW SECTION.** Sec. 3. Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, no manufacturer may terminate, cancel, or fail to renew a franchise with a new motor vehicle dealer, unless the manufacturer has complied with the notice requirements of section 7 of this act and an administrative law judge has determined, if requested in writing by the new motor vehicle dealer within the applicable time period specified in section 7(1), (2), or (3) of this act, after hearing, that there is good cause for the termination, cancellation, or nonrenewal of the franchise and that the manufacturer has acted in good faith, as defined in this chapter, regarding the termination, cancellation, or nonrenewal.

**NEW SECTION.** Sec. 4. A new motor vehicle dealer who has received written notification from the manufacturer of the manufacturer's intent to terminate, cancel, or not renew the franchise may file a petition with the department for a determination as to the existence of good cause and good faith for the termination, cancellation, or nonrenewal of a franchise. The petition shall contain a short statement setting forth the reasons for the dealer's objection to the termination, cancellation, or nonrenewal of the franchise. Upon the filing of the petition and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely petition has been filed and shall request the appointment of an administrative law

judge under chapter 34.12 RCW to conduct a hearing. The franchise in question shall continue in full force and effect pending the administrative law judge's decision. If the decision of the administrative law judge terminating, canceling, or failing to renew a dealer's franchise is appealed by a dealer, the franchise in question shall continue in full force and effect until the appeal to superior court is finally determined or until the expiration of one hundred eighty days from the date of issuance of the administrative law judge's written decision, whichever is less. Nothing in this section precludes a manufacturer or dealer from petitioning the superior court for a stay or other relief pending judicial review.

**NEW SECTION.** Sec. 5. (1) The administrative law judge shall conduct the hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred eighty days after a petition is filed. If the termination, cancellation, or nonrenewal is under section 7(2) of this act, the administrative law judge shall give the proceeding priority consideration and shall render a final decision not later than sixty days after a petition is filed.

(2) The administrative law judge shall conduct the hearing as an adjudicative proceeding in accordance with the procedures provided for in the Administrative Procedure Act, chapter 34.05 RCW. The administrative law judge shall render the final decision and shall enter a final order. Except as otherwise provided in RCW 34.05.446 and 34.05.449, all hearing costs shall be borne on an equal basis by the parties to the hearing.

(3) A party to a hearing under this chapter may be represented by counsel. A party to a hearing aggrieved by the final order of the administrative law judge concerning the termination, cancellation, or nonrenewal of a franchise may seek judicial review of the order in the superior court in the manner provided for in RCW 34.05.510 through 34.05.598. A petitioner for judicial review need not exhaust all administrative appeals or administrative review processes as a prerequisite for seeking judicial review under this section.

**NEW SECTION.** Sec. 6. (1) Notwithstanding the terms of a franchise or the terms of a waiver, and except as otherwise provided in section 7(2) (a) through (d) of this act, good cause exists for termination, cancellation, or nonrenewal when there is a failure by the new motor vehicle dealer to comply with a provision of the franchise that is both reasonable and of material significance to the franchise relationship, if the new motor vehicle dealer was notified of the failure within one hundred eighty days after the manufacturer first acquired knowledge of the failure and the new motor vehicle dealer did not correct the failure after being requested to do so.

If, however, the failure of the new motor vehicle dealer relates to the performance of the new motor vehicle dealer in sales, service, or level of customer satisfaction, good cause is the failure of the new motor vehicle

dealer to comply with reasonable performance standards determined by the manufacturer in accordance with uniformly applied criteria, and:

(a) The new motor vehicle dealer was advised, in writing, by the manufacturer of the failure;

(b) The notice under this subsection stated that notice was provided of a failure of performance under this section;

(c) The manufacturer provided the new motor vehicle dealer with specific, reasonable goals or reasonable performance standards with which the dealer must comply, together with a suggested timetable or program for attaining those goals or standards, and the new motor vehicle dealer was given a reasonable opportunity, for a period not less than one hundred eighty days, to comply with the goals or standards; and

(d) The new motor vehicle dealer did not substantially comply with the manufacturer's performance standards during that period and the failure to demonstrate substantial compliance was not due to market or economic factors within the new motor vehicle dealer's relevant market area that were beyond the control of the dealer.

(2) The manufacturer has the burden of proof of establishing good cause and good faith for the termination, cancellation, or nonrenewal of the franchise under this section.

**NEW SECTION.** Sec. 7. Before the termination, cancellation, or nonrenewal of a franchise, the manufacturer shall give written notification to both the department and the new motor vehicle dealer. The notice shall be by certified mail or personally delivered to the new motor vehicle dealer and shall state the intention to terminate, cancel, or not renew the franchise, the reasons for the termination, cancellation, or nonrenewal, and the effective date of the termination, cancellation, or nonrenewal. The notice shall be given:

(1) Not less than ninety days before the effective date of the termination, cancellation, or nonrenewal;

(2) Not less than fifteen days before the effective date of the termination, cancellation, or nonrenewal with respect to any of the following that constitute good cause for termination, cancellation, or nonrenewal:

(a) Insolvency of the new motor vehicle dealer or the filing of any petition by or against the new motor vehicle dealer under bankruptcy or receivership law;

(b) Failure of the new motor vehicle dealer to conduct sales and service operations during customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;

(c) Conviction of the new motor vehicle dealer, or principal operator of the dealership, of a felony punishable by imprisonment; or

(d) Suspension or revocation of a license that the new motor vehicle dealer is required to have to operate the new motor vehicle dealership where the suspension or revocation is for a period in excess of thirty days;

(3) Not less than one hundred eighty days before the effective date of termination, cancellation, or nonrenewal, where the manufacturer intends to discontinue sale and distribution of the new motor vehicle line.

**NEW SECTION.** Sec. 8. (1) Upon the termination, cancellation, or nonrenewal of a franchise by the manufacturer under this chapter, the manufacturer shall pay the new motor vehicle dealer, at a minimum:

(a) Dealer cost plus any charges by the manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the dealer by the manufacturer, of unused, undamaged, and unsold new motor vehicles in the new motor vehicle dealer's inventory that were acquired from the manufacturer or another new motor vehicle dealer of the same line make within the previous twelve months;

(b) Dealer cost for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging, except that in the case of sheet metal, a comparable substitute for original packaging may be used, if the supply, part, or accessory was acquired from the manufacturer or from another new motor vehicle dealer ceasing operations as a part of the new motor vehicle dealer's initial inventory as long as the supplies, parts, and accessories appear in the manufacturer's current parts catalog, list, or current offering;

(c) Dealer cost for all unused, undamaged, and unsold inventory, whether vehicles, parts, or accessories, the purchase of which was required by the manufacturer;

(d) The fair market value of each undamaged sign owned by the new motor vehicle dealer that bears a common name, trade name, or trademark of the manufacturer, if acquisition of the sign was recommended or required by the manufacturer and the sign is in good and usable condition less reasonable wear and tear, and has not been depreciated by the dealer more than fifty percent of the value of the sign;

(e) The fair market value of all equipment, furnishings, and special tools owned or leased by the new motor vehicle dealer that were acquired from the manufacturer or sources approved by the manufacturer and that were recommended or required by the manufacturer and are in good and usable condition, less reasonable wear and tear. However, if the equipment, furnishings, or tools are leased by the new motor vehicle dealer, the manufacturer shall pay the new motor vehicle dealer such amounts that are required by the lessor to terminate the lease under the terms of the lease agreement; and

(f) The cost of transporting, handling, packing, and loading of new motor vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings.

To the extent the franchise agreement provides for payment or reimbursement to the new motor vehicle dealer in excess of that specified in this section, the provisions of the franchise agreement shall control.

(2) The manufacturer shall pay the new motor vehicle dealer the sums specified in subsection (1) of this section within ninety days after the tender of the property, if the new motor vehicle dealer has clear title to the property and is in a position to convey that title to the manufacturer.

NEW SECTION. Sec. 9. (1) In the event of a termination, cancellation, or nonrenewal under this chapter, except for termination, cancellation, or nonrenewal under section 7(2) of this act, the manufacturer shall, at the request and option of the new motor vehicle dealer, also pay to the new motor vehicle dealer:

(a) A sum equivalent to rent for the unexpired term of the lease or one year, whichever is less, or such longer term as provided in the franchise, if the new motor vehicle dealer is leasing the new motor vehicle dealership facilities from a lessor other than the manufacturer; or

(b) A sum equivalent to the reasonable rental value of the new motor vehicle dealership facilities for one year or until the facilities are leased or sold, whichever is less, if the new motor vehicle dealer owns the new motor vehicle dealership facilities.

(2) The rental payment required under subsection (1) of this section is only required to the extent that the facilities were used for activities under the franchise and only to the extent the facilities were not leased for unrelated purposes. If payment under subsection (1) of this section is made, the manufacturer is entitled to possession and use of the new motor vehicle dealership facilities for the period rent is paid.

NEW SECTION. Sec. 10. Sections 3 through 9 of this act do not relieve a new motor vehicle dealer from the obligation to mitigate the dealer's damages upon termination, cancellation, or nonrenewal of the franchise.

NEW SECTION. Sec. 11. (1) Notwithstanding the terms of a franchise, an owner may appoint a designated successor to succeed to the ownership of the new motor vehicle dealer franchise upon the owner's death or incapacity.

(2) Notwithstanding the terms of a franchise, a designated successor of a deceased or incapacitated owner of a new motor vehicle dealer franchise may succeed to the ownership interest of the owner under the existing franchise, if:

(a) In the case of a designated successor who meets the definition of a designated successor under section 2(5)(a) of this act, but who is not experienced in the business of a new motor vehicle dealer, the person will employ an individual who is qualified and experienced in the business of a new motor vehicle dealer to help manage the day-to-day operations of the motor vehicle dealership; or in the case of a designated successor who meets



the definition of a designated successor under section 2(5)(b) or 2(5)(c) of this act, the person is qualified and experienced in the business of a new motor vehicle dealer and meets the normal, reasonable, and uniformly applied standards for grant of an application as a new motor vehicle dealer by the manufacturer; and

(b) The designated successor furnishes written notice to the manufacturer of his or her intention to succeed to the ownership of the new motor vehicle dealership within sixty days after the owner's death or incapacity; and

(c) The designated successor agrees to be bound by all terms and conditions of the franchise.

(3) The manufacturer may request, and the designated successor shall promptly provide, such personal and financial information as is reasonably necessary to determine whether the succession should be honored.

(4) A manufacturer may refuse to honor the succession to the ownership of a new motor vehicle dealer franchise by a designated successor if the manufacturer establishes that good cause exists for its refusal to honor the succession. If the designated successor of a deceased or incapacitated owner of a new motor vehicle dealer franchise fails to meet the requirements set forth in subsections (2) (a), (b), and (c) of this section, good cause for refusing to honor the succession is presumed to exist. If a manufacturer believes that good cause exists for refusing to honor the succession to the ownership of a new motor vehicle dealer franchise by a designated successor, the manufacturer shall serve written notice on the designated successor and on the department of its refusal to honor the succession no earlier than sixty days from the date the notice is served. The notice must be served not later than sixty days after the manufacturer's receipt of:

(a) Notice of the designated successor's intent to succeed to the ownership interest of the new motor vehicle dealer's franchise; or

(b) Any personal or financial information requested by the manufacturer.

(5) The notice in subsection (4) of this section shall state the specific grounds for the refusal to honor the succession. If the notice of refusal is not timely and properly served, the designated successor may continue the franchise in full force and effect, subject to termination only as otherwise provided under this chapter.

(6) Within twenty days after receipt of the notice or within twenty days after the end of any appeal procedure provided by the manufacturer, whichever is greater, the designated successor may file a petition with the department protesting the refusal to honor the succession. The petition shall contain a short statement setting forth the reasons for the designated successor's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law

judge under chapter 34.12 RCW to conduct a hearing. The manufacturer shall not terminate or otherwise discontinue the existing franchise until the administrative law judge has held a hearing and has determined that there is good cause for refusing to honor the succession. If an appeal is taken, the manufacturer shall not terminate or discontinue the franchise until the appeal to superior court is finally determined or until the expiration of one hundred eighty days from the date of issuance of the administrative law judge's written decision, whichever is less. Nothing in this section precludes a manufacturer or dealer from petitioning the superior court for a stay or other relief pending judicial review.

(7) The manufacturer has the burden of proof to show that good cause exists for the refusal to honor the succession.

(8) The administrative law judge shall conduct the hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred eighty days after a protest is filed.

(9) The administrative law judge shall conduct any hearing concerning the refusal to the succession as provided in section 5(2) of this act and all hearing costs shall be borne as provided in that subsection. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in section 5(3) of this act.

(10) This section does not preclude the owner of a new motor vehicle dealer franchise from designating any person as his or her successor by a written, notarized, and witnessed instrument filed with the manufacturer. In the event of a conflict between such a written instrument that has not been revoked by written notice from the owner to the manufacturer and this section, the written instrument governs.

***\*NEW SECTION. Sec. 12. (1) For the purposes of this section, and throughout this chapter, the term "relevant market area" is defined as follows:***

***(a) If the population in the county in which the proposed new or relocated dealership is to be located is four hundred thousand or more, the relevant market area is the geographic area within a radius of ten miles around the proposed site;***

***(b) If the population in the county in which the proposed new or relocated dealership is to be located is less than four hundred thousand, the relevant market area is the geographic area within a radius of fifteen miles around the proposed site.***

***In determining population for this definition, the most recent census by the United States Bureau of Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be accumulated for all census tracts either wholly or partially within the relevant market area.***

***(2) Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, if a manufacturer intends or proposes to enter into a***

*franchise to establish an additional new motor vehicle dealer or to relocate an existing new motor vehicle dealer within or into a relevant market area in which the same line make of motor vehicle is then represented, the manufacturer shall provide at least sixty days advance written notice to the department and to each new motor vehicle dealer of the same line make in the relevant market area, of the manufacturer's intention to establish an additional new motor vehicle dealer or to relocate an existing new motor vehicle dealer within or into the relevant market area. The notice shall be sent by certified mail to each such party and shall include the following information:*

*(a) The specific location at which the additional or relocated motor vehicle dealer will be established;*

*(b) The date on or after which the additional or relocated motor vehicle dealer intends to commence business at the proposed location;*

*(c) The identity of all motor vehicle dealers who are franchised to sell the same line make vehicles as the proposed dealer and who have licensed locations within the relevant market area;*

*(d) The names and addresses, if available, of the owners of and principal investors in the proposed additional or relocated motor vehicle dealership; and*

*(e) The specific grounds or reasons for the proposed establishment of an additional motor vehicle dealer or relocation of an existing dealer.*

*\*Sec. 12 was vetoed, see message at end of chapter.*

***\*NEW SECTION. Sec. 13. (1) Within thirty days after receipt of the notice under section 12 of this act, or within thirty days after the end of an appeal procedure provided by the manufacturer, whichever is greater, a new motor vehicle dealer so notified or entitled to notice may file a petition with the department protesting the proposed establishment or relocation. The petition shall contain a short statement setting forth the reasons for the dealer's objection to the proposed establishment or relocation. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The manufacturer shall not establish or relocate the new motor vehicle dealer until the administrative law judge has held a hearing and has determined that there is good cause for permitting the proposed establishment or relocation. When more than one protest is filed against the establishment or relocation of the same dealer, the administrative law judge shall consolidate the hearings to expedite disposition of the matter.***

***(2) If a manufacturer provides in the franchise agreement or by written statement distributed and provided to its dealers for arbitration under the Washington Arbitration Act, chapter 7.04 RCW, as a mechanism for resolving disputes relating to the establishment of an additional new motor vehicle dealer or the relocation of a new motor vehicle dealer, then the provisions of***

*this section and section 15 of this act relating to hearings by an administrative law judge do not apply, and a dispute regarding the establishment of an additional new motor vehicle dealer or the relocation of an existing new motor vehicle dealer shall be determined in an arbitration proceeding conducted in accordance with the Washington Arbitration Act, chapter 7.04 RCW. The thirty-day period for filing a protest under this section still applies except that the protesting dealer shall file his protest with the manufacturer within thirty days after receipt of the notice under section 12 of this act.*

*(3) The dispute shall be referred for arbitration to such arbitrator as may be agreed upon by the parties to the dispute. If the parties cannot agree upon a single arbitrator within thirty days from the date the protest is filed, the protesting dealer will select an arbitrator, the manufacturer will select an arbitrator, and the two arbitrators will then select a third. If a third arbitrator is not agreed upon within thirty days, any party may apply to the superior court, and the judge of the superior court having jurisdiction will appoint the third arbitrator. The protesting dealer will pay the arbitrator selected by him, and the manufacturer will pay the arbitrator it selected. The expense of the third arbitrator and all other expenses of arbitration will be shared equally by the parties. Attorneys' fees and fees paid to expert witnesses are not expenses of arbitration and will be paid by the person incurring them.*

*(4) Notwithstanding the terms of a franchise or written statement of the manufacturer and notwithstanding the terms of a waiver, the arbitration will take place in the state of Washington in the county where the protesting dealer has his principal place of business. Section 14 of this act applies to a determination made by the arbitrator or arbitrators in determining whether good cause exists for permitting the proposed establishment or relocation of a new motor vehicle dealer, and the manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation. After a hearing has been held, the arbitrator or arbitrators shall render a decision as expeditiously as possible, but in any event not later than one hundred twenty days from the date the arbitrator or arbitrators are selected or appointed. The manufacturer shall not establish or relocate the new motor vehicle dealer until the arbitration hearing has been held and the arbitrator or arbitrators have determined that there is good cause for permitting the proposed establishment or relocation. The written decision of the arbitrator is binding upon the parties unless modified, corrected, or vacated under the Washington Arbitration Act. Any party may appeal the decision of the arbitrator under the Washington Arbitration Act, chapter 7.04 RCW.*

*(5) If the franchise agreement or the manufacturer's written statement distributed and provided to its dealers does not provide for arbitration under the Washington Arbitration Act as a mechanism for resolving disputes relating to the establishment of an additional new motor vehicle dealer or the relocation of a new motor vehicle dealer, then the hearing provisions of this section and section 15 of this act apply. Nothing in this section is intended to*

*preclude a new motor vehicle dealer from electing to use any other dispute resolution mechanism offered by a manufacturer.*

*\*Sec. 13 was vetoed, see message at end of chapter.*

*\*NEW SECTION. Sec. 14. In determining whether good cause exists for permitting the proposed establishment or relocation of a new motor vehicle dealer of the same line make, the administrative law judge shall take into consideration the existing circumstances, including, but not limited to:*

*(1) The extent, nature, and permanency of the investment of both the existing motor vehicle dealers of the same line make in the relevant market area and the proposed additional or relocating new motor vehicle dealer, including obligations reasonably incurred by the existing dealers to perform their obligations under their respective franchises;*

*(2) The growth or decline in population and new motor vehicle registrations during the past five years in the relevant market area;*

*(3) The effect on the consuming public in the relevant market area;*

*(4) The effect on the existing new motor vehicle dealers in the relevant market area, including any adverse financial impact;*

*(5) The reasonably expected or anticipated vehicle market for the relevant market area, including demographic factors such as age of population, income, education, size class preference, product popularity, retail lease transactions, or other factors affecting sales to consumers in the relevant market area;*

*(6) Whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealer to be established;*

*(7) Whether the new motor vehicle dealers of the same line make in the relevant market area are providing adequate competition and convenient customer care for the motor vehicles of the same line make in the relevant market area, including the adequacy of motor vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel;*

*(8) Whether the establishment of an additional new motor vehicle dealer would increase competition and be in the public interest;*

*(9) Whether the manufacturer is motivated principally by good faith to establish an additional or new motor vehicle dealer and not by noneconomic considerations;*

*(10) Whether the manufacturer has denied its existing new motor vehicle dealers of the same line make the opportunity for reasonable growth, market expansion, establishment of a subagency, or relocation;*

*(11) Whether the protesting dealer or dealers are in substantial compliance with their dealer agreements or franchises; and*

*(12) Whether the manufacturer has complied with the requirements of sections 12 and 13 of this act.*

*In considering the factors set forth in this section, the administrative law judge shall give the factors equal weight, and in making a determination as to whether good cause exists for permitting the proposed establishment or*

*relocation of a new motor vehicle dealer of the same line make, the administrative law judge must find that at least nine of the factors set forth in this section weigh in favor of the manufacturer and in favor of the proposed establishment or relocation of a new motor vehicle dealer.*

*\*Sec. 14 was vetoed, see message at end of chapter.*

**\*NEW SECTION.** *Sec. 15. (1) The manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation.*

*(2) The administrative law judge shall conduct any hearing as provided in section 5(2) of this act, and all hearing costs shall be borne as provided in that subsection. The administrative law judge shall render the final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. If more than one protest is filed, the one hundred twenty days commences to run from the date the last protest is filed. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in section 5(3) of this act.*

*\*Sec. 15 was vetoed, see message at end of chapter.*

**\*NEW SECTION.** *Sec. 16. Sections 12 through 15 of this act do not apply:*

*(1) To the sale or transfer of the ownership or assets of an existing new motor vehicle dealer where the transferee proposes to engage in business representing the same line make at the same location or within two miles of that location;*

*(2) To the relocation of an existing new motor vehicle dealer within the dealer's relevant market area, if the relocation is not at a site within ten miles of any new motor vehicle dealer of the same line make;*

*(3) If the proposed new motor vehicle dealer is to be established at or within two miles of a location at which a former new motor vehicle dealer of the same line make had ceased operating within the previous twenty-four months;*

*(4) Where the proposed relocation is two miles or less from the existing location of the relocating new motor vehicle dealer; or*

*(5) Where the proposed relocation is to be further away from all other existing new motor vehicle dealers of the same line make in the relevant market area.*

*\*Sec. 16 was vetoed, see message at end of chapter.*

**\*NEW SECTION.** *Sec. 17. A manufacturer shall not coerce, threaten, intimidate, or require a new motor vehicle dealer, as a condition to granting or renewing a franchise, to waive, limit, or disclaim a right that the dealer may have to protest the establishment or relocation of another motor vehicle dealer in the relevant market area as provided in section 13 of this act.*

*\*Sec. 17 was vetoed, see message at end of chapter.*

**NEW SECTION.** Sec. 18. (1) Notwithstanding the terms of a franchise, a manufacturer shall not unreasonably withhold consent to the sale, transfer, or exchange of a franchise to a qualified buyer who meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer or is capable of being licensed as a new motor vehicle dealer in the state of Washington. A decision or determination made by the administrative law judge as to whether a qualified buyer is capable of being licensed as a new motor vehicle dealer in the state of Washington is not conclusive or determinative of any ultimate determination made by the department of licensing as to the buyer's qualification for a motor vehicle dealer license. A manufacturer's failure to respond in writing to a request for consent under this subsection within sixty days after receipt of a written request on the forms, if any, generally used by the manufacturer containing the information and reasonable promises required by a manufacturer is deemed to be consent to the request. A manufacturer may request, and, if so requested, the applicant for a franchise (a) shall promptly provide such personal and financial information as is reasonably necessary to determine whether the sale, transfer, or exchange should be approved, and (b) shall agree to be bound by all reasonable terms and conditions of the franchise.

(2) If a manufacturer refuses to approve the sale, transfer, or exchange of a franchise, the manufacturer shall serve written notice on the applicant, the transferring, selling, or exchanging new motor vehicle dealer, and the department of its refusal to approve the transfer of the franchise no later than sixty days after the date the manufacturer receives the written request from the new motor vehicle dealer. If the manufacturer has requested personal or financial information from the applicant under subsection (1) of this section, the notice shall be served not later than sixty days after the receipt of all of such documents. Service of all notices under this section shall be made by personal service or by certified mail, return receipt requested.

(3) The notice in subsection (2) of this section shall state the specific grounds for the refusal to approve the sale, transfer, or exchange of the franchise.

(4) Within twenty days after receipt of the notice of refusal to approve the sale, transfer, or exchange of the franchise by the transferring new motor vehicle dealer, the new motor vehicle dealer may file a petition with the department to protest the refusal to approve the sale, transfer, or exchange. The petition shall contain a short statement setting forth the reasons for the dealer's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed, and the department shall arrange for a hearing with an administrative law judge as the presiding officer to determine if the manufacturer unreasonably withheld consent to the sale, transfer, or exchange of the franchise.

(5) In determining whether the manufacturer unreasonably withheld its approval to the sale, transfer, or exchange, the manufacturer has the burden of proof that it acted reasonably. A manufacturer's refusal to accept or approve a proposed buyer who otherwise meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer, or who otherwise is capable of being licensed as a new motor vehicle dealer in the state of Washington, is presumed to be unreasonable.

(6) The administrative law judge shall conduct a hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. Only the selling, transferring, or exchanging new motor vehicle dealer and the manufacturer may be parties to the hearing.

(7) The administrative law judge shall conduct any hearing as provided in section 5(2) of this act, and all hearing costs shall be borne as provided in that subsection. Only the manufacturer and the selling, transferring, or exchanging new motor vehicle dealer may appeal the final order of the administrative law judge as provided in section 5(3) of this act.

(8) This section and sections 3 through 17 of this act apply to all franchises and contracts existing on the effective date of this act between manufacturers and new motor vehicle dealers as well as to all future franchises and contracts between manufacturers and new motor vehicle dealers.

**NEW SECTION.** Sec. 19. The department shall determine and establish the amount of the filing fee required in sections 4, 11, 13, and 18 of this act. The fees shall be set in accordance with RCW 43.24.086.

The department may also require the petitioning or protesting party to give security, in such sum as the department deems proper but not in any event to exceed one thousand dollars, for the payment of such costs as may be incurred in conducting the hearing as required under this chapter. The security may be given in the form of a bond or stipulation or other undertaking with one or more sureties.

At the conclusion of the hearing, the department shall assess, in equal shares, each of the parties to the hearing for the cost of conducting the hearing. Upon receipt of payment of the costs, the department shall refund and return to the petitioning party such excess funds, if any, initially posted by the party as security for the hearing costs. If the petitioning party provided security in the form of a bond or other undertaking with one or more sureties, the bond or other undertaking shall then be exonerated and the surety or sureties under it discharged.

Sec. 20. Section 16, chapter 74, Laws of 1967 ex. sess. as last amended by section 18, chapter 241, Laws of 1986 and RCW 46.70.180 are each amended to read as follows:

Each of the following acts or practices is unlawful:



(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2) To incorporate within the terms of any purchase and sale agreement any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold to a person for a consideration and upon further consideration that the purchaser agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Taking from a prospective buyer of a vehicle a written order or offer to purchase, or a contract document signed by the buyer, which:

(a) Is subject to the dealer's, or his 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, for any reason except substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.

(6) For any vehicle dealer or vehicle salesman 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, other than a motorcycle manufacturer governed by chapter 46.94 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his 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 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 is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith.

(c) Encourage, aid, abet, or teach a vehicle dealer to sell vehicles through any false, deceptive, or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;

(f) To provide under the terms of any warranty that a purchaser of any new or unused vehicle that has been sold, distributed for sale, or transferred into this state for resale by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring

performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (11)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.— RCW (sections 1 through 19 of this act).

Sec. 21. Section 21, chapter 74, Laws of 1967 ex. sess. as last amended by section 19, chapter 241, Laws of 1986 and RCW 46.70.190 are each amended to read as follows:

Any person who is injured in his business or property by a violation of this chapter, or any person so injured because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of this chapter, may bring a civil action in the superior court to enjoin further violations, to recover the actual damages sustained by him together with the costs of the suit, including a reasonable attorney's fee.

~~((Any person recovering judgment or whose claim has been dismissed with prejudice against a manufacturer pursuant to RCW 46.70.180(11)(b) and this section shall, upon full payment of said judgment, or upon the dismissal of such claim, execute a waiver in favor of the judgment debtor or defendant of any claim arising prior to the date of said judgment or dismissal under the Federal Automobile Dealer Franchise Act, 15 United States Code Sections 1221-1225. Any person having recovered full payment for any judgment or whose claim has been dismissed with prejudice under said Federal Automobile Dealer Franchise Act shall have no cause of action under this section for alleged violation of RCW 46.70.180(11)(b), with respect to matters arising prior to the date of said judgment:))~~ If a new motor vehicle dealer recovers a judgment or has a claim dismissed with prejudice against a manufacturer under section 4 or 5(3) of this act or this section, the new motor vehicle dealer is precluded from pursuing that same claim or recovering judgment for that same claim against the same manufacturer under the federal Automobile Dealer Franchise Act, 15 U.S.C. Sections 1221 through 1225, but only to the extent that the damages recovered by or denied to the new motor vehicle dealer are the same as the damages being sought under the federal Automobile Dealer Franchise Act. Likewise, if a new motor vehicle dealer recovers a judgment or has a claim dismissed with prejudice against a manufacturer under the federal Automobile Dealer Franchise Act, the dealer is precluded from pursuing that same claim or recovering judgment for that same claim against the same manufacturer under this chapter, but only to the extent that the damages recovered by or denied to the dealer are the same as the damages being sought under this chapter.

A civil action brought in the superior court pursuant to the provisions of this section must be filed no later than one year following the alleged violation of this chapter.

**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. The following acts or parts of acts are each repealed:

(1) Section 17, chapter 74, Laws of 1967 ex. sess., section 20, chapter 241, Laws of 1986 and RCW 46.70.200; and

(2) Section 18, chapter 74, Laws of 1967 ex. sess., section 21, chapter 241, Laws of 1986 and RCW 46.70.210.

**NEW SECTION.** Sec. 24. Sections 1 through 19 of this act shall constitute a new chapter in Title 46 RCW.

Passed the House April 20, 1989.

Passed the Senate April 6, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to sections 12, 13, 14, 15, 16, and 17, Engrossed House Bill No. 1645 entitled:

"AN ACT Relating to the relationship between motor vehicle dealers and manufacturers."

Engrossed House Bill No. 1645 creates a separate regulatory process to monitor the relationship between motor vehicle dealers and manufacturers. The bill provides procedures for filing with the Department of Licensing any dispute between a dealer and manufacturer regarding location, relocation, cancellation, or non-renewal of a franchise.

This bill addresses many of the inequities in the contractual relationships state motor vehicle dealers have had with manufacturers. The sections being enacted provide a new balance between dealers and manufacturers which should promote healthier franchises, clarify agreements, and encourage action in good faith by both parties, with benefits to the public interest of consumers.

However, sections 12 through 17 allow creation of geographic "relevant market areas." This would permit a dealer of new vehicles to intervene against a manufacturer's actions for location or relocation of a new franchise of the "same line make of motor vehicle" within a ten-mile radius in urban areas or within a fifteen-mile radius in areas where the population of the county is less than four hundred thousand. This language interferes with the competitive nature of the market. It provides a significant procedural and economic limitation to entry in the market as well as promoting higher prices. The burden of proof to establish "good cause" for the new or relocated dealership is on the manufacturer and there is no consumer representative in the process.

A 1986 study conducted by the Federal Trade Commission, entitled "The Effect of State Entry Regulation on Retail Automobile Markets," estimates that the impact of similar market area restrictions can be as much as a seven percent increase in the average price of new cars in areas experiencing urban population growth.

Government must be careful not to interfere with the market flow of commercial transactions and to ensure that any necessary interference not compromise the public interest. In past veto messages, I have indicated my concerns about establishing market areas for new motorcycle franchise dealers (1985 - Substitute Senate Bill No. 3333) and motor vehicle fuel dealers (1986 - Engrossed Senate Bill No. 4620). Both measures had the effect of significantly inhibiting competition, which would adversely affect the consuming public. I remain convinced that the public does not benefit from this type of market interference.

With the exception of sections 12, 13, 14, 15, 16, and 17, Engrossed House Bill No. 1645 is approved."

## CHAPTER 416

[Substitute House Bill No. 1547]

### MEDICAL SUPPORT—ORDERS AND ENFORCEMENT

AN ACT Relating to medical support enforcement; amending RCW 26.09.105, 26.18.020, 26.09.170, 26.23.050, 26.18.100, and 26.18.110; adding a new section to chapter 26.26 RCW; adding new sections to chapter 26.18 RCW; adding new sections to chapter 74.20A RCW; and declaring an emergency.

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

Sec. 1. Section 1, chapter 201, Laws of 1984 as amended by section 1, chapter 108, Laws of 1985 and RCW 26.09.105 are each amended to read as follows:

(1) In entering or modifying a support order under this chapter, the court shall require either or both parents to maintain or provide health insurance coverage except as provided in subsection (2) of this section, for any ((dependent child if the following conditions are met:

(1) Health insurance)) child named in the order if: (a) Coverage that can be extended to cover the child is or becomes available to that parent through ((an employer or other organization; and

(2) The employer or other organization offering health insurance will contribute all or a part of the premium for coverage of the child)) employment or is union-related; and

(b) The cost of such coverage does not exceed twenty-five percent of the obligated parent's basic child support obligation.

(2) The court shall consider the best interests of the child and have discretion to order health insurance coverage when entering or modifying a support order under this chapter if the cost of such coverage exceeds twenty-five percent of the obligated parent's basic support obligation.

(3) The parents shall maintain such coverage required under this section until:

(a) Further order of the court;

(b) The child is emancipated, if there is no express language to the contrary in the order; or

(c) Health insurance is no longer available through the parents' employer or union and no conversion privileges exist to continue coverage following termination of employment.

(4) A parent who is required to extend health insurance coverage to a child under this section is liable for any covered health care costs for which the parent receives direct payment from an insurer.

(5) This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of ((medical)) uninsured health expenses, ((medical)) health care costs, or insurance premiums which are in addition to and not inconsistent with this section. ((~~"Health insurance" as used in this section does not include medical assistance provided under chapter 74.09 RCW.~~))

(6) A parent ordered to provide health insurance coverage shall provide proof of such coverage within twenty days of the entry of the order, or within twenty days of the date such coverage becomes available, to:

(a) The physical custodian; or

(b) The department of social and health services if the parent has been notified or ordered to make support payments to the Washington state support registry.

(7) Every order requiring a parent to provide health care or insurance coverage shall be entered in compliance with RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW.

(8) "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

Sec. 2. Section 2, chapter 260, Laws of 1984 as amended by section 17, chapter 435, Laws of 1987 and RCW 26.18.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Dependent child" means any child for whom a support order has been established or for whom a duty of support is owed.

(2) "Duty of support" means the duty to provide for the needs of a dependent child, which may include necessary food, clothing, shelter, education, and health care. The duty includes any obligation to make monetary payments, to pay expenses, including spousal maintenance, or to reimburse another person or an agency for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.

(3) "Obligee" means the custodian of a dependent child, or person or agency, to whom a duty of support is owed, or the person or agency to whom the right to receive or collect support has been assigned.

(4) "Obligor" means the person owing a duty of support.

(5) "Support order" means any judgment, decree, or order of support issued by the superior court or authorized agency of the state of

Washington; or a judgment, decree, or other order of support issued by a court or agency of competent jurisdiction in another state or country, which has been registered or otherwise made enforceable in this state.

(6) "Employer" includes the United States government, a state or local unit of government, and any person or entity who pays or owes earnings to the obligor.

(7) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40-.020 and 50.40.050, or Title 74 RCW.

(8) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld.

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

(10) "Health insurance coverage" includes any coverage under which medical services are provided by an employer or a union whether that coverage is provided through a self-insurance program, under the employee retirement income security act of 1974, a commercial insurer pursuant to chapters 48.20 and 48.21 RCW, a health care service contractor pursuant to chapter 48.44 RCW, or a health maintenance organization pursuant to chapter 48.46 RCW, and the state through chapter 41.05 RCW.

(11) "Insurer" means a commercial insurance company providing disability insurance under chapter 48.20 or 48.21 RCW, a health care service contractor providing health care coverage under chapter 48.44 RCW, a health maintenance organization providing comprehensive health care services under chapter 48.46 RCW, and shall also include any employer or union which is providing health insurance coverage on a self-insured basis.

Sec. 3. Section 17, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 17, chapter 275, Laws of 1988 and RCW 26.09.170 are each amended to read as follows:

(1) Except as otherwise provided in subsection (7) of RCW 26.09.070, the provisions of any decree respecting maintenance or support may be modified only as to installments accruing subsequent to the motion for modification and, except as otherwise provided in subsection (4) or (5) of this section, only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.



(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

(b) If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;

(c) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

(d) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

(5) An order or decree entered prior to June 7, 1984, may be modified without showing a substantial change of circumstances if the requested modification is to:

(a) Require health insurance coverage for a child named therein; or

(b) Modify an existing order for health insurance coverage.

(6) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

~~((6))~~ (7) The department of social and health services may file an action to modify an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is twenty-five percent or more below the appropriate child support amount set forth in the adopted child support schedule. The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances.

NEW SECTION. Sec. 4. A new section is added to chapter 26.26 RCW to read as follows:

(1) In entering or modifying a support order under this chapter, the court shall require either or both parents to maintain or provide health insurance coverage for any dependent child as provided under RCW 26.09.105.

(2) This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of uninsured health expenses, health costs, or insurance premiums which are in

addition to and not inconsistent with this section. "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

(3) A parent ordered to provide health insurance coverage shall provide proof of such coverage within twenty days of the entry of the order, or within twenty days of the date such coverage becomes available, to:

(a) The physical custodian; or

(b) The department of social and health services if the parent has been notified or ordered to make support payments to the Washington state support registry.

(4) Every order requiring a parent to provide health insurance coverage shall be entered in compliance with RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 26.18 RCW to read as follows:

(1) Whenever an obligor parent who has been ordered to provide health insurance coverage for a dependent child fails to provide such coverage or lets it lapse, the department or the obligee may seek enforcement of the coverage order as provided under this section.

(2)(a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the Washington state support registry for enforcement, then the department may, without further notice to the obligor, send a notice of enrollment to the obligor's employer or union by certified mail, return receipt requested.

The notice shall require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the Washington state support registry for enforcement:

(i) The obligee may, without further notice to the obligor send a certified copy of the order requiring health insurance coverage to the obligor's employer or union by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of enrollment:

(a) The obligor's employer or union shall answer the party who sent the order or notice within thirty-five days and confirm that the child:

(i) Has been enrolled in the health insurance plan;

(ii) Will be enrolled in the next open enrollment period; or

(iii) Cannot be covered, stating the reasons why such coverage cannot be provided;

(b) The employer or union shall withhold any required premium from the obligor's income or wages;

(c) If more than one plan is offered by the employer or union, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor parent;

(d) The employer or union shall provide information about the name of the health insurance coverage provider or insurer and the extent of coverage available to the obligee or the department and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department or the obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within twenty days of service of the notice, or within twenty days of coverage becoming available the department or the obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child because of geographic or other limitations when accessible coverage is otherwise available, the department or the obligee may serve a written notice of intent to purchase health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department serves a notice under subsection (5) of this section the obligor shall, within twenty days of the date of service:

(a) File an application for an adjudicative proceeding; or

(b) Provide written proof to the department that the obligor has either applied for, or obtained, coverage accessible to the child.

(7) If the obligee serves a notice under subsection (5) of this section, within twenty days of the date of service the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may purchase the health insurance coverage specified in the notice directly. The amount of the monthly premium shall be added to the support debt and be collectible without further notice. The amount of the monthly premium may be collected or accrued until the obligor provides proof of the required coverage.

(9) The signature of the obligee or of a department employee shall be a valid authorization to the coverage provider or insurer for purposes of processing a payment to the child's health services provider. An order for health insurance coverage shall operate as an assignment of all benefit rights to the obligee or to the child's health services provider, and in any claim against the coverage provider or insurer, the obligee or the obligee's assignee shall be subrogated to the rights of the obligor. Notwithstanding the provisions of this section regarding assignment of benefits, this section shall not require a health care service contractor authorized under chapter 48.44 RCW or a health maintenance organization authorized under chapter 48.46 RCW to deviate from their contractual provisions and restrictions regarding reimbursement for covered services. If the coverage is terminated, the employer shall mail a notice of termination to the department or the obligee at the obligee's last known address within thirty days of the termination date.

(10) This section shall not be construed to limit the right of the obligor or the obligee to bring an action in superior court at any time to enforce, modify, or clarify the original support order.

(11) Nothing in this section shall be construed to require a health maintenance organization, or health care service contractor, to extend coverage to a child who resides outside its service area.

**NEW SECTION.** Sec. 6. A new section is added to chapter 74.20A RCW to read as follows:

(1) Whenever a support order is entered or modified under this chapter, the department shall require the responsible parent to maintain or provide health insurance coverage for any dependent child as provided under RCW 26.09.105.

(2) "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

(3) A parent ordered to provide health insurance coverage shall provide proof of such coverage to the department within twenty days of the entry of the order, or within fifteen days of the date such coverage becomes available.

(4) Every order requiring a parent to provide health insurance coverage shall be entered in compliance with RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW.

**NEW SECTION.** Sec. 7. A new section is added to chapter 74.20A RCW to read as follows:

In furtherance of the policy of the state to cooperate with the federal government in the administration of the child support enforcement program, the department may adopt such rules and regulations as may become necessary to entitle the state to participate in federal funds, unless such rules would be expressly prohibited by law. Any section or provision of law dealing with the child support program which may be susceptible to more than

one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling the state to receive federal funds. If any law dealing with the child support enforcement program is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds, such conflicting law is declared to be inoperative solely to the extent of the conflict.

*\*Sec. 8. Section 5, chapter 435, Laws of 1987 and RCW 26.23.050 are each amended to read as follows:*

*(1) Except as provided in subsection (2) of this section, the superior court shall include in all superior court orders which establish or modify a support obligation(;):*

*(a) A provision which orders and directs that the responsible parent ((to)) make all support payments to the Washington state support registry((; or the person entitled to receive the payments if the parties agree to an alternate payment plan and the court finds that the alternate payment plan includes reasonable assurances that payments will be made in a regular and timely manner. The superior court shall also include));*

*(b) A statement that a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent((; if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month. If the court approves an alternate payment plan, the order shall include)); and*

*(c) A statement that the order may be submitted to the Washington state support registry for enforcement:*

*(i) If a support payment is ((more than fifteen days past due in)) not paid when due and an amount equal to or greater than the support payable for one month is owed under an order entered prior to July 1, 1990; or*

*(ii) At any time after entry of the court order for orders entered by the court on or after July 1, 1990.*

*(2)(a) For orders entered on or after July 1, 1990, the court may approve an alternate payment plan and order the responsible parent to make payments directly to the person entitled to receive the payments or direct that the issuance of a notice of payroll deduction or other income withholding actions be delayed until a support payment is past due. The parties to the order must agree to such a plan and the plan must contain reasonable assurances that payments will be made in a regular and timely manner.*

*(b) If the order directs payment to the person entitled to receive the payments instead of to the Washington state support registry, the order shall include a statement that the order may be submitted to the registry if a support payment is past due.*

*(c) If the order directs delayed issuance of the notice of payroll deduction or other income withholding action, the order shall include a statement*

that such action may be taken, without further notice, at any time after a support payment is past due.

(d) The provisions of this subsection do not apply if the department is providing public assistance under Title 74 RCW.

**(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that a notice of payroll deduction may be issued, or other income withholding action taken without further notice to the responsible parent((;));**

**(a) For an order entered prior to July 1, 1990, if a support payment is ((more than fifteen days past due in)) not paid when due and an amount equal to or greater than the support payable for one month; or**

**(b) For orders entered on or after July 1, 1990, at any time after entry of the order.**

~~((3))~~ **(4) If the support order does not include the ((provision ordering and directing that all payments be made to the Washington state support registry and a statement that a notice of payroll deduction may be issued if a support payment is past due,)) notice required under subsection (1) of this section the office of support enforcement may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.**

~~((4))~~ **(5) Every support order shall state:**

**(a) That payment shall be made to the Washington state support registry or in accordance with the alternate payment plan approved by the court;**

**(b) That a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent((;));**

**(i) If a support payment is ((more than fifteen days past due in)) not paid when due and an amount equal to or greater than the support payable for one month is owed under an order entered prior to July 1, 1990; or**

**(ii) At any time after entry of the order for orders entered on or after July 1, 1990, unless the court approves an alternate payment plan under subsection (2) of this section;**

**(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;**

**(d) The support award as a sum certain amount;**

**(e) The specific day or date on which the support payment is due;**

**(f) The social security number, residence address, and name of employer of the responsible parent;**

**(g) The social security number and residence address of the ((custodial parent)) physical custodian except as provided in subsection (6) of this section;**

**(h) The names, dates of birth, and social security numbers, if any, of the dependent children; ~~((and))~~**

**(i) That the parties are to notify the Washington state support registry of any change in residence address;**

**(j) That any parent owing a duty of child support shall be obligated to provide health insurance coverage for his or her child if coverage that can be extended to cover the child is or becomes available to that parent through employment or is union-related as provided under RCW 26.09.105;**

**(k) That if proof of health insurance coverage is not provided within twenty days, the obligee or the department may seek direct enforcement of the coverage through the obligor's employer or union without further notice to the obligor as provided under chapter 26.18 RCW; and**

**(l) The reasons for not ordering health insurance coverage if the order fails to require such coverage.**

**~~((5))~~ (6) The physical custodian's address shall be omitted from an order entered under the administrative procedure act. A responsible parent whose support obligation has been determined by such administrative order may request the physical custodian's residence address by submission of a request for disclosure under RCW 26.23.120.**

**(7) The superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry, a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation which provide that support payments shall be made to the support registry. If a superior court order entered prior to January 1, 1988, directs the responsible parent to make support payments to the clerk, the clerk shall send a true and correct copy of the support order and the payment record to the registry for enforcement action when the clerk identifies that a payment is more than fifteen days past due. The office of support enforcement shall reimburse the clerk for the reasonable costs of copying and sending copies of court orders to the registry at the reimbursement rate provided in Title IV-D of the social security act.**

**~~((6))~~ (8) Receipt of a support order by the registry or other action under this section on behalf of a person or persons who are not recipients of public assistance is deemed to be a request for support enforcement services under RCW 74.20A.040.**

**~~((7))~~ (9) After the responsible parent has been ordered or notified to make payments to the Washington state support registry in accordance with subsection (1), (2), or (3) of this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry. A civil action may be brought by the**

*payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.*

\*Sec. 8 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 9. A new section is added to chapter 26.18 RCW to read as follows:

(1) An obligated parent's employer or union shall be liable for a fine of up to one thousand dollars per occurrence, if the employer or union fails or refuses, within thirty-five days of receiving the order or notice for health insurance coverage to:

(a) Promptly enroll the obligated parent's child in the health insurance plan; or

(b) Make a written answer to the person or entity who sent the order or notice for health insurance coverage stating that the child:

(i) Will be enrolled in the next available open enrollment period; or

(ii) Cannot be covered and explaining the reasons why coverage cannot be provided.

(2) Liability may be established and the fine may be collected by the office of support enforcement under chapter 74.20A or 26.23 RCW using any of the remedies contained in those chapters.

(3) Any employer or union who enrolls a child in a health insurance plan in compliance with chapter 26.18 RCW shall be exempt from liability resulting from such enrollment.

Sec. 10. Section 10, chapter 260, Laws of 1984 as amended by section 20, chapter 435, Laws of 1987 and RCW 26.18.100 are each amended to read as follows:

The wage assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON IN AND FOR THE COUNTY OF

.....

.....,  
Obligee  
vs.

No. ....

.....,  
Obligor

WAGE ASSIGNMENT  
ORDER

.....,  
Employer

THE STATE OF WASHINGTON TO: .....  
Employer



AND TO: .....  
Obligor

The above-named obligee claims that the above-named obligor is more than fifteen days past due in child support payments in an amount equal to or greater than the child support payable for one month. The amount of the accrued child support debt as of this date is ..... dollars, the amount of arrearage payments specified in the support order (if applicable) is ..... dollars per ....., and the amount of the current and continuing support obligation under the support order is ..... dollars per .....

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the Washington state support registry, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this wage assignment order upon you.

If you possess any earnings due and owing to the obligor, then you shall do as follows:

(1) Withhold from the obligor's earnings each month, or from each regular earnings disbursement, the lesser of:

(a) The sum of the accrued support debt and the current support obligation;

(b) The sum of the specified arrearage payment amount and the current support obligation; or

(c) Fifty percent of the disposable earnings of the obligor.

(2) The total amount withheld above is subject to the wage assignment order, and all other sums may be disbursed to the obligor.

You shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated; or

(b) The Washington state support registry, office of support enforcement that the accrued child support debt has been paid.

You shall promptly notify the court and the Washington state support registry if and when the employee is no longer employed by you.

You shall deliver the withheld earnings to the Washington state support registry at each regular pay interval, but the first delivery shall occur no sooner than twenty days after your receipt of this wage assignment order.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This wage assignment order has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold or deliver under chapter 74.20A RCW.

WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR OBLIGOR'S CLAIMED SUPPORT DEBT TO THE OBLIGEE OR SUBJECT TO CONTEMPT OF COURT.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER.

DATED THIS ... day of ..., 19 ....

.....  
Obligee,  
or obligee's attorney

.....  
Judge/Court Commissioner

Sec. 11. Section 11, chapter 260, Laws of 1984 as amended by section 21, chapter 435, Laws of 1987 and RCW 26.18.110 are each amended to read as follows:

(1) An employer upon whom service of a wage assignment order has been made shall answer the order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor is employed by or receives earnings from the employer, whether the employer will honor the wage assignment order, and whether there are multiple child support attachments against the obligor.

(2) If the employer possesses any earnings due and owing to the obligor, the earnings subject to the wage assignment order shall be withheld immediately upon receipt of the wage assignment order. The withheld earnings shall be delivered to the Washington state support registry at each regular pay interval, but the first delivery shall occur no sooner than twenty days after receipt of the wage assignment order.

(3) The employer shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated; or

(b) The Washington state support registry that the accrued child support debt has been paid, provided the wage assignment order contains the language set forth under RCW 26.18.100(2)(b). The employer shall promptly notify the Washington state support registry when the employee is no longer employed.

(4) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the wage assignment order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed (a) ten dollars for the first disbursement made by the employer to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the clerk.

(5) An order for wage assignment for support entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold and deliver under chapter 74.20A RCW.

(6) An employer who fails to withhold earnings as required by a wage assignment issued under this chapter may be held liable for the amounts disbursed to the obligor in violation of the wage assignment order, and may be found by the court to be in contempt of court and may be punished as provided by law.

(7) No employer who complies with a wage assignment issued under this chapter may be liable to the employee for wrongful withholding.

(8) No employer may discharge, discipline, or refuse to hire an employee because of the entry or service of a wage assignment issued and executed under this chapter. A person who violates this subsection may be found by the court to be in contempt of court and may be punished as provided by law.

(9) An employer may combine amounts withheld from various employees into a single payment to the Washington state support registry, if the payment includes a listing of the amounts attributable to each employee and other information as required by the registry.

(10) An employer shall deliver a copy of the wage assignment order to the obligor as soon as is reasonably possible.

**NEW SECTION.** Sec. 12. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 17, 1989.

Passed the Senate April 4, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to section 8, Substitute House Bill No. 1547 entitled:

"AN ACT Relating to medical support enforcement."

Section 8 of this bill incorrectly amends RCW 26.23.050 which was also amended by section 15 of Engrossed Substitute House Bill No. 1635. To avoid confusion, I am vetoing section 8 of this bill.

With the exception of section 8, Substitute House Bill No. 1547 is approved."

## CHAPTER 417

[Second Substitute House Bill No. 1476]  
WASHINGTON MARKETPLACE PROGRAM

AN ACT Relating to the development of marketplace programs; adding new sections to chapter 43.31 RCW; and adding new sections to chapter 43.131 RCW.

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

**NEW SECTION.** Sec. 1. The legislature finds and declares that substantial benefits in increased employment and business activity can be obtained by assisting businesses in identifying opportunities to purchase the goods and services they need from in-state suppliers rather than from out-of-state suppliers. The replacement of out-of-state imports with services and manufactured goods produced in-state can be an important source of economic growth in a local community especially in rural areas. Businesses in the state are often unaware that goods and services they purchase from out-of-state suppliers are available from in-state firms with substantial advantages in responsiveness, service, and price. Increasing the economic partnerships between businesses in Washington state can build bridges between urban and rural communities and can result in the identification of additional opportunities for successful economic development initiatives. Providing additional information to businesses regarding in-state sources of goods and services can be a particularly valuable component of revitalization strategies in economically distressed areas. The legislature finds and declares that it is the policy of the state to strengthen the economies of local communities by increasing the economic partnerships between in-state businesses and creating programs to assist businesses in identifying in-state sources of goods and services, and in addition to identify new markets for Washington firms to provide goods and services.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this act:

(1) "Department" means the department of trade and economic development.

(2) "Center" means the business assistance center established under RCW 43.31.083.

(3) "Director" means the director of trade and economic development.

(4) "Local nonprofit organization" means a local nonprofit organization organized to provide economic development or community development services, including but not limited to associate development organizations, economic development councils, and community development corporations.

**NEW SECTION.** Sec. 3. There is established a Washington marketplace program within the business assistance center established under RCW 43.31.083. The program shall assist Washington businesses to competitively

meet their needs for goods and services within Washington by providing information relating to the replacement of imports or the fulfillment of new requirements with in-state products. The program shall place special emphasis on strengthening rural economies in economically distressed areas of the state as defined in RCW 82.60.020(3). The Washington marketplace program shall consult with the community revitalization team established pursuant to chapter 43.165 RCW.

**NEW SECTION.** Sec. 4. (1) The department shall contract with local nonprofit organizations in at least four economically distressed areas of the state, as defined in RCW 82.60.020(3), to implement the Washington marketplace program in these areas. The department, in order to foster cooperation and linkages between distressed and nondistressed areas and urban and rural areas, may enter into joint contracts with multiple nonprofit organizations. Each joint contract must include at least one nonprofit organization that is located in a distressed area. No joint contract may include more than one nonprofit organization located in an urban location. In contracting with local nonprofit organizations, the department shall:

(a) Award contracts based on a competitive bidding process, pursuant to chapter 43.19 RCW;

(b) Give preference to nonprofit organizations representing a broad spectrum of community support; and

(c) Ensure that each location contain sufficient business activity to permit effective program operation and contribute at least twenty percent local funding.

(2) The contracts with local nonprofit organizations shall be for the performance of the following services for the Washington marketplace program:

(a) Contacting Washington businesses to identify goods and services they are currently buying or are planning in the future to buy out-of-state and determine which of these goods and services could be purchased on competitive terms within the state;

(b) Identifying locally sold goods and services which are currently provided by out-of-state businesses;

(c) Determining, in consultation with local business, goods and services for which the business is willing to make contract agreements;

(d) Advertising market opportunities described in (c) of this subsection; and

(e) Receiving bid responses from potential suppliers and sending them to that business for final selection.

(3) Contracts may include provisions for charging service fees of businesses that profit as a result of participation in the program.

(4) The center shall also perform the following activities in order to promote the goals of the program:

- (a) Prepare promotional materials or conduct seminars to inform communities and organizations about the Washington marketplace program;
- (b) Provide technical assistance to communities and organizations interested in developing an import replacement program;
- (c) Develop standardized procedures for operating the local component of the Washington marketplace program;
- (d) Provide continuing management and technical assistance to local contractors; and
- (e) Report by December 31 of each year to the senate economic development and labor committee and to the house of representatives trade and economic development committee describing the activities of the Washington marketplace program.

**\*NEW SECTION. Sec. 5. (1) "Capital project" means a major urban or rural economic development project including, but not limited to, highways, ports, public facilities, power plants, irrigation systems, resorts, and sewage systems.**

**(2) "Consortium" means a partnership, copartnership, joint venture, joint stock company, business trust, corporation, association, or any group of businesses acting as a unit for the purpose of securing a capital project.**

**\*Sec. 5 was vetoed, see message at end of chapter.**

**\*NEW SECTION. Sec. 6. There is established, as a project within the department of trade and economic development, the office of capital projects. The office shall:**

**(1) Assist Washington state businesses in obtaining international and domestic capital projects;**

**(2) Assist Washington state businesses in the formation of consortiums, when appropriate, which have the range of services and technical skills to compete for capital projects. Consortiums shall include at least one business with its principal place of business within Washington state.**

**(3) Assist consortiums and businesses in Washington state to market their services and products in international markets;**

**(4) Compile information on capital project opportunities for Washington state businesses including:**

**(a) Identifying those types of Washington businesses with the type and level of expertise to participate in various capital projects; and**

**(b) Identifying the type of capital projects and international markets which have the greatest potential for Washington state businesses to provide products and services;**

**(5) Provide information to Washington state businesses on the purpose and services of the office of capital projects;**

**(6) Provide initial assistance to consortiums in securing capital project contracts, including such intergovernmental contacts as considered appropriate with countries or regions where capital projects are proposed; and**

**(7) Provide information to businesses on trade tariffs, quotas, government regulations or other trade restrictions which may affect Washington state businesses.**

\*Sec. 6 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 7. The department, through the office of capital projects:**

**(1) May receive funds, coordinate with other governmental agencies, and carry out such other duties as are deemed necessary to implement the provisions of section 6 of this act;**

**(2) May receive such gifts, grants, and endowments from private or public sources as may be made available in trust or otherwise for the use and benefit of the office of capital projects, and expend the same, or any income therefrom, according to the terms of gifts, grants, or endowments;**

**(3) May charge reasonable fees or other appropriate charges for using the services of the office of capital projects, for attendance at workshops and conferences sponsored by the office, and for various publications, materials, and services of the office. These fees shall be charged to defray the costs of operation of the office of capital projects; and**

**(4) May actively seek cooperation and funding from the private sector.**

\*Sec. 7 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 8. Contracts entered into by consortiums do not constitute a contract with the state of Washington, and do not incur a liability, obligation, pledge of faith, or credit of the state of Washington.**

\*Sec. 8 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 9. The office of capital projects is prohibited from entering into any legal or otherwise binding contract with foreign governmental units or consortiums in relation to a capital project.**

\*Sec. 9 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 10. The legislative budget committee shall, by January 1, 1992, conduct analyses of the operations of the capitol projects program. The analyses shall provide information on any costs to the state resulting from the operation of the program as well as any employment growth, firm growth, and increased revenue attributable directly or indirectly to the program.**

**The analysis shall include a review of: The number of firms assisted; the dollar amount and type of assistance provided to each firm; the types of businesses assisted as classified by the standard industrial classification manual; the size and the age of each firm assisted; the number of minority and women-owned businesses assisted; the number of assisted firms in distressed areas of the state; the number of jobs created or retained in each firm as a result of the programs assistance; the wage rates of jobs retained or new jobs created as a result of the program; the results of client satisfaction surveys**

*completed by firms assisted by the program; and sales volume trends for each firm assisted by the program.*

\*Sec. 10 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 11. The department of trade and economic development shall actively promote and support the efforts of the office of capital projects to achieve the goals of section 6 of this act.*

\*Sec. 11 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 12. Sections 1 through 11 of this act are each added to chapter 43.31 RCW.*

\*Sec. 12 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 13. A new section is added to chapter 43.131 RCW to read as follows:*

*The office of capital projects and its powers and duties shall be terminated on June 30, 1994, as provided in section 14 of this act.*

\*Sec. 13 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 14. A new section is added to chapter 43.131 RCW to read as follows:*

*The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1995:*

- (1) Section 5 of this act and RCW 43.31.---*;
- (2) Section 6 of this act and RCW 43.31.---*;
- (3) Section 7 of this act and RCW 43.31.---*;
- (4) Section 8 of this act and RCW 43.31.---*;
- (5) Section 9 of this act and RCW 43.31.---; and*
- (6) Section 10 of this act and RCW 43.31.---*

\*Sec. 14 was vetoed, see message at end of chapter.

**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.*

Passed the House April 22, 1989.

Passed the Senate April 22, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to sections 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, Second Substitute House Bill No. 1476 entitled:

"AN ACT Relating to the development of marketplace programs."

This legislation establishes both the Washington Marketplace Program and the Office of Capital Projects in the Department of Trade and Economic Development. Sections 1 through 4 codify the successful pilot Washington Marketplace Program currently operated by the department. Through this program the department will



work with organizations in communities to help local businesses find new markets for their products.

The provisions of sections 5 through 14 would establish the Office of Capital Projects in the department to assist businesses in the state to increase their participation in large capital construction projects. This office would assist firms in the formation of business consortia to compete for large-scale capital projects.

The concept that the state should increase its role in assisting state firms to compete more effectively in international markets is an important one. New efforts by the federal government and by the international community to open international markets for capital construction projects may well provide additional opportunities for state firms. There may well be a useful role to be played by the state in assisting firms to respond to new opportunities in these markets. However, the lack of any funds to support this new function leads me to veto sections 5 through 14.

With the exception of sections 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Second Substitute House Bill No. 1476 is approved.\*

## CHAPTER 418

[Senate Bill No. 5926]

### HANFORD LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY— DEPARTMENT OF ECOLOGY DUTIES

AN ACT Relating to low-level radioactive waste; amending RCW 43.200.080; adding a new section to chapter 43.145 RCW; and creating a new section.

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

***\*NEW SECTION, Sec. 1. The legislature finds that the possibility exists for a drastic reduction in the volume of low-level radioactive waste disposed at Hanford in several years if waste from outside the region is denied access to the facility. The legislature further finds that the state has received millions of dollars of revenue generated by the waste site, funds which are annually deposited in the state general fund and other state accounts, and that proper analysis of the impacts of a loss of these funds has not been conducted, leaving the state in a potentially vulnerable position.***

\*Sec. 1 was vetoed, see message at end of chapter.

Sec. 2. Section 8, chapter 19, Laws of 1983 1st ex. sess. as amended by section 1, chapter 2, Laws of 1986 and RCW 43.200.080 are each amended to read as follows:

The director of ecology shall, in addition to the powers and duties otherwise imposed by law, have the following special powers and duties:

(1) To fulfill the responsibilities of the state under the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington. The department of ecology may sublease to private or public entities all or a portion of the land for specific purposes or activities which are determined, after public hearing, to be in

agreement with the terms of the lease and in the best interests of the citizens of the state consistent with any criteria that may be developed as a requirement by the legislature;

(2) To assume the responsibilities of the state under the perpetual care agreement between the state of Washington and the federal government executed July 29, 1965 and the sublease between the state of Washington and the site operator of the Hanford low-level radioactive waste disposal facility. In order to finance perpetual surveillance and maintenance under the agreement and ensure site closure under the sublease, the department of ecology shall impose and collect fees from parties holding radioactive materials for waste management purposes. The fees shall be established by rule adopted under chapter ~~((34.04))~~ 34.05 RCW and shall be an amount determined by the department of ecology to be necessary to defray the estimated liability of the state. Such fees shall reflect equity between the disposal facilities of this and other states. All such fees, when received by the department of ecology, shall be transmitted to the state treasurer, who shall act as custodian. The perpetual maintenance fund is created in the the state treasury. The treasurer shall place the money in a special ~~((account))~~ fund which may be designated the "perpetual maintenance ~~((account))~~ fund." ~~((Appropriations are required to permit expenditures and payment of obligations from this account, and the condition of the account and its administration shall be reported biennially to the legislature by the director.))~~ The perpetual maintenance fund shall be comprised of a site closure account and a perpetual surveillance and maintenance account. The site closure account shall be exclusively available to reimburse, to the extent that moneys are available in the account, the site operator for its costs plus a reasonable profit as agreed by the operator and the state, or to reimburse the state licensing agency and any agencies under contract to the state licensing agency for their costs in final closure and decommissioning of the Hanford low-level radioactive waste disposal facility. If a balance remains in the account after satisfactory performance of closure and decommissioning, this balance shall be transferred to the perpetual surveillance and maintenance account. The perpetual surveillance and maintenance account shall be used exclusively by the state to meet post-closure surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations. Appropriations are required to permit expenditures and payment of obligations from the site closure account and the perpetual surveillance and maintenance account. Moneys which on the effective date of this act are in the perpetual maintenance account shall be transferred to the perpetual surveillance and maintenance account. All moneys currently administered by the department of ecology for closure of the Hanford low-level radioactive waste disposal facility shall be transferred to the site closure account within the perpetual maintenance fund. All future moneys contributed to the perpetual maintenance fund shall be directed to the site

closure account until December 31, 1992. Thereafter receipts shall be directed to the perpetual maintenance fund as specified by the department. Moneys in the perpetual maintenance ((account)) fund shall be invested by the state investment board in the same manner as other state moneys. Any interest accruing as a result of investment shall accrue to the perpetual maintenance ((account)) fund. Additional moneys specifically appropriated by the legislature or received from any public or private source may be placed in the perpetual maintenance ((account. The perpetual maintenance account shall be used exclusively for surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations)) fund;

(3) To assure 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 against nuclear accidents or incidents that may occur on privately or state-controlled nuclear facilities;

(4) To institute a user permit system and issue site use permits, consistent with regulatory practices, for generators, packagers, or brokers using the Hanford low-level radioactive waste disposal facility. The costs of administering the user permit system shall be borne by the applicants for site use permits. The site use permit fee shall be set at a level that is sufficient to fund completely the executive and legislative participation in activities related to the Northwest Interstate Compact on Low-Level Radioactive Waste Management; and

(5) To make application for or otherwise pursue any federal funds to which the state may be eligible, through the federal resource conservation and recovery act or any other federal programs, for the management, treatment or disposal, and any remedial actions, of wastes that are both radioactive and hazardous at all Hanford low-level radioactive waste disposal facilities; and

(6) To develop contingency plans for duties and options for the department and other state agencies related to the Hanford low-level radioactive waste disposal facility based on various projections of annual levels of waste disposal. These plans shall include an analysis of expected revenue to the state in various taxes and funds related to low-level radioactive waste disposal and the resulting implications that any increase or decrease in revenue may have on state agency duties or responsibilities. The initial set of plans shall be completed by October 1, 1989, and shall be updated annually. The department shall report annually on the plans and on the balances in the site closure and perpetual surveillance accounts to the energy and utilities committees of the senate and the house of representatives.

**\*NEW SECTION. Sec. 3. A new section is added to chapter 43.145 RCW to read as follows:**

*No costs shall be paid for or reimbursed by the state of Washington for the participation of other member states in the Northwest low-level waste compact for meetings of the compact held outside the state of Washington.*

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

Passed the Senate April 23, 1989.

Passed the House April 22, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to sections 1 and 3, Senate Bill No. 5926 entitled:

"AN ACT Relating to low-level radioactive waste."

Section 1 would send a confusing message regarding State policy on the disposal of low-level radioactive waste. State policy on this issue, which is the same as the policy stated in the federal Low-Level Radioactive Waste Amendments Act of 1985, states that the responsibility for disposal of radioactive waste is a national obligation, to be shared by all states across the nation. I am committed to the time frame established in the federal act, providing that all states must belong to a regional compact by December 31, 1992, which relieves the three states which now have sites from having to accommodate all of the nation's low-level radioactive wastes. I also want to make it clear that Washington State is not dependent on the revenue generated from fees for the disposal of radioactive waste.

Section 3 is inappropriate because Washington is a partner in the Northwest Interstate Compact. While I do not condone unnecessary or extravagant travel, the imposition of travel restrictions on the members would be contrary to establishing mutual cooperation and respect with other states.

With the exception of sections 1 and 3, Senate Bill No. 5926 is approved."

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## CHAPTER 419

[Second Substitute Senate Bill No. 5658]

### STATE RISK MANAGEMENT PROGRAM—REVISED PROVISIONS

AN ACT Relating to risk management and the state liability account; amending RCW 4.92.130, 43.84.092, and 4.92.110; adding new sections to chapter 4.92 RCW; adding a new section to chapter 43.10 RCW; adding a new section to chapter 43.19 RCW; creating new sections; repealing RCW 4.92.140, 4.92.170, and 43.19.19366; providing an effective date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. In recent years the state of Washington has experienced significant increases in public liability claims. It is the intent of the legislature to reduce tort claim costs by restructuring Washington state's risk management program to place more accountability in state agencies, to establish an actuarially sound funding mechanism for paying legitimate claims, when they occur, and to establish an effective safety and loss control program.

**NEW SECTION.** Sec. 2. A new section is added to chapter 4.92 RCW to read as follows:

As used in this chapter:

- (1) "Department" means the department of general administration.
- (2) "Risk manager" means the person supervising the office of risk management in the department of general administration.

**NEW SECTION.** Sec. 3. A new section is added to chapter 4.92 RCW to read as follows:

(1) All liability claims arising out of tortious conduct or under 42 U.S.C. Sec. 1981 et seq. that the state of Washington or any of its officers, employees, or volunteers would be liable for shall be filed with the office of risk management, department of general administration, unless specifically delegated to other state agencies under state statute.

(2) A centralized claim tracking system shall be maintained to provide agencies with accurate and timely data on the status of liability claims. Information in this claim file, other than the claim itself, shall be privileged and confidential.

(3) Standardized procedures shall be established for filing, reporting, processing, and adjusting claims, which includes the use of qualified claims management personnel.

(4) All claims will be reviewed by the office of risk management to determine an initial valuation, to delegate to the appropriate office to investigate, negotiate, compromise, and settle the claim, or to retain that responsibility on behalf of and with the assistance of the affected state agency.

(5) All claims that result in a lawsuit will be forwarded to the attorney general's office. Thereafter the attorney general and the office of risk management shall collaborate in the investigation, denial, or settlement of the claim.

(6) Reserves shall be established for recognizing financial liability and monitoring effectiveness. The valuation of specific claims against the state shall be privileged and confidential.

(7) All settlements shall be approved by the responsible agencies, or their designees, prior to settlement.

Sec. 4. Section 7, chapter 159, Laws of 1963 as last amended by section 3, chapter 217, Laws of 1985 and RCW 4.92.130 are each amended to read as follows:

A ~~((tort claims revolving fund))~~ liability account in the custody of the treasurer is hereby created as a nonappropriated account to be used solely and exclusively for the payment of ~~((claims against the state arising out of tortious conduct and against its officers, employees, and volunteers for whom the defense of the claim was authorized under RCW 4.92.070.))~~ liability settlements and judgments against the state under 42 U.S.C. Sec.

1981 et seq. or for the tortious conduct of its officers, employees, and volunteers.

(1) The purpose of the liability account is to: (a) Expediently pay legal liabilities of the state resulting from tortious conduct; (b) promote risk control through a cost allocation system which recognizes agency loss experience, levels of self-retention, and levels of risk exposure; and (c) establish an actuarially sound system to pay incurred losses, within defined limits.

(2) The liability account shall be used to pay claims for injury and property damages exclusive of legal defense costs and agency-retained expenses otherwise budgeted.

(3) No money shall be paid from the ((tort claims revolving fund)) liability account unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted and unless:

((1)) (a) The claim shall have been reduced to final judgment in a court of competent jurisdiction; or

((2)) (b) The claim has been approved for payment ((in accordance with RCW 4.92.140 as herein or hereafter amended)).

(4) Earnings on the account's assets shall be credited to the account, notwithstanding RCW 43.84.090.

(5) The liability account shall be financed through annual premiums assessed to state agencies, based on sound actuarial principles, and shall be for liability coverage in excess of agency-budgeted self-retention levels.

(6) Annual premium levels shall be determined by the risk manager, with the consultation and advice of the risk management advisory committee and concurrence from the office of financial management. An actuarial study shall be conducted to assist in determining the appropriate level of funding.

(7) Disbursements from the liability account shall be made to the claimant, or to the clerk of the court for judgments, upon written request to the state treasurer from the risk manager.

(8) The director of the office of financial management may direct agencies to transfer moneys from other funds and accounts to the liability account if premiums are delinquent.

(9) The liability account shall not exceed fifty percent of the actuarial value of the outstanding liability as determined annually by the office of risk management. If the account exceeds the maximum amount specified in this section, premiums may be adjusted by the office of risk management in order to maintain the account balance at the maximum limits. If, after adjustment of premiums, the account balance remains above the limits specified, the excess amount will be prorated back to the appropriate funds.

NEW SECTION. Sec. 5. A new section is added to chapter 4.92 RCW to read as follows:

(1) A risk management account is hereby created in the treasury to be an appropriated account used exclusively for the payment of costs related to:

(a) The administration of liability, property and vehicle claims, including investigation, claim processing, negotiation and settlement, and other expenses relating to settlements and judgments against the state not otherwise budgeted; and

(b) Purchase of liability and property insurance, including catastrophic insurance, subject to policy conditions and limitations determined by the risk manager.

(2) Earnings on the account's assets shall be credited to the account, notwithstanding RCW 43.84.090.

(3) The risk management account shall be financed through a combination of direct appropriations and assessments to state agencies.

**NEW SECTION.** Sec. 6. A new section is added to chapter 43.19 RCW to read as follows:

(1) The office of risk management shall establish a coordinated safety and loss control program to reduce liability exposure, safeguard state assets, and reduce costs associated with state liability and property losses.

(2) State agencies shall provide top management support and commitment to safety and loss control, and develop awareness through education, training, and information sharing.

(3) The office of risk management shall develop and maintain centralized loss history information for the purpose of identifying and analyzing risk exposures. Loss history information shall be privileged and confidential and reported only to appropriate agencies.

(4) The office of risk management shall develop methods of statistically monitoring agency and state-wide effectiveness in controlling losses.

(5) The office of risk management will routinely review agency loss control programs as appropriate to suggest improvements, and observe and recognize successful safety policies and procedures.

(6) The office of risk management shall provide direct assistance to smaller state agencies in technical aspects of proper safety and loss control procedures, upon request.

**NEW SECTION.** Sec. 7. A new section is added to chapter 4.92 RCW to read as follows:

(1) The director of the department of general administration shall establish an ongoing risk management advisory committee. Members of the committee may include but shall not be limited to representatives of state agencies, institutions of higher education, local government, or the private sector.

(2) The director of the department of general administration shall serve as chair. The committee shall meet upon call of the chairperson and shall adopt rules for the conduct of its business.

- (3) The risk management advisory committee will provide guidance in:
- (a) Determining appropriate roles, responsibilities of the office of risk management, and policies regarding state-wide risk management;
  - (b) Establishing premiums or other cost allocation systems;
  - (c) Determining appropriate programs and coverages for self-insurance versus insurance;
  - (d) Developing risk retention pools; and
  - (e) Preparing recommendations for containment of risk exposures.

NEW SECTION. Sec. 8. A new section is added to chapter 4.92 RCW to read as follows:

The director of general administration has the power to adopt rules necessary to carry out the intent of this chapter.

NEW SECTION. Sec. 9. A new section is added to chapter 4.92 RCW to read as follows:

The risk manager may delegate to a state agency the authority to carry out any powers or duties of the risk manager under this chapter related to claims administration and purchase of insurance for the purpose of protecting any classes of officers, employees, or for other persons performing services for the state. Such delegation shall be made only upon a determination by the risk manager that another agency has sufficient resources to carry out the functions delegated.

NEW SECTION. Sec. 10. A new section is added to chapter 4.92 RCW to read as follows:

Nothing in this chapter shall be construed as amending, repealing, or otherwise affecting RCW 28B.20.250 through 28B.20.255.

NEW SECTION. Sec. 11. The department of general administration shall conduct periodic actuarial studies to determine the amount of money needed to adequately fund the liability account.

Sec. 12. Section 51, chapter 57, Laws of 1985 and RCW 43.84.092 are each amended to read as follows:

Except as provided in RCW 43.84.090, all earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

On or before July 20 of each year, the state treasurer shall distribute all earnings credited to the treasury income account as of June 30 to the funds for the fiscal year in which it was earned. Except as otherwise provided by statute, the state treasurer shall credit the various accounts and funds in the state treasury their proportionate share of earnings based upon each fund's average daily balance for the period: PROVIDED, That earnings on the balances of the forest reserve fund, the federal forest revolving fund, the liquor excise tax fund, the treasury income account, the suspense account, the undistributed receipts account, the state payroll revolving account, the agency vendor payment revolving fund, the local leasehold excise



tax account, and the local sales and use tax account shall be credited to the state treasurer's service fund: PROVIDED FURTHER, That earnings on the balances of (~~the tort claims revolving fund;~~) the agency payroll revolving fund, the special fund salary and insurance contribution increase revolving fund and special fund semimonthly payroll revolving fund shall be credited to the state general fund.

**NEW SECTION.** Sec. 13. Moneys in the tort claims revolving fund shall be deposited in the liability account to be used for payment of liabilities incurred before the effective date of this act. The tort claim revolving fund is abolished.

Sec. 14. Section 4, chapter 159, Laws of 1963 as last amended by section 8, chapter 126, Laws of 1986 and RCW 4.92.110 are each amended to read as follows:

No action shall be commenced against the state for damages arising out of tortious conduct until (~~(a)~~) sixty days have elapsed after the claim (~~(has first been)~~) is presented to and filed with the risk management office. The (~~requirements of this section shall not affect the~~) applicable period of limitations within which an action must be commenced (~~(; but such period shall begin and shall continue to run as if no claim were required)~~) shall be tolled during the sixty-day period.

**NEW SECTION.** Sec. 15. A new section is added to chapter 4.92 RCW to read as follows:

The risk manager shall develop procedures for standard indemnification agreements for state agencies to use whenever the agency agrees to indemnify, or be indemnified by, any person or party. The risk manager shall also develop guidelines for the use of indemnification agreements by state agencies. On request of the risk manager, an agency shall forward to the risk management office for review and approval any contract or agreement containing an indemnification agreement.

**NEW SECTION.** Sec. 16. The risk manager, with the assistance of the office of financial management and the department of labor and industries, shall conduct a study and make recommendations to control and reduce the cost to state agencies for industrial insurance coverage for state employees. The study may include an analysis of the fiscal and administrative impact of allowing state agencies to self-insure and incentives for greater participation by state agencies in the retrospective rating program. The recommendations of the risk manager, together with legislative proposals, shall be submitted to the chairmen of the legislative budget committee, the ways and means committee of the senate, and the appropriations committee of the house of representatives by December 1, 1989.

**\*NEW SECTION.** Sec. 17. A new section is added to chapter 43.10 RCW to read as follows:

**The attorney general shall by February 1 of each year, provide to the legislature, the governor, and the office of risk management a comprehensive summary of all cases involving tort claims against the state of Washington which were concluded and closed in the previous calendar year. The report shall include for each case closed:**

- (1) A summary of the factual background of the case;**
- (2) Identification of the attorneys representing the state and the opposing parties;**
- (3) A synopsis of the legal theories asserted and the defenses presented;**
- (4) Whether the case was tried, settled, or dismissed, and in whose favor;**
- (5) The amount of any settlement or verdict reached, and the terms for payment;**
- (6) A summary of all settlement offers made by the parties;**
- (7) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and**
- (8) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims.**

\*Sec. 17 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 18. The following acts or parts of acts are each repealed:

(1) Section 8, chapter 159, Laws of 1963, section 4, chapter 126, Laws of 1975 1st ex. sess., section 1, chapter 144, Laws of 1979 ex. sess., section 8, chapter 188, Laws of 1985, section 4, chapter 217, Laws of 1985 and RCW 4.92.140;

(2) Section 11, chapter 159, Laws of 1963, section 3, chapter 140, Laws of 1969, section 7, chapter 126, Laws of 1975 1st ex. sess., section 3, chapter 75, Laws of 1977, section 2, chapter 228, Laws of 1977 ex. sess., section 6, chapter 151, Laws of 1979, section 10, chapter 126, Laws of 1986 and RCW 4.92.170; and

(3) Section 1, chapter 112, Laws of 1981, section 4, chapter 188, Laws of 1985 and RCW 43.19.19366.

**NEW SECTION.** Sec. 19. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the Senate April 11, 1989.

Passed the House April 18, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to section 17, Engrossed Second Substitute Senate Bill No. 5658 entitled:

"AN ACT Relating to risk management and the state liability account."

Engrossed Second Substitute Senate Bill No. 5658 represents a significant advance in the way in which the state handles its risk management program. I am pleased to see this legislation pass the Legislature and I anticipate that it will result in a more modern and efficient risk management program, as well as an improvement in safety for state employees and the general public. One subsection of this bill, however, is not acceptable.

Section 17 would require the Attorney General to submit a yearly report to the Legislature with information on each tort claim against the state. Much of the information that would be required would be useful to have on an annual basis, and I have no objection to most of this section. One of the subsections, however, is problematic, and in order to remove it from the bill I must veto the entire section.

Subsection 6 of section 17 would require the Attorney General to provide information on each and every settlement offer made on a tort claim. This would provide a road map to the state's negotiating strategy to claimant's attorneys and be a serious disadvantage to the state. While those who have legitimate tort claims against the state are entitled to reasonable compensation, the state also has an obligation to settle claims without unnecessary and unjustified costs to the taxpayers of the state.

Tort claimants deserve straightforward and honest action from the state and its representatives. They do not deserve an opportunity to be privy to the state's confidential negotiating strategy relative to litigation. The confidentiality of this information is emphasized elsewhere in the bill, and appropriately so. Subsection 6 of section 17 clearly conflicts with those provisions, and the legislative intent.

The Attorney General has expressed willingness to provide much of the information requested in section 17, so most of the desired data will be available to the Legislature despite the removal of this section.

With the exception of section 17, Engrossed Second Substitute Senate Bill No. 5658 is approved."

## CHAPTER 420

[Substitute House Bill No. 1051]

### DEVELOPMENTALLY DISABLED—INVOLUNTARY COMMITMENT— COMMISSION OF FELONY CRIME AND DEEMED INCOMPETENT— PROCEDURE

AN ACT Relating to developmentally disabled adults; amending RCW 10.77.010, 10.77-.060, 10.77.090, 10.77.110, 10.77.120, 10.77.140, 10.77.163, 10.77.165, 10.77.200, 10.77.210, 71.05.020, 71.05.300, 71.05.320, and 71.05.325; adding new sections to chapter 10.77 RCW; adding new sections to chapter 71.05 RCW; creating a new section; providing an expiration date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 10.77 RCW to read as follows:

With respect to this act, the legislature finds that among those persons who endanger the safety of others by committing felony crimes are a small number of persons with developmental disabilities. While their conduct is not typical of the vast majority of persons with developmental disabilities who are responsible citizens, for their own welfare and for the safety of

others the state may need to exercise control over those few dangerous individuals who are developmentally disabled, have been charged with felony crimes, and have been found either incompetent to stand trial or not guilty by reason of insanity. The legislature finds, however, that the use of civil commitment procedures under chapter 71.05 RCW to effect state control over dangerous developmentally disabled persons has resulted in their commitment to institutions for the mentally ill. The legislature finds that existing programs in mental institutions may be inappropriate for persons who are developmentally disabled because the services provided in mental institutions are oriented to persons with mental illness, a condition not necessarily associated with developmental disabilities. Therefore, the legislature believes that, where appropriate, and subject to available funds, persons with developmental disabilities who have been charged with felony crimes and have been found incompetent to stand trial or not guilty by reason of insanity should receive state services addressing their needs, that such services must be provided in conformance with an individual habilitation plan, and that their initial treatment should be separate and discrete from treatment for persons involved in any other treatment or habilitation program in a manner consistent with the needs of public safety.

NEW SECTION. Sec. 2. A new section is added to chapter 71.05 RCW to read as follows:

With respect to this act, the legislature finds that among those persons who endanger the safety of others by committing felony crimes are a small number of persons with developmental disabilities. While their conduct is not typical of the vast majority of persons with developmental disabilities who are responsible citizens, for their own welfare and for the safety of others the state may need to exercise control over those few dangerous individuals who are developmentally disabled, have been charged with felony crimes, and have been found either incompetent to stand trial or not guilty by reason of insanity. The legislature finds, however, that the use of civil commitment procedures under chapter 71.05 RCW to effect state control over dangerous developmentally disabled persons has resulted in their commitment to institutions for the mentally ill. The legislature finds that existing programs in mental institutions may be inappropriate for persons who are developmentally disabled because the services provided in mental institutions are oriented to persons with mental illness, a condition not necessarily associated with developmental disabilities. Therefore, the legislature believes that, where appropriate, and subject to available funds, persons with developmental disabilities who have been charged with felony crimes and have been found incompetent to stand trial or not guilty by reason of insanity should receive state services addressing their needs, that such services must be provided in conformance with an individual habilitation plan,

and that their initial treatment should be separate and discrete from treatment for persons involved in any other treatment or habilitation program in a manner consistent with the needs of public safety.

Sec. 3. Section 1, chapter 117, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 122, Laws of 1983 and RCW 10.77.010 are each amended to read as follows:

As used in this chapter:

(1) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing felonious acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

(2) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to ((himself)) the person or his or her family.

(3) "Secretary" means the secretary of the department of social and health services or his or her designee.

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

(5) "Treatment" means any currently standardized medical or mental health procedure including medication.

(6) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(7) No condition of mind proximately induced by the voluntary act of a person charged with a crime shall constitute "insanity".

(8) "Furlough" means an authorized leave of absence for a resident of a state institution designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(9) "Developmental disability" means the condition defined in RCW 71A.10.020(2).

(10) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(11) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk

to the public safety presented by the individual being assisted as manifested by prior charged criminal conduct.

(12) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology.

(13) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW.

(14) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

(15) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge from involuntary confinement, and a projected possible date for discharge from involuntary confinement; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

Sec. 4. Section 6, chapter 117, Laws of 1973 1st ex. sess. as amended by section 6, chapter 198, Laws of 1974 ex. sess. and RCW 10.77.060 are each amended to read as follows:

(1) Whenever a defendant has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate at least two qualified experts or professional persons, one of whom shall be approved by the prosecuting attorney, to examine and report upon the mental condition of the defendant. At least one of the experts or professional persons appointed shall be a developmental disabilities professional if the court is advised by any party that the defendant may be developmentally disabled. For purposes of the examination, the court may order the defendant committed to a hospital or other suitable facility for a

period of time necessary to complete the examination, but not to exceed fifteen days.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the examination authorized by subsection (1) of this section, and that ~~((he))~~ the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the examination shall include the following:

(a) A description of the nature of the examination;

(b) A diagnosis of the mental condition of the defendant;

(c) If the defendant suffers from a mental disease or defect, or is developmentally disabled, an opinion as to ~~((his))~~ competency;

(d) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, an opinion as to the defendant's sanity at the time of the act;

(e) When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant is a substantial danger to other persons, or presents a substantial likelihood of committing felonious acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

Sec. 5. Section 9, chapter 117, Laws of 1973 1st ex. sess. as last amended by section 3, chapter 215, Laws of 1979 ex. sess. and RCW 10.77.090 are each amended to read as follows:

(1) If at any time during the pendency of an action and prior to judgment, the court finds following a report as provided in RCW 10.77.060, as now or hereafter amended, that the defendant is incompetent, the court shall order the proceedings against ~~((him))~~ the defendant be stayed, except as provided in subsection (5) of this section, and, if the defendant is charged with a felony, may commit the defendant to the custody of the secretary, who shall place such defendant in an appropriate facility of the department for evaluation and treatment, or the court may alternatively order the defendant to undergo evaluation and treatment at some other facility, or under the guidance and control of some other person, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, but in any event, for no longer than a period of ninety days. A defendant found incompetent shall be evaluated at the direction of the secretary and a determination made

whether the defendant is developmentally disabled. Such evaluation and determination shall be accomplished as soon as possible following the court's placement of the defendant in the custody of the secretary. When appropriate, and subject to available funds, if the defendant is determined to be developmentally disabled, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant shall have the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. The program shall be separate from programs serving persons involved in any other treatment or habilitation program. The program shall be appropriately secure under the circumstances and shall be administered by developmental disabilities professionals who shall direct the habilitation efforts. The program shall provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety. The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services. The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department. A copy of the report shall be sent to the facility. On or before expiration of the initial ninety day period of commitment the court shall conduct a hearing, at which it shall determine whether or not the defendant is incompetent. If the defendant is charged with a crime which is not a felony, the court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the county mental health professional to evaluate the defendant and commence proceedings under chapter 71.05 RCW if appropriate; and subsections (2) and (3) of this section shall not be applicable: PROVIDED, That, upon order of the court, the prosecutor may directly petition for fourteen days of involuntary treatment under chapter 71.05 RCW.

(2) If the court finds by a preponderance of the evidence that the defendant is incompetent, the court shall have the option of extending the order of commitment or alternative treatment for an additional ninety day period, but it must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second ninety day period. The defendant, ~~((his))~~ the defendant's attorney, the prosecutor, or the judge shall have the right to demand that the hearing on or before the expiration of the second ninety day period be before a jury. No extension shall be ordered for a second ninety-day period, nor for any subsequent period as provided in subsection (3) of this section if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension. If no demand is made,



the hearing shall be before the court. The court or jury shall determine whether or not the defendant has become competent.

(3) At the hearing upon the expiration of the second ninety day period or at the end of the first ninety-day period, in the case of a developmentally disabled defendant, if the jury or court, as the case may be, finds that the defendant is incompetent, the charges shall be dismissed without prejudice, and either civil commitment proceedings shall be instituted, if appropriate, or the court shall order the release of the defendant: PROVIDED, That the criminal charges shall not be dismissed if at the end of the second ninety-day period, or at the end of the first ninety day period, in the case of a developmentally disabled defendant, the court or jury finds that the defendant is a substantial danger to other persons, or presents a substantial likelihood of committing felonious acts jeopardizing public safety or security, and that there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for an additional six months. At the end of said six month period, if the defendant remains incompetent, the charges shall be dismissed without prejudice and either civil commitment proceedings shall be instituted, if appropriate, or the court shall order release of the defendant.

(4) The fact that the defendant is unfit to proceed does not preclude any pretrial proceedings which do not require the personal participation of the defendant.

(5) A defendant receiving medication for either physical or mental problems shall not be prohibited from standing trial, if the medication either enables ((him)) the defendant to understand the proceedings against him or her and to assist in his or her own defense, or does not disable him or her from so understanding and assisting in his or her own defense.

(6) At or before the conclusion of any commitment period provided for by this section, the facility providing evaluation and treatment shall provide to the court a written report of examination which meets the requirements of RCW 10.77.060(3).

Sec. 6. Section 11, chapter 117, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 25, Laws of 1983 and RCW 10.77.110 are each amended to read as follows:

(1) If a defendant is acquitted of a felony by reason of insanity, and it is found that he or she is not a substantial danger to other persons, and does not present a substantial likelihood of committing felonious acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, the court shall direct ((his)) the defendant's final discharge. If it is found that such defendant is a substantial danger to other persons, or presents a substantial likelihood of committing felonious acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, the court shall order his or her

hospitalization, or any appropriate alternative treatment less restrictive than detention in a state mental hospital, pursuant to the terms of this chapter.

(2) If the defendant has been found not guilty by reason of insanity and a substantial danger, or presents a substantial likelihood of committing felonious acts jeopardizing public safety or security, so as to require treatment then the secretary shall immediately cause the defendant to be evaluated to ascertain if the defendant is developmentally disabled. When appropriate, and subject to available funds, the defendant may be committed to a program specifically reserved for the treatment and training of developmentally disabled persons. A person so committed shall receive habilitation services according to an individualized service plan specifically developed to treat the behavior which was the subject of the criminal proceedings. The treatment program shall be administered by developmental disabilities professionals and others trained specifically in the needs of developmentally disabled persons. The treatment program shall provide physical security to a degree consistent with the finding that the defendant is dangerous and may incorporate varying conditions of security and alternative sites when the dangerousness of any particular defendant makes this necessary. The department may limit admissions to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services. The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.

(3) If it is found that such defendant is not a substantial danger to other persons, and does not present a substantial likelihood of committing felonious acts jeopardizing public safety or security, but that he or she is in need of control by the court or other persons or institutions, the court shall direct ((his)) the defendant's conditional release. If the defendant is acquitted by reason of insanity of a crime which is not a felony, the court shall order the defendant's release or order the defendant's continued custody only for a reasonable time to allow the county-designated mental-health professional to evaluate the individual and to proceed with civil commitment pursuant to chapter 71.05 RCW, if considered appropriate.

Sec. 7. Section 12, chapter 117, Laws of 1973 1st ex. sess. as amended by section 11, chapter 198, Laws of 1974 ex. sess. and RCW 10.77.120 are each amended to read as follows:

The secretary shall forthwith provide adequate care and individualized treatment at one or several of the state institutions or facilities under his or her direction and control wherein persons committed as criminally insane may be confined. Such persons shall be under the custody and control of the secretary to the same extent as are other persons who are committed to ((his)) the secretary's custody, but such provision shall be made for their control, care, and treatment as is proper in view of their condition. In order

that the secretary may adequately determine the nature of the mental illness or developmental disability of the person committed to him or her as criminally insane, and in order for the secretary to place such individuals in a proper facility, all persons who are committed to the secretary as criminally insane shall be promptly examined by qualified personnel in such a manner as to provide a proper evaluation and diagnosis of such individual. The examinations of all developmentally disabled persons committed under this chapter shall be performed by developmental disabilities professionals. Any person so committed shall not be discharged from the control of the secretary save upon the order of a court of competent jurisdiction made after a hearing and judgment of discharge.

Whenever there is a hearing which the committed person is entitled to attend, the secretary shall send him or her in the custody of one or more department employees to the county where the hearing is to be held at the time the case is called for trial. During the time ~~((he))~~ the person is absent from the facility, he or she shall be confined in a facility designated by and arranged for by the department, and shall at all times be deemed to be in the custody of the department employee and provided necessary treatment. If the decision of the hearing remits the person to custody, the department employee shall forthwith return ~~((him))~~ the person to such institution or facility designated by the secretary. If the state appeals an order of discharge, such appeal shall operate as a stay, and the person in custody shall so remain and be forthwith returned to the institution or facility designated by the secretary until a final decision has been rendered in the cause.

Sec. 8. Section 14, chapter 117, Laws of 1973 1st ex. sess. as amended by section 12, chapter 198, Laws of 1974 ex. sess. and RCW 10.77.140 are each amended to read as follows:

Each person committed to a hospital or other facility or conditionally released pursuant to this chapter shall have a current examination of his or her mental condition made by one or more experts or professional persons at least once every six months. Said person may retain, or if ~~((he))~~ the person is indigent and so requests, the court may appoint a qualified expert or professional person to examine him or her, and such expert or professional person shall have access to all hospital records concerning the person. In the case of a committed or conditionally released person who is developmentally disabled, the expert shall be a developmental disabilities professional. The secretary, upon receipt of the periodic report, shall provide written notice to the court of commitment of compliance with the requirements of this section.

Sec. 9. Section 2, chapter 122, Laws of 1983 and RCW 10.77.163 are each amended to read as follows:

(1) Before a person committed under this chapter is permitted temporarily to leave a treatment facility for any period of time without constant accompaniment by facility staff, the superintendent, professional person in

charge of a treatment facility, or his or her professional designee shall in writing notify the prosecuting attorney of any county to which the person is released and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision conditionally to release the person. The notice shall be provided at least thirty days before the anticipated release and shall describe the conditions under which the release is to occur.

(2) In addition to the notice required by subsection (1) of this section, the superintendent of each state institution designated for the custody, care, and treatment of ((the criminally insane)) persons committed under this chapter shall notify appropriate law enforcement agencies through the state patrol communications network of the furloughs of persons committed under RCW 10.77.090 or 10.77.110. Notification shall be made at least forty-eight hours before the furlough, and shall include the name of the person, the place to which the person has permission to go, and the dates and times during which the person will be on furlough. ((For emergency furloughs, forty-eight hours notice is not required, but notice shall be made before the departure:))

(3) Upon receiving notice that a person committed under this chapter is being temporarily released under subsection (1) of this section, the prosecuting attorney may seek a temporary restraining order to prevent the release of the person on the grounds that the person is dangerous to self or others.

Sec. 10. Section 3, chapter 122, Laws of 1983 and RCW 10.77.165 are each amended to read as follows:

In the event of an escape by a ((criminally insane)) person committed under this chapter from a state institution or the disappearance of such a person on conditional release, the superintendent shall notify as appropriate, local law enforcement officers, other governmental agencies, the person's relatives, and any other appropriate persons about information necessary for the public safety or to assist in the apprehension of the person.

Sec. 11. Section 20, chapter 117, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 25, Laws of 1983 and RCW 10.77.200 are each amended to read as follows:

(1) Upon application by the ((criminally insane)) committed or conditionally released person, the secretary shall determine whether or not reasonable grounds exist for final discharge. If the secretary approves the final discharge he or she then shall authorize said person to petition the court.

(2) The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the petition for final discharge, shall within forty-five days order a hearing. Continuance of the hearing date shall only be allowed for good cause shown. The prosecuting attorney shall represent the state, and shall have the right to have the petitioner examined

by an expert or professional person of his choice. If the petitioner is indigent, and ~~((he))~~ the person so requests, the court shall appoint a qualified expert or professional person to examine him or her. If the petitioner is developmentally disabled, the examination shall be performed by a developmental disabilities professional. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney. The burden of proof shall be upon the petitioner to show by a preponderance of the evidence that the petitioner may be finally discharged without substantial danger to other persons, and without presenting a substantial likelihood of committing felonious acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

(3) Nothing contained in this chapter shall prohibit the patient from petitioning the court for final discharge or conditional release from the institution in which he or she is committed. The issue to be determined on such proceeding is whether the petitioner is a substantial danger to other persons, or presents a substantial likelihood of committing felonious acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

Nothing contained in this chapter shall prohibit the committed person from petitioning for release by writ of habeas corpus.

Sec. 12. Section 21, chapter 117, Laws of 1973 1st ex. sess. as amended by section 3, chapter 196, Laws of 1983 and RCW 10.77.210 are each amended to read as follows:

Any person involuntarily detained, hospitalized, or committed pursuant to the provisions of this chapter shall have the right to adequate care and individualized treatment. The person who has custody of the patient or is in charge of treatment shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations of the patient that have been filed with the secretary pursuant to this chapter. All records and reports made pursuant to this chapter, shall be made available only upon request, to the committed person, to his or her attorney, to his or her personal physician, to the prosecuting attorney, to the court, to the protection and advocacy agency, or other expert or professional persons who, upon proper showing, demonstrates a need for access to such records. All records and reports made pursuant to this chapter shall also be made available, upon request, to the department of corrections or the ~~((board of prison terms and paroles))~~ indeterminate sentence review board if the person was on parole or probation at the time of detention, hospitalization, or commitment or the person is subsequently convicted for the crime for which ~~((they were))~~ he or she was detained, hospitalized, or committed pursuant to this chapter.

Sec. 13. Section 7, chapter 142, Laws of 1973 1st ex. sess. as amended by section 5, chapter 215, Laws of 1979 ex. sess. and RCW 71.05.020 are each amended to read as follows:

For the purposes of this chapter:

(1) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his essential human needs of health or safety, or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(2) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions;

(3) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on one's self, (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm, or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others;

(4) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(5) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(6) "Public agency" means any evaluation and treatment facility or institution, hospital, or sanitarium which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill or deranged, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(7) "Private agency" means any person, partnership, corporation, or association not defined as a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, hospital, or sanitarium, which is conducted for, or includes a department or ward conducted for the care and treatment of persons who are mentally ill;

(8) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(9) "Department" means the department of social and health services of the state of Washington;

(10) "Secretary" means the secretary of the department of social and health services, or his designee;

(11) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules and regulations adopted by the secretary pursuant to the provisions of this chapter;

(12) "Professional person" shall mean a mental health professional, as above defined, and shall also mean a physician, registered nurse, and such others as may be defined by rules and regulations adopted by the secretary pursuant to the provisions of this chapter;

(13) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(14) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(15) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree from a graduate school deemed equivalent under rules and regulations adopted by the secretary;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and short term inpatient care to persons suffering from a mental disorder, and which is certified as such by the department of social and health services: PROVIDED, That a physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility: PROVIDED FURTHER, That a facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification: AND PROVIDED FURTHER, That no correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(17) "Developmental disability" means that condition defined in RCW 71A.10.020(2);

(18) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(19) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk

to the public safety presented by the individual being assisted as manifested by prior charged criminal conduct;

(20) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(21) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary;

(22) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge from involuntary confinement, and a projected possible date for discharge from involuntary confinement; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

Sec. 14. Section 35, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 8, chapter 439, Laws of 1987 and RCW 71.05.300 are each amended to read as follows:

The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the designated county mental health professional. The designated county mental health professional shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, and the prosecuting attorney, and provide a copy of the petition to such persons as soon as possible.

At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney and of his or her right to a jury trial. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney,



the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person.

The court may, if requested, also appoint a professional person as defined in RCW 71.05.020(12) to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a developmentally disabled person who has been determined to be incompetent pursuant to RCW 10.77.090(3), then the appointed professional person under this section shall be a developmental disabilities professional.

The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310.

Sec. 15. Section 37, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 5, chapter 67, Laws of 1986 and RCW 71.05.320 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department of social and health services for a further period of intensive treatment not to exceed ninety days from the date of judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment in a facility certified for one hundred eighty day treatment by the department. If the committed person is developmentally disabled and has been determined incompetent pursuant to RCW 10.77.090(3), and the best interests of the person or others will not be served by a less-restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department of social and health services or to a facility certified for one hundred eighty-day treatment by the department. When appropriate and subject to available funds, treatment and training of such persons must be provided in a program specifically reserved for the treatment and training of developmentally disabled persons. A person so committed shall receive habilitation services pursuant to an individualized service plan specifically developed to treat the behavior which was the subject of the criminal proceedings. Said treatment program shall be administered by developmental disabilities professionals and others trained specifically in the needs of developmentally disabled persons. The department may limit admissions to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services. The department may establish admission priorities in the

event that the number of eligible persons exceeds the limits set by the department. An order for treatment less restrictive than involuntary detention may include conditions, and if such conditions are not adhered to, the designated mental health professional or developmental disabilities professional may order the person apprehended under the terms and conditions of RCW 71.05.340 as now or hereafter amended.

If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department of social and health services or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment.

(2) Said person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) of this section unless the superintendent or professional person in charge of the facility in which he is confined, or in the event of a less restrictive alternative, the designated mental health professional or developmental disabilities professional, files a new petition for involuntary treatment on the grounds that the committed person;

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of mental disorder or developmental disability presents a likelihood of serious harm to others; or

(b) Was taken into custody as a result of conduct in which he attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder or developmental disability a likelihood of serious harm to others; or

(c) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder or developmental disability presents a substantial likelihood of repeating similar acts considering the charged criminal behavior, life history, progress in treatment, and the public safety; or

(d) Continues to be gravely disabled.

If the conduct required to be proven in subsections (b) and (c) of this section was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to reprove that element. Such new petition for involuntary treatment shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this subsection are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment. At the end of the one hundred eighty day period of commitment, the committed person shall be released unless a petition for another one hundred eighty day period of continued treatment is filed and heard in the same manner as provided herein above. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment. No person committed as herein provided may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length.

*\*Sec. 16. Section 2, chapter 67, Laws of 1986 and RCW 71.05.325 are each amended to read as follows:*

***(1) Before a person committed under grounds set forth in RCW 71.05.280(3) is released from involuntary treatment because a new petition for involuntary treatment has not been filed under RCW 71.05.320(2), the superintendent, professional person, or designated mental health professional responsible for the decision whether to file a new petition shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision not to file a new petition for involuntary treatment. Notice shall be provided at least thirty days before the period of commitment expires.***

***(2)(a) Before a person committed under grounds set forth in RCW 71.05.280(3) is permitted temporarily to leave a treatment facility pursuant to RCW 71.05.270 for any period of time without constant accompaniment by facility staff, the superintendent, professional person in charge of a treatment facility, or his or her professional designee shall in writing notify the prosecuting attorney of any county to which the person is to be released and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision conditionally to release the person. The notice shall be provided at least thirty days before the anticipated release and shall describe the conditions under which the release is to occur.***

***(b) The provisions of RCW 71.05.330(2) apply to proposed temporary releases, and either or both prosecuting attorneys receiving notice under this subsection may petition the court under RCW 71.05.330(2).***

***(3) Nothing in this section shall be construed to authorize detention of a person unless a valid order of commitment is in effect.***

*\*Sec. 16 was vetoed, see message at end of chapter.*

**NEW SECTION.** Sec. 17. A new section is added to chapter 10.77 RCW to read as follows:

The provisions of this act shall apply equally to persons presently in the custody of the department who were found by a court to be not guilty by reason of insanity or incompetent to stand trial, or who have been found to have committed acts constituting a felony pursuant to RCW 71.05.280(3) and present a substantial likelihood of repeating similar acts, and the secretary shall cause such persons to be evaluated to ascertain if such persons are developmentally disabled for placement in a program specifically reserved for the treatment and training of persons with developmental disabilities.

**NEW SECTION.** Sec. 18. A new section is added to chapter 71.05 RCW to read as follows:

The provisions of this act shall apply equally to persons presently in the custody of the department who were found by a court to be not guilty by reason of insanity or incompetent to stand trial, or who have been found to have committed acts constituting a felony pursuant to RCW 71.05.280(3) and present a substantial likelihood of repeating similar acts, and the secretary shall cause such persons to be evaluated to ascertain if such persons are developmentally disabled for placement in a program specifically reserved for the treatment and training of persons with developmental disabilities.

**NEW SECTION.** Sec. 19. (1) The legislature finds that since the later 1970s, there has been an increase in the reinstitutionalization of the mentally ill in prisons, jails, and mentally ill offender programs within state hospitals in Washington. The mentally ill offender is frequently released from jail or prison without any supervision or case management in the community. The mentally ill offender is also released from the state hospital to the community where the mental health system is resource-deficient to accommodate the needs of the mentally ill, criminally stigmatized person. Many of these individuals become reinvolved with the criminal justice system, the jails, courts, and corrections with additional convictions and/or state hospital commitments. Neither the treatment needs of this population nor public safety is being met by the existing systems.

There is public concern about the lack of adequate security in mentally ill offender programs at state hospitals. It is the intent of the legislature to promote public safety and provide a secure treatment facility to serve the forensic patients who are under the supervision of the department of corrections or the department of social and health services.

(2)(a) The department of corrections and the department of social and health services shall conduct a study for the development of a forensic hospital which would serve the needs of mentally ill offenders currently in state health institutions and prisons. In preparing the study, the departments shall consult with other states, counties, cities, jails, private and public agencies, and community groups for recommendations in housing and treating the mentally ill offender.

(b) The scope of the study shall be sufficiently broad to encompass the inpatient and community service needs of the mentally ill offenders, from

their first contact with the criminal justice system to reintegration in the community.

(c) The departments shall report back to the senate law and justice committee and the house of representatives judiciary committee before March 1, 1990.

NEW SECTION. Sec. 20. Section 19 of this act shall expire March 1, 1990.

NEW SECTION. Sec. 21. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 18, 1989.

Passed the Senate April 7, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to section 16, Engrossed Substitute House Bill No. 1051 entitled:

"AN ACT Relating to developmentally disabled adults."

Section 16 of this bill amends RCW 71.05.325 relating to the release of certain committed individuals. Similar language is contained in House Bill No. 2054, section 1. To avoid confusion, I am vetoing section 16.

With the exception of section 16, Engrossed Substitute House Bill No. 1051 is approved."

## CHAPTER 421

[Substitute Senate Bill No. 5889]

### WATER CONSERVATION AND WASTE REDUCTION PROGRAMS

AN ACT Relating to conservation of water; adding a new section to chapter 35.92 RCW; adding a new section to chapter 54.16 RCW; adding a new section to chapter 57.08 RCW; creating new sections; and providing a contingent effective date.

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

NEW SECTION. Sec. 1. The conservation and efficient use of water is found and declared to be a public purpose of highest priority. The legislature further finds and declares that all municipal corporations, public utility districts, water districts, and other political subdivisions of the state that are engaged in the sale or distribution of water should be granted the authority to develop and carry out programs that will conserve resources, reduce waste, and encourage more efficient use of water by consumers.

In order to establish the most effective state-wide program for water conservation, the legislature hereby encourages any company, corporation, or association engaged in selling or furnishing utility services to assist their

customers in the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water.

***\*NEW SECTION. Sec. 2. The terms "conservation" and "efficient use of water" shall have the meaning established by the joint select committee on water resource policy.***

*\*Sec. 2 was vetoed, see message at end of chapter.*

**NEW SECTION. Sec. 3. A new section is added to chapter 35.92 RCW to read as follows:**

Any city or town engaged in the sale or distribution of water is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the city or town if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly new water source available to the city or town to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed one hundred twenty months in length.

**NEW SECTION. Sec. 4. A new section is added to chapter 54.16 RCW to read as follows:**

Any district is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the district if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly new water source available to the district to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed one hundred twenty months in length.

NEW SECTION. Sec. 5. A new section is added to chapter 57.08 RCW to read as follows:

Any district is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the district if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly new water source available to the district to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed one hundred twenty months in length.

**NEW SECTION, Sec. 6.** This act shall take effect on the same date as the proposed amendment to Article VIII of the state Constitution, authorizing the use of public moneys or credit to promote conservation or more efficient use of water, is validly submitted and is approved and ratified by the voters at a general election held in November 1989. If the proposed amendment is not so approved and ratified, this act shall be void in its entirety.

Passed the Senate April 17, 1989.

Passed the House April 13, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to section 2, Substitute Senate Bill No. 5889 entitled:

"AN ACT Relating to conservation of water."

This is an excellent program, modeled on successes in the area of energy conservation. I am not, however, convinced of the propriety of delegating a legislative function entirely to a committee. I am vetoing section 2 and recommending that the Joint Select Committee develop definitions of these terms for deliberation by the full Legislature. In the event the Legislature is unable to agree on definitions prior to the approval of the accompanying constitutional amendment, the common usage of these terms will be applied.



With the exception of section 2, Substitute Senate Bill No. 5889 is approved.\*

## CHAPTER 422

### [Substitute Senate Bill No. 5566] SAFE DRINKING WATER ACT

AN ACT Relating to safe drinking water; amending RCW 70.119A.020, 70.119A.030, 70.119A.040, 70.119A.050, 43.20.050, 70.119.020, and 70.116.030; adding new sections to chapter 70.119A RCW; creating a new section; and repealing RCW 70.119A.010.

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

NEW SECTION. Sec. 1. This act shall be known and cited as the "Washington state safe drinking water act."

Sec. 2. Section 2, chapter 271, Laws of 1986 and RCW 70.119A.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the following definitions apply throughout this chapter:

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

(2) "Local board of health" ~~((has the meaning in RCW 70.05.010))~~ means the city, town, county, or district board of health.

(3) "Local health jurisdiction" means an entity created under chapter 70.05, 70.08, or 70.46 RCW which provides public health services to persons within the area.

(4) "Public water ~~((supply system" has the meaning in RCW 70.119-020))~~ system" means any system, excluding a system serving only one single-family residence, which provides piped water for human consumption, including:

(a) Any collection, treatment, storage, and distribution facilities under control of the purveyor and used primarily in connection with such system; and

(b) Any collection or pretreatment storage facilities not under control of the purveyor which are primarily used in connection with such system.

~~((4))~~ (5) "Order" means a written direction to comply with a provision of the regulations adopted under RCW 43.20.050(2)(a) or 70.119.050 or to take an action or a series of actions to comply with the regulations ~~((; allowing a reasonable time to comply without penalty and shall consider the ability of the public water supply system to prevent or correct the violation))~~.

~~((5))~~ (6) "Purveyor" means any agency or subdivision of the state or any municipal corporation, firm, company, mutual, or cooperative association, institution, partnership, or person or any other entity, that owns or operates a public water system. It also means the authorized agents of any such entities.

(7) "Regulations" means ~~((the provisions of chapter 248-54 WAC, as it may be amended, or any regulations that supersede chapter 248-54 WAC~~

~~and are adopted under the authority of RCW 43.20.050(2)(a))~~ rules adopted to carry out the purposes of this chapter.

(8) "Federal safe drinking water act" means the federal safe drinking water act, 42 U.S.C. Sec. 300f et seq., as now in effect or hereafter amended.

(9) "Local health officer" means the legally qualified physician who has been appointed as the health officer for the city, town, county, or district public health department.

(10) "Person" includes, but is not limited to, natural persons, municipal corporations, governmental agencies, firms, companies, mutual or cooperative associations, institutions, and partnerships. It also means the authorized agents of any such entities.

(11) "Public health emergency" means a declaration by an authorized health official of a situation in which either illness, or exposure known to cause illness, is occurring or is imminent.

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

(13) "State board of health" is the board created by RCW 43.20.030.

NEW SECTION. Sec. 3. A new section is added to chapter 70.119A RCW to read as follows:

(1) In order to assure safe and reliable public drinking water and to protect the public health, public water systems shall:

(a) Protect the water sources used for drinking water;

(b) Provide treatment adequate to assure that the public health is protected;

(c) Provide and effectively operate and maintain public water system facilities;

(d) Plan for future growth and assure the availability of safe and reliable drinking water;

(e) Take whatever investigative or corrective action is necessary to assure that a safe and reliable drinking water supply is continuously available to users.

(2) The department and local health jurisdictions shall carry out the rules and regulations of the state board of health adopted pursuant to RCW 43.20.050(2)(a) and other rules adopted by the department relating to public water systems.

NEW SECTION. Sec. 4. A new section is added to chapter 70.119A RCW to read as follows:

The department may enter into contracts to carry out the purposes of this chapter.

NEW SECTION. Sec. 5. A new section is added to chapter 70.119A RCW to read as follows:

(1) The department shall administer a drinking water program which includes, but is not limited to, those program elements necessary to assume primary enforcement responsibility for part B, and section 1428 of part C of the federal safe drinking water act. No rule or regulation promulgated or implemented by the department of social and health services or the state board of health for the purpose of compliance with the requirements of the federal safe drinking water act, 42 U.S.C. Sec. 300f et seq., shall be applicable to public water systems to which that federal law is not applicable, unless the department or the state board determines that such rule or regulation is necessary for the protection of public health.

(2) The department shall enter into an agreement of administration with the department of ecology and any other appropriate agencies, to administer the federal safe drinking water act.

(3) The department is authorized to accept federal grants for the administration of a primary program.

Sec. 6. Section 3, chapter 271, Laws of 1986 and RCW 70.119A.030 are each amended to read as follows:

(1) The secretary or his or her designee or the local health officer may declare a public health emergency. As limited by RCW 70.119A.040, the department may impose penalties for violations of laws or regulations that are determined ~~((by the health officer to be an imminent or actual))~~ to be a public health emergency.

(2) As limited by RCW 70.119A.040, the department may impose penalties for failure to comply with an order of the department, or of an authorized local board of health, when the order:

(a) Directs any person to stop work on the construction or alteration of a public water ~~((supply))~~ system when plans and specifications for the construction or alteration have not been approved as required by the regulations, or when the work is not being done in conformity with approved plans and specifications;

(b) Requires any person to eliminate a cross-connection to a public water ~~((supply))~~ system by a specified time; or

(c) ~~((Directs the owner or operator of a public water supply system))~~ Requires any person to cease violating any ~~((other))~~ regulation relating to public water ~~((supply))~~ systems, or to take specific actions within a specified time to place a public water ~~((supply))~~ system in compliance with ~~((any other))~~ regulations adopted under chapters 43.20 and 70.119 RCW.

**\*Sec. 7. Section 4, chapter 271, Laws of 1986 and RCW 70.119A.040 are each amended to read as follows:**

**(1) In addition to or as an alternative to any other penalty provided by law, every person who commits any of the acts or omissions in RCW 70.119A.030 shall be subjected to a penalty in an amount of not more than five thousand dollars per day for every such violation. Every such violation shall be a separate and distinct offense. The amount of fine shall reflect the health**

significance of the violation and the previous record of compliance on the part of the public water supplier. In case of continuing violation, every day's continuance shall be a separate and distinct violation. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty provided in this section.

(2) ~~The penalty provided for in this section shall be imposed by a notice in writing (either by certified mail with return receipt requested or by personal service,) to the person (incurring the same from the department, describing) against whom the civil fine is assessed and shall describe the violation (with reasonable particularity). The notice shall be personally served in the manner of service of a summons in a civil action or in a manner which shows proof of receipt. Any penalty imposed by this section becomes due and payable twenty-eight days after receipt of notice unless application for remission or mitigation is made as provided in subsection (3) of this section or unless application for an adjudicative proceeding is filed as provided in subsection (4) of this section.~~

(3) Within (fifteen) fourteen days after the notice is received, the person incurring the penalty may apply in writing to the department for the remission or mitigation of such penalty. Upon receipt of the application, the department may remit or mitigate the penalty upon whatever terms the department in its discretion deems proper, giving consideration to the degree of hazard associated with the violation, provided the department deems such remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department shall have authority to ascertain the facts regarding all such applications in such reasonable manner (and under such rules) as it may deem proper. (Any penalty imposed by this section shall be subject to review by the office of administrative hearings in accordance with chapter 34.12 RCW) When an application for remission or mitigation is made, any penalty incurred pursuant to this section shall become due and payable twenty-eight days after receipt of notice setting forth the disposition of such application, unless an application for an adjudicative proceeding to contest the disposition is filed as provided in subsection (4) of this section.

(4) Within twenty-eight days after notice is received, the person incurring the penalty may file an application for an adjudicative proceeding and may pursue subsequent review as provided in chapter 34.05 RCW, and applicable rules of the department or board of health.

~~((3)) (5) Any penalty imposed by (this section) final order following an adjudicative proceeding shall become due and payable (thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or petition for review is filed directly to the office of administrative hearings within thirty days of the imposition of the penalty. When such an application for remission or mitigation is made, any penalty~~

~~incurred pursuant to this section shall become due and payable thirty days after receipt of notice setting forth the disposition of such application. Any penalty resulting from a decision of the office of administrative hearings shall become due and payable thirty days after receipt of the notice setting forth the decision)) upon service of the final order.~~

~~((4) If the amount of any penalty is not paid within thirty days after it becomes due and payable,)) (6) The attorney general((, upon the request of the secretary of the department, shall)) is authorized to bring an action in the name of the ~~((state of Washington))~~ department in the superior court of Thurston county, or of any county in which such violator may do business, to ~~((recover such))~~ collect any penalty imposed under this chapter. ~~((In all such actions, the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise in this chapter provided:~~~~

~~(5)) (7) All penalties imposed under this section shall be payable to the state treasury and credited to the general fund.~~

\*Sec. 7 was vetoed, see message at end of chapter.

Sec. 8. Section 5, chapter 271, Laws of 1986 and RCW 70.119A.050 are each amended to read as follows:

Each local board of health that is enforcing the regulations under an agreement with the department allocating state and local responsibility is authorized to impose civil penalties for violations within the area of its responsibility under the same limitations and requirements ~~((as))~~ imposed upon the department ~~((in))~~ by RCW 70.119A.030 and 70.119A.040, except that ~~((the))~~ penalties shall be placed into the general fund of the county, city, or town operating the local board of health, and the prosecuting attorney, or city, or town attorney shall bring the actions to collect the unpaid penalties.

\*Sec. 9. Section 43.20.050, chapter 8, Laws of 1965 as last amended by section 1, chapter 213, Laws of 1985 and RCW 43.20.050 are each amended to read as follows:

(1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is empowered to hold hearings and explore ways to improve the health status of the citizenry.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules and regulations ((for the protection of water supplies for domestic use, and such other uses as may affect the public health, and shall adopt standards and procedures governing the design, construction and operation of water supply, treatment, storage, and distribution facilities, as well as the quality of water delivered to the ultimate consumer,)) necessary to assure safe and reliable public drinking water and to protect the public health. Such rules and regulations shall establish requirements regarding:

(i) The design and construction of public water system facilities;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

**(iii) Public water system management and reporting requirements;**  
**(iv) Public water system planning and emergency response requirements;**  
**(v) Public water system operation and maintenance requirements; and**  
**(vi) Water quality, reliability, and management of existing but inadequate public water systems.**

**(b) Adopt rules and regulations and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities;**

**(c) Adopt rules and regulations controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work;**

**(d) Adopt rules and regulations for the imposition and use of isolation and quarantine; and**

**(e) Adopt rules and regulations for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules and regulations governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by universal rule.**

**(3) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules and regulations adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.**

\*Sec. 9 was vetoed, see message at end of chapter.

**\*Sec. 10. Section 2, chapter 99, Laws of 1977 ex. sess. as amended by section 2, chapter 292, Laws of 1983 and RCW 70.119.020 are each amended to read as follows:**

**As used in this chapter unless context requires another meaning:**

**(1) "Board" means the board established pursuant to RCW 70.95B.070 which shall be known as the water and waste water operator certification board of examiners.**

**(2) "Certificate" means a certificate of competency issued by the secretary stating that the operator has met the requirements for the specified operator classification of the certification program.**

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

(4) "Distribution system" means that portion of a public water ((supply)) system which stores, transmits, pumps and distributes water to consumers.

(5) "Nationally recognized association of certification authorities" shall mean an organization which serves as an information center for certification activities, recommends minimum standards and guidelines for classification of potable water treatment plants, water distribution systems and waste water facilities and certification of operators, facilitates reciprocity between state programs and assists authorities in establishing new certification programs and updating existing ones.

(6) "Certified operator" means an individual employed or appointed by any county, water district, municipality, public or private corporation, company, institution, person, or the state of Washington who is designated by the employing or appointing officials as the person responsible for active daily technical operation.

~~(7) "Public water ((supply system" means any water supply system intended or used for human consumption or other domestic uses, including source, treatment, storage, transmission and distribution facilities where water is furnished to any community or group of individuals, or is made available to the public for human consumption or domestic use, but excluding all water supply systems serving one single-family residence)) system" means any system, excluding a system serving fewer than five single-family residences, which provides piped water for human consumption, including:~~

(a) Any collection, treatment, storage, and distribution facilities under control of the purveyor and used primarily in connection with such system; and

(b) Any collection or pretreatment storage facilities not under control of the purveyor which are primarily used in connection with such system.

(8) "Purification plant" means that portion of a public water ((supply)) system which treats or improves the physical, chemical or bacteriological quality of the system's water to bring the water into compliance with state board of health standards.

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

\*Sec. 10 was vetoed, see message at end of chapter.

\*Sec. 11. Section 3, chapter 142, Laws of 1977 ex. sess. and RCW 70-.116.030 are each amended to read as follows:

Unless the context clearly requires otherwise, the following terms when used in this chapter shall be defined as follows:

(1) "Coordinated water system plan" means a plan for public water systems within a critical water supply service area which identifies the present and future needs of the systems and sets forth means for meeting those needs in the most efficient manner possible. Such a plan shall include provisions for subsequently updating the plan. In areas where more than one water system exists, a coordinated plan may consist of either: (a) A new plan developed for

the area following its designation as a critical water supply service area; or (b) a compilation of compatible water system plans existing at the time of such designation and containing such supplementary provisions as are necessary to satisfy the requirements of this chapter. Any such coordinated plan must include provisions regarding: Future service area designations; assessment of the feasibility of shared source, transmission, and storage facilities; emergency inter-ties; design standards; and other concerns related to the construction and operation of the water system facilities.

(2) "Critical water supply service area" means a geographical area which is characterized by a proliferation of small, inadequate water systems, or by water supply problems which threaten the present or future water quality or reliability of service in such a manner that efficient and orderly development may best be achieved through coordinated planning by the water utilities in the area.

(3) (a) "Public water system" means any system ((providing water intended for, or used for, human consumption or other domestic uses. It includes, but is not limited to, the source, treatment for purifying purposes only, storage, transmission, pumping, and distribution facilities where water is furnished to any community, or number of individuals, or is made available to the public for human consumption or domestic use, but excluding water systems serving one single family residence. However, systems existing on September 21, 1977 which are owner operated and serve less than ten single family residences or which serve only one industrial plant shall be excluded from this definition and the provisions of this chapter)), excluding a system serving fewer than five single-family residences, which provides piped water for human consumption, including:

(i) Any collection, treatment, storage, and distribution facilities under control of the purveyor and used primarily in connection with such system; and

(ii) Any collection or pretreatment storage facilities not under control of the purveyor which are primarily used in connection with such system.

(b) Systems existing on September 21, 1977, which are owner-operated and serve less than ten single-family residences or serve only one industrial plant are excluded from this definition and the provisions of this chapter.

(4) "Purveyor" means any agency or subdivision of the state or any municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity, that owns or operates ((for wholesale or retail service)) a public water system. It also means the authorized agents of any such entities.

(5) "Secretary" means the secretary of the department of social and health services or the secretary's authorized representative.

(6) "Service area" means a specific geographical area serviced or for which service is planned by a purveyor.

\*Sec. 11 was vetoed, see message at end of chapter.



**NEW SECTION.** Sec. 12. Section 1, chapter 271, Laws of 1986 and RCW 70.119A.010 are each repealed.

Passed the Senate March 10, 1989.

Passed the House April 19, 1989.

Approved by the Governor May 14, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1989.

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

"I am returning herewith, without my approval as to sections 7, 9, 10 and 11, Engrossed Substitute Senate Bill No. 5566 entitled:

"AN ACT Relating to safe drinking water."

Section 7 amends RCW 70.119A.040, which was also amended by House Bill 1358, the Administrative Procedure Act revision bill. The amendment in this bill has the same intent as the amendment in House Bill 1358, but the language is conflicting. Since I have already signed House Bill 1358 into law, I am vetoing Section 7.

Section 9 amends RCW 43.20.050, which was also amended by House Bill 1857. Both bills amend the rule-making authority of the Board of Health with respect to drinking water systems. The only difference between the two amendments is that House Bill 1857 gives additional authority to the Board for regulating the sizing of pipes and storage facilities. This language is more explicit than the language in section 9 of Engrossed Substitute Senate Bill 5566. Since I have already signed House Bill 1857 into law, I am vetoing section 9.

Sections 10 and 11 amend the Public Water Supply Systems - Certification and Regulation of Operators Act, and the Public Water System Coordination Act of 1977, respectively. Both sections amend the definition of a public water supply system to exclude water systems serving fewer than five single-family residences. The current language, and the definition of public water supply system in the Safe Drinking Water Act, exclude only water systems that serve a single-family residence.

The exclusions in sections 10 and 11 would exempt over 4,000 small water systems from regulation, leaving these households without protection of their drinking water. People whose homes connect with small water systems deserve, and expect, the same quality of water as people whose homes are connected to larger systems. It is appropriate for the state, in its role of protecting public health, to assist small water systems in complying with safe drinking water regulations.

With the exception of sections 7, 9, 10, and 11, Engrossed Substitute Senate Bill No. 5566 is approved."

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## CHAPTER 423

[Substitute House Bill No. 2137]

### ECONOMIC DEVELOPMENT—TARGETED SECTORS PROGRAMS— BIOTECHNOLOGY AND FOOD PROCESSING

AN ACT Relating to targeted sectors for economic development; and adding new sections to chapter 43.31 RCW.

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

**NEW SECTION.** Sec. 1. (1) The legislature finds that the future health of certain sectors of Washington state's economy is at risk in the face of increasing global competition. The service and aerospace industries have

responded well to this increasing global competition. However, certain traditional industries, such as forest products and agriculture, have experienced some decline. Significant public and private resources are being directed toward restoring the vitality of these industries.

(2) The legislature finds that, in addition to these industries, there are a number of emerging sectors in the state economy which offer real promise. These include biotechnology and food processing. In the next decade, these emerging sectors can be among the state's strongest, most stable sectors able to successfully compete in the global market. It is the purpose of sections 1 through 6 of this act to help these emerging sectors by encouraging a broader base and support for their development. It is also the purpose of this act to ensure that more specific direction is given to the department in developing its programs and that the impact of resources the department directs toward targeted sectors is better measured.

(3) The legislature also finds that the state must work in partnership with the private sector to enhance economic development, whether restoring the vitality of declining industries or developing new industries with good economic potential. In order for the public and private efforts to be most successful, the state, particularly the department, must clearly articulate: (a) Its goals and objectives; (b) its appraisal of the sector that led to the goals and objectives; (c) its choice of strategy for achieving the goals and objectives; (d) its implementation plans and timetables; and (e) its evaluation criteria and process. The department must work with the private sector and the legislature in the analysis, the setting of goals, the choice of strategy, and the evaluation process so that all parties have input into and understand how the problem is being defined and how the problem is being solved.

**NEW SECTION.** Sec. 2. (1) The department shall establish targeted sector programs in the areas of biotechnology and food processing. The purpose of these programs shall be to analyze the current state of the targeted sector and develop an action plan and program for each targeted sector to increase the sales of products from these sectors nationally and internationally. The department shall also develop an evaluation process to measure the effectiveness of the targeted sector programs. The targeted sector programs are intended to significantly increase the jobs and capital investment in these sectors through a well-conceived and implemented marketing plan.

(2) A targeted sector program within the department shall:

(a) Administer the targeted sector programs established in subsection (1) of this section;

(b) Work with the advisory committee and subcommittees created in section 4 of this act to appraise each targeted sector, develop alternatives to assist in the development of the sector, choose a strategy for assisting the

targeted sector, and evaluate the strategy and its implementation for effectiveness; and

(c) Work with other state agencies, local governments, and the private sector.

**NEW SECTION.** Sec. 3. (1) The department may contract with public or private organizations, such as the international marketing program for agricultural products and trade or the northwest policy center, to appraise the targeted sector to determine the current state of the sector prior to the department undertaking program development or marketing under section 2 of this act. In making this appraisal, the department shall consider, but shall not be limited to, the following: (a) The strengths and weaknesses of the sector; (b) the opportunities and risks in the sector; (c) any emerging products, processes, and market niches in the sector; (d) the commercialization of technology related to the sector; (e) the availability of capital in the sector; (f) the education and training needs in the sector; (g) the infrastructure development in the sector; (h) the number of employees and businesses in the sector; and (i) the role the state should play in the long-term development of the sector.

(2) The department shall base its marketing strategy and action plan for each targeted sector on the appraisal of the sector under subsection (1) of this section. Where needs are identified in the appraisal of the sector but are beyond the scope of the department's program or ability to accomplish without additional resources, the department shall provide clear recommendations to the legislature regarding an action plan the state should implement to address these identified needs.

**\*NEW SECTION.** Sec. 4. (1) *The department shall establish an advisory committee for its targeted sector program. The advisory committee shall provide policy direction regarding:*

- (a) *The appraisal process;*
- (b) *Program development;*
- (c) *Program implementation; and*
- (d) *The evaluation criteria and process for the target sector programs.*

(2) *The advisory committee shall include:*

(a) *At the discretion of the house of representatives and the senate, four legislators, one from each caucus in the house of representatives appointed by the speaker of the house, and one from each caucus in the senate appointed by the president of the senate;*

(b) *Three members of the department of agriculture food products processing advisory committee appointed by the chairperson of this advisory committee;*

(c) *Three members of the Washington state biotechnology association appointed by the chairperson of this association; and*

*(d) Other members appointed by the director, such as industry experts, financing experts, venture capitalists, patent attorneys, and marketing experts, representing a variety of interests and geographic areas.*

*The chairperson of the advisory committee shall be appointed by the director and shall serve as chairperson at the discretion of the director.*

*(3) The advisory committee shall create a subcommittee for each targeted sector. The members of each subcommittee, except as provided otherwise in this subsection, shall be appointed by the chairperson of the advisory committee in consultation with the advisory committee; the subcommittees may include persons who are not members of the advisory committee. The subcommittee for each targeted sector shall include persons with expertise in that sector. Each of the members appointed to the advisory committee under subsection (2)(b) of this section shall also serve on the subcommittee for the food processing targeted sector; each of the members appointed to the advisory committee under subsection (2)(c) of this section shall also serve on the subcommittee for the biotechnology targeted sector.*

*(4) The advisory committee and subcommittees shall provide policy and program direction to the targeted sector program created under section 2(2) of this act, and shall consider the role of other state agencies and the private sector in advising the department.*

*(5) The members of the advisory committee and the subcommittees shall serve two-year terms. The legislative members may be reimbursed for travel expenses under RCW 44.04.120. Other members may be reimbursed for their travel expenses under RCW 43.03.050 and 43.03.060.*

*\*Sec. 4 was vetoed, see message at end of chapter.*

***NEW SECTION.** Sec. 5. The department shall also establish a targeted sector program in manufactured forest products. This program shall be part of the targeted sector program established under section 2(2) of this act, and the department shall conduct an appraisal, as described in section 3 of this act, for the manufactured forest products targeted sector. Three members of the evergreen partnership appointed by the director of the evergreen partnership shall be included in the advisory committee established under section 4 of this act, and these persons shall also be part of the subcommittee on the manufactured forest products targeted sector. The department shall also report on the manufactured forest products targeted sector as part of its reporting duties under section 9 of this act.*

*\*Sec. 5 was vetoed, see message at end of chapter.*

***NEW SECTION.** Sec. 6. The business assistance center of the department of trade and economic development, in consultation with the Washington state institute for public policy and the northwest policy center shall review the establishment of an industrial extension grant program in targeted sectors. The department shall conduct this review to the extent existing resources permit.*

**NEW SECTION.** Sec. 7. The department, in reviewing the establishment of the industrial extension program, shall identify:

- (1) The manner in which the program should be structured and funded;
- (2) The scope of services that should be provided; and
- (3) The availability of possible grant recipients that could provide services under the program.

**NEW SECTION.** Sec. 8. The business assistance center shall examine mechanisms for the establishment of flexible manufacturing networks or consortia in targeted sectors through which small firms cooperatively access modernization, marketing, training and other services. The department shall conduct this study to the extent existing resources permit.

**NEW SECTION.** Sec. 9. By January 10th of each year the department shall report in writing on its targeted sector programs to the trade and economic development committee in the house of representatives and the economic development and labor committee in the senate. The department shall report on each element of the targeted sector program, including: (1) Appraisal of the sector; (2) alternatives for assisting in the growth and development of the sector; (3) the choice of the strategy and the rationale behind that choice; (4) the implementation of the strategy; and (5) the evaluation of the targeted sector program. The department shall also make current information available on a regular basis to the legislature and the private sector regarding its targeted sector programs.

The business assistance center shall report by January 1, 1990, to the senate economic development and labor committee and house of representatives trade and economic development committee on its findings and recommendations on the establishment of an industrial extension program and flexible manufacturing networks or consortia program.

**NEW SECTION.** Sec. 10. The department shall work with industry trade groups, local governments, and local economic development organizations in implementing the target sector programs. The department shall seek and utilize nonstate funds to help carry out these programs.

**NEW SECTION.** Sec. 11. Sections 1 through 10 of this act are each added to chapter 43.31 RCW.

Passed the House April 22, 1989.

Passed the Senate April 22, 1989.

Approved by the Governor May 14, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1989.

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

"I am returning herewith, without my approval as to sections 4 and 5, Engrossed Substitute House Bill No. 2137 entitled:

"AN ACT Relating to targeted sectors for economic development."

Engrossed Substitute House Bill No. 2137 establishes new programs in the Department of Trade and Economic Development focused on significant industries in the state facing the prospect of major growth or change. The legislation provides a framework for state action to encourage the competitiveness of these industries. It ensures that the state assist these industries only after taking a careful look at the industry and after consideration of issues such as international markets, training needs, and the availability of financing. It provides a thoughtful and appropriate structure for state activities of this type.

Section 4 of the bill, however, establishes an advisory committee for the program as a whole and subcommittees for each of three targeted industries. While I agree with the need to involve affected industries in the development and operation of programs to address their competitive needs, and while legislative involvement in this process may be valuable, the structure to achieve these ends is administratively cumbersome and overly complex.

I have therefore vetoed Section 4 of the bill. I will, however, ensure that affected industries will be involved in the development and operation of the programs and that such action is consistent with the spirit of Engrossed Substitute House Bill 2137.

Section 5 of the bill provides for a targeted sector program for manufactured wood products in the Department of Trade and Economic Development. I agree that there is a need for state involvement to increase the capacity of our state's wood products firms to manufacture new value-added wood products for domestic and international markets. However, the Legislature has appropriated funds in section 309(8) of this year's operating budget for new activities by the department, in cooperation with the state's wood products industry, to increase the competitiveness of state firms in these markets. The provisions contained in section 5 are duplicative of the budget provisions and would be unnecessarily burdensome.

While vetoing section 5, I will, however, ensure that state activities to increase the competitiveness of the state's manufactured wood products industry are undertaken in a fashion consistent with the thoughtful approach to other industrial sectors as provided for in this legislation.

With the exception of Sections 4 and 5, Engrossed Substitute House Bill No. 2137 is approved."

## CHAPTER 424

[Substitute Senate Bill No. 5911]

### FOREST MANAGEMENT—RESEARCH AND POLICY DEVELOPMENT

AN ACT Relating to public lands; adding a new section to chapter 76.12 RCW; creating new sections; making appropriations; providing an effective date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The forest resources of Washington are among the most valuable of the state's resources. They provide significant opportunities for employment, education, and enjoyment, and they support a variety of uses. These forest resources are increasingly affected by pressure from a variety of sources, which will result in changes in current management practices for the resources and in changes in the economics that are dependent on these resources.

The legislature desires to develop forest management policies that anticipate emerging issues and assure a response which will protect and enhance those economic and ecological systems that are dependent on the

resources. The legislature also desires to obtain information which enables better decision-making and to identify courses of action which will assist counties in receiving a reliable flow of income from county forest lands. The legislature finds that it is in the best interests of the state and the counties to establish a process which encourages the counties, through their boards of county commissioners or county councils, to share in the decision-making relating to the sale of timber from forest board lands as they seek to assure the economic stability of their communities.

Further, the legislature finds that recent management decisions concerning federally-owned forested lands have significantly reduced the amount of timber available to small businesses with facilities in Washington. This reduction has caused and will increasingly cause economic hardship in counties where a significant portion of the population is employed in the timber industry. In these counties, the rate of unemployment among residents previously employed in the timber industry has risen drastically and will continue to rise. This will put an increasing burden on the counties to provide necessary financial and social support to these residents.

This section shall expire June 30, 1994.

NEW SECTION. Sec. 2. A new section is added to chapter 76.12 RCW to read as follows:

(1) Whenever the board of county commissioners or the county council of any county determines that it is in the best interests of the county as a trust beneficiary and that it would help to ensure the economic viability of that county, the county may petition the board of natural resources to reserve, for the purposes described in this section, a portion of the timber to be sold in any given year from forest lands which have been acquired from that county by the state under to RCW 76.12.030. The county shall specify what portion of such timber is to be reserved, and the portion reserved may be up to one hundred percent of such timber.

(2) (a) Timber reserved under this section shall be made available for sale to enterprises which meet all of the following criteria: (i) At least fifty percent by volume of the timber purchased by the enterprise in the previous three years was state-owned or federally-owned; (ii) at least eighty-five percent by volume of the timber purchased by the enterprise in the previous year was processed in Washington state; and (iii) the enterprise operates facilities in Washington which manufacture lumber, plywood, veneer, posts, poles, pilings, shakes, or shingles. For purposes of these criteria, "processed" means manufactured into lumber, plywood, veneer, posts, poles, pilings, shakes, or shingles.

(b) Once the board of natural resources has accepted the petition of a county to reserve a portion of timber pursuant to this section, the department shall compile a list of enterprises which meet the criteria listed in (a) of this subsection. An enterprise must petition the department for inclusion in the list of eligible enterprises, and must include with the petition certified

records sufficient to establish that the enterprise meets the criteria listed in (a) of this subsection. If an enterprise purchases a processing facility, the enterprise may incorporate the records of that facility in its petition for inclusion in the list of eligible enterprises. The department shall establish by rule what types of records are acceptable for purposes of establishing eligibility. Timber reserved under this section shall be sold only to enterprises contained in the list of eligible firms prepared by the department.

(c) For each sale of timber under this section, the department shall require the purchaser to: (i) Submit annually, until all unprocessed timber is accounted for, a certified report on the disposition of any unprocessed timber harvested from the sale, including a description of unprocessed timber which is sold, exchanged, or otherwise disposed of to another enterprise and a description of the relationship with the other enterprise; (ii) submit annually, until all unprocessed timber from the sale is accounted for, a certified report on the sale of any unprocessed timber from private lands which is exported or sold for export; and (iii) maintain records of all such transactions involving unprocessed timber, and to make such records available for inspection and verification by the department for up to three years after the sale is terminated.

(d) For purposes of this section, "enterprise" means any business concern and its affiliates, as that term is defined in 13 C.F.R. 121.3, in effect as of January 1, 1988.

(3) If a county petitions the board of natural resources to reserve timber as provided in this section, the use of the forest board land trust assets for the purposes of this act shall be deemed to be consistent with the trust mandate imposed on the management of lands acquired pursuant to RCW 76.12.030.

(4) A petition to reserve a portion of timber may be revoked by the board of county commissioners or county council. Notice of such revocation shall be delivered to the board of natural resources. The board of natural resources shall not unreasonably deny such a request. Such revocation shall not impair any sale of timber which is approved by the board of natural resources before the board receives the notice.

(5) This section shall expire June 30, 1994.

**NEW SECTION.** Sec. 3. By December 1, 1990, and annually thereafter until December 1, 1994, the board of natural resources shall report to the appropriate legislative committees on the amount of reserved timber sold pursuant to section 2 of this act. The report shall identify the quantity of the reserved timber which was not exported out-of-state in the form of raw logs, and shall identify the quantity which was processed into final products within the state. The report shall also identify which counties have elected to reserve timber pursuant to this section, and shall identify any rules which have been adopted in the last year for the implementation of this section.



**NEW SECTION.** Sec. 4. (1) The Olympic institute for old growth forest and ocean research and education is hereby created. The institute shall be located in the western portion of the Olympic Peninsula. Its purpose shall be to demonstrate innovative management methods which successfully integrate environmental and economic interests into pragmatic management of forest and ocean resources. The institute shall combine research and educational opportunities with experimental forestry, oceans management, and traditional management knowledge into an overall program which demonstrates that management based on sound economic principles is made superior when combined with new methods of management based on ecological principles. The institute shall be jointly supported by the college of forest resources and the college of ocean and fishery science.

(2) There is hereby appropriated from the general fund to the University of Washington the sum of one hundred fifty thousand dollars, or as much thereof as may be necessary, for the biennium ending June 30, 1991, for the purpose of preparing a development plan for the institute. The development plan shall involve policy makers from state, federal, tribal, business, and environmental interests in the preparation of management plans and as it develops programs and shall be guided by the recommendation of the old growth commission appointed by the commissioner of public lands.

**NEW SECTION.** Sec. 5. The department of natural resources shall conduct a study of state-owned hardwood forests. The study shall include, but is not limited to: A comprehensive inventory of state-owned hardwood forests and a qualitative assessment of those stands, research into reforestation of hardwoods on state lands, and an analysis of management policies for increasing the supply of commercially harvestable hardwoods on state lands.

**NEW SECTION.** Sec. 6. (1) The department of trade and economic development shall contract with the northwest policy center at the University of Washington to study the economy of areas of the state impacted by substantial reductions in timber harvested from federal lands. The study shall:

- (a) Include an analysis of the present economy of the areas;
- (b) Identify the social, economic, and employment effects associated with withdrawals of land from commercial timber production;
- (c) Contain an assessment of possible changes to local economies and the state economy if forest lands continue to produce resources under existing management methods without additional land withdrawals from timber production by legislative decisions;
- (d) Contain an assessment of the impact of anticipated technological changes in the forest products industry, possible structural changes in the forest products industry, possible investments in new or existing industries, and known impacts from previous withdrawals of land from timber production; and

(e) Evaluate potential methods for increasing the economic development of the areas, including the creation or enhancement of high value-added production.

The study shall give emphasis to recommendations for future economic development. The department of trade and economic development and the northwest policy center shall report findings to the governor and to the appropriate legislative committees on December 1, 1990.

(2) The sum of two hundred thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund to the department of trade and economic development for the biennium ending June 30, 1991, for the purposes of subsection (1) of this section.

**NEW SECTION.** Sec. 7. (1) The department of community development shall provide technical and financial assistance to communities adversely impacted by reductions in timber harvested from federal lands. This assistance shall include the formation and implementation of community economic development plans. The department of community development shall utilize existing state technical and financial assistance programs, and shall aid communities in seeking private and federal financial assistance for the purposes of this section. The department may contract for services provided for under this section.

(2) The sum of four hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund to the department of community development for the biennium ending June 30, 1991, for the purposes of subsection (1) of this section.

**NEW SECTION.** Sec. 8. If by October 1, 1989, the United States congress makes an appropriation to the United States forest service for a Washington state forest inventory and timber supply study, the department of natural resources shall conduct an inventory and prepare a report on the timber supply in Washington state. The report shall identify the quantity of timber present now and the quantity of timber that may be available from forest lands in the future using various assumptions of landowner management, including changes in the forest land base, amount of capital invested in timber management, and expected harvest age. This report shall categorize the results according to region of the state, land ownership, land productivity, and according to major timber species.

The report shall contain an estimate of the acreage and volume of old growth and other timber on lands restricted from commercial timber harvesting due to state or federal decisions, such as national parks, wilderness areas, national recreation areas, scenic river designations, natural areas, geologic areas, or other land allocations which restrict or limit timber harvesting activities. The department shall determine the definition of old growth for the purposes of this section.

State appropriations for these purposes in the 1989-91 budget may be expended if needed for project planning and design. The report shall be

submitted to the appropriate committees of the senate and the house of representatives by June 1, 1991.

**NEW SECTION.** Sec. 9. The board of natural resources shall offer for sale the sustainable harvest as identified in the 1984–1993 forest land management program, or as subsequently revised. In the event that decisions made by entities other than the department cause a decrease in the sustainable harvest the department shall offer additional timber sales from state-managed lands.

**\*NEW SECTION.** Sec. 10. *By September 1, 1989, and quarterly thereafter, the office of the governor and the commissioner of public lands shall jointly report to the appropriate committees of the senate and the house of representatives on the response of the state to any decisions by the federal government, the court system, or other developments affecting the availability of timber for harvest or processing in Washington state.*

\*Sec. 10 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 11. *By August 1, 1989, the governor and the commissioner of public lands shall jointly develop an official state response on United States forest service management plans for the national forests within the state, as required by the national environmental policy act. Such response shall be submitted to the United States forest service immediately and would supersede any previously submitted agency positions. The responses shall also be submitted to the appropriate standing committees of the senate and the house of representatives.*

\*Sec. 11 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 12. (1) A joint select committee on domestic timber processing is established consisting of six members appointed in the following manner:

(a) Three members shall be from the senate, two from the majority caucus and one from the minority caucus, appointed by the president of the senate; and

(b) Three members shall be from the house of representatives, two from the majority caucus and one from the minority caucus, appointed by the speaker of the house of representatives. The chair shall be selected by the committee from among its members.

Committee members shall receive no compensation, but shall, to the extent funds are available, be reimbursed for their expenses while attending any meetings in the same manner as legislators engaged in interim committee business as specified in RCW 44.04.120. The committee shall be staffed by senate committee services and the office of program research.

(2) The joint select committee on domestic timber processing shall:

(a) Review other state's legislative actions on domestic processing and log exports;

- (b) Develop recommendations on possible state responses to possible federal legislation on log exports;
- (c) Review mill closures or reduction in production due to lack of timber supply;
- (d) Work in concert with the Washington state congressional delegation in developing domestic processing laws and programs;
- (e) Review the positive and negative aspects of state and private log export policy on the state's economy and on the state's citizens;
- (f) Review present federal policy of permitting substitution of state logs for private logs;
- (g) Analyze the impact of log exports on timber supply as well as on all aspects of finished timber products and the supply of wood chips;
- (h) Request the department of natural resources to provide upon request, all available information relating to state timber harvest, timber bidding procedures, export sales, and market analyses;
- (i) Study all aspects of domestic timber processing;
- (j) Analyze the effect of domestic timber processing on timber supply;
- (k) Analyze the effect of domestic timber processing on the state's economy;
- (l) Recommend methods to encourage greater domestic timber processing; and
- (m) Prepare legislation for introduction to the legislature for the 1990 legislative session.

The committee shall report its findings and any recommendations for legislation to the appropriate legislative committees of the senate and house of representatives by January 1, 1990.

(3) This section shall expire June 30, 1991.

**NEW SECTION.** Sec. 13. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the Senate April 23, 1989.

Passed the House April 23, 1989.

Approved by the Governor May 14, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1989.

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

"I am returning herewith, without my approval as to sections 10 and 11, En-drossed Substitute Senate Bill No. 5911 entitled:

"AN ACT Relating to public lands."

Sections 2 and 3 of the bill provide for a set aside of timber on State Forest Board Lands for timber firms which meet certain criteria. The proposal is intended to increase the amount of timber which is processed within the state and to create additional jobs. Criticism has been brought to my attention regarding the implementation of this set-aside program. I am inclined to sign this into law in spite of misgivings

about its ability to address the problem. The success of this program relies on the Department of Natural Resources and counties to faithfully pursue implementation.

This bill creates a Joint Select Committee on Domestic Timber Processing. I urge that Committee to work with my office over the interim to monitor implementation. I would also urge the Committee to review the possibility of providing compensation to school trusts and counties for setting aside land for jobs as well as for conservation. If I am not satisfied with the program, then I believe we will be forced to go to Congress and work toward a federal solution.

Section 10 of the bill requires the Governor and the Commissioner of Public Lands to jointly report to legislative committees on responses to federal or judicial decisions which affect timber supply. This section is redundant and needless, since we have always made any responses available to the Legislature on a timely basis in the past. When requested, we have always testified before committees to report on our activities.

Section 11 requires the Governor and the Commissioner of Public Lands to jointly develop an official state response to Forest Service plans by August 1, 1989. Such a response must supersede any previous state response. The intent of this section is unclear and redundant. The state has already officially responded to the individual forest service management plans and these responses were made within the official public comment periods for each of the forests. We have already agreed to work with the Department of Natural Resources as well as relevant federal agencies during the next few months on this issue.

While I am vetoing these sections, I want to assure you that my office will continue to work closely with all state and federal agencies to address the problems of timber supply and we will continue to be available to report on those activities at your request.

I applaud the Legislature for the other sections of this bill, as well as other items in the budget which will enhance our state's ability to respond to the problems of timber firms, communities and employees. I think we are going in the right direction and am looking forward to continuing to work with you during the next few months.

With the exception of sections 10 and 11, Engrossed Substitute Senate Bill No. 5911 is approved."

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## CHAPTER 425

[Substitute Senate Bill No. 5648]

### FEDERATION OF WASHINGTON PORTS

AN ACT Relating to creation of a federation of Washington ports; amending RCW 53.06.020, 53.06.030, 53.29.010, 53.29.020, 53.29.030, 53.29.900, and 53.31.900; adding a new section to chapter 53.06 RCW; and creating new sections.

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

**NEW SECTION.** Sec. 1. The legislature finds: (1) That the continuous development of Washington's ports should be a long-term goal for the state of Washington; (2) that Washington's ports are a valuable economic development resource, whose strength as a combined, coordinated entity for the purpose of trade and tourism development would far exceed their individual strength's in those areas; and (3) that, therefore, the ports should work together as a federation, coordinating their efforts further still with other public entities as well as the private sector.

The legislature concurs with the 1989 report of the economic development board on a long-term economic development strategy for Washington state as follows: (a) Competition for tourism dollars, as well as dollars to purchase Washington's goods and services, is global in nature and to compete, the state must identify its unique market niches, and market its trade, travel, and tourism assets aggressively; (b) the ports of the state of Washington are an integral part of the technological and physical infrastructure needed to help the state compete in the international marketplace; and (c) links among public agencies, associate development organizations, including ports, universities, and industry-oriented organizations must be strengthened in an effort to improve coordination, prevent duplication, and build local capacity.

**NEW SECTION.** Sec. 2. A new section is added to chapter 53.06 RCW to read as follows:

The Washington public ports association is authorized to create a federation of Washington ports to enable member ports to strengthen their international trading capabilities and market the region's products worldwide. Such a federation shall maintain the authority of individual ports and have the following purposes:

(1) To operate as an export trading company under the provisions enumerated in chapter 53.31 RCW;

(2) To provide a network to market the services of the members of the Washington public ports association;

(3) To provide expertise and assistance to businesses interested in export markets;

(4) To promote cooperative efforts between ports and local associate development organizations to assist local economic development efforts and build local capacity; and

(5) To assist in the efficient marketing of the state's trade, tourism, and travel resources.

This section shall expire July 1, 1994, and shall be subject to review under chapter 43.131 RCW.

Sec. 3. Section 2, chapter 31, Laws of 1961 and RCW 53.06.020 are each amended to read as follows:

It shall be the duty of the port district commissions in the state to take such action to effect the coordination of the administrative programs and operations of each port district in the state and to submit to the governor and the legislature biennially a joint report or joint reports containing the recommendations for procedural changes which would increase the efficiency of the respective port districts. Beginning with the 1990 legislative session, the association shall report on steps being taken to establish a federation of Washington ports pursuant to section 2 of this 1989 act.

Sec. 4. Section 3, chapter 31, Laws of 1961 and RCW 53.06.030 are each amended to read as follows:

The port district commissions in this state are empowered to designate the Washington public ports association as a coordinating agency through which the duties imposed by RCW 53.06.020 may be performed, harmonized or correlated. The purposes of the Washington public ports association shall be:

(1) To initiate and carry on the necessary studies, investigations and surveys required for the proper development and improvement of the commerce and business generally common to all port districts, and to assemble and analyze the data thus obtained and to cooperate with the state of Washington, port districts both within and without the state of Washington, and other operators of terminal and transportation facilities for this purpose, and to make such expenditures as are necessary for these purposes, including the proper promotion and advertising of all such properties, utilities and facilities;

(2) To establish coordinating and joint marketing bodies comprised of association members, including but not limited to establishment of a federation of Washington ports as described in section 2 of this 1989 act, as may be necessary to provide effective and efficient marketing of the state's trade, tourism, and travel resources;

(3) To exchange information relative to port construction, maintenance, operation, administration and management;

~~((3))~~ (4) To promote and encourage port development along sound economic lines;

~~((4))~~ (5) To promote and encourage the development of transportation, commerce and industry;

~~((5))~~ (6) To operate as a clearing house for information, public relations and liaison for the port districts of the state and to serve as a channel for cooperation among the various port districts and for the assembly and presentation of information relating to the needs and requirements of port districts to the public.

Sec. 5. Section 1, chapter 56, Laws of 1967 and RCW 53.29.010 are each amended to read as follows:

It is declared to be the finding of the legislature of the state of Washington that:

(1) The servicing functions and activities connected with the ocean-borne and overseas airborne trade and commerce of port districts, including customs clearance, shipping negotiations, cargo routing, freight forwarding, financing, insurance arrangements and other similar transactions which are presently performed in various, scattered locations in the districts should be centralized to provide for more efficient and economical transportation of persons and more efficient and economical facilities for the exchange and

buying, selling and transportation of commodities and other property in world trade and commerce;

(2) Unification, at a single, centrally located site of a facility of commerce, i.e., a trade center, accommodating the functions and activities described in subsection (1) of this section and the appropriate governmental, administrative and other services connected with or incidental to transportation of persons and property and the promotion and protection of port commerce, and providing a central locale for exhibiting, and otherwise promoting the exchange and buying and selling of commodities and property in world trade and commerce, will materially assist in preserving the material and other benefits of a prosperous port community;

(3) The undertaking of the aforesaid unified trade center project by a port district or the Washington public ports association has the single object of preserving, and will aid in the promotion and preservation of, the economic well-being of ~~((the))~~ port districts and the state of Washington and is found and determined to be a public purpose.

Sec. 6. Section 2, chapter 56, Laws of 1967 and RCW 53.29.020 are each amended to read as follows:

In addition to all other powers granted to port districts, any such district, the Washington public ports association, or the federation of Washington ports as described in section 2 of this 1989 act may acquire, as provided for other port properties in RCW 53.08.010, construct, develop, operate and maintain all land or other property interests, buildings, structures or other improvements necessary to provide a trade center including but not limited to:

(1) A facility consisting of one or more structures, improvements and areas for the centralized accommodation of public and private agencies, persons and facilities in order to afford improved service to waterborne and airborne import and export trade and commerce;

(2) Facilities for the promotion of such import and export trade and commerce, inspection, testing, display and appraisal facilities, foreign trade zones, terminal and transportation facilities, office meeting rooms, auditoriums, libraries, language translation services, storage, warehouse, marketing and exhibition facilities, facilities for federal, state, county and other municipal and governmental agencies providing services relating to the foregoing and including, but not being limited to, customs houses and customs stores, and other incidental facilities and accommodations.

Sec. 7. Section 3, chapter 56, Laws of 1967 and RCW 53.29.030 are each amended to read as follows:

(1) In carrying out the powers authorized by this chapter and chapter 53.06 RCW, port districts and the Washington public ports association are authorized to cooperate and act jointly with other public and private agencies, including, but not limited to the federal government, the state, other



ports and municipal corporations, other states and their political subdivisions, and private nonprofit trade promotion groups and associate development organizations.

(2) Port districts operating trade center buildings or operating association or federation trade centers, shall pay an annual service fee to the county treasurer wherein the center is located for municipal services rendered to the trade center building. The measure of such service fee shall be equal to three percent of the gross rentals received from the nongovernmental tenants of such trade center building. Such proceeds shall be distributed by the county treasurer as follows: Forty percent to the school district, forty percent to the city, and twenty percent to the county wherein the center is located: PROVIDED, That if the center is located in an unincorporated area, twenty percent shall be allocated to the fire district, forty percent to the school district, and forty percent to the county.

Sec. 8. Section 4, chapter 56, Laws of 1967 and RCW 53.29.900 are each amended to read as follows:

This chapter, which may be known and cited as the "Trade Center Act", shall be liberally construed, its purpose being to provide port districts, and their related association and federation, with additional powers to provide trade centers and to promote and encourage trade, tourism, travel, and economic development in a coordinated and efficient manner through the ports of the state of Washington. The powers herein granted shall be in addition to all others granted to port districts.

NEW SECTION. Sec. 9. (1) There is created a temporary task force for purposes of examining cooperative measures available to ports and local associate development organizations to improve coordination and increase efficiency, and examining methods to build local capacity by implementing recommendations contained in the 1989 report of the economic development board.

(2) The task force shall study and make recommendations in the following areas:

(a) The feasibility of joint marketing efforts to advance the goals and mission of ports and local associate development organizations;

(b) Measures available to enhance the economic development and trade development mission of ports and local associate development organizations, including the establishment of joint trade offices and joint efforts to assist businesses to export;

(c) Opportunities to enhance the financial base of ports and local associate development organizations independent of additional taxation measures;

(d) Opportunities for ports and local associate development organizations to enter into contracts to assist local economic development efforts and build local capacity; and

(e) Such other areas as the task force determines are relevant to the mission of the task force: PROVIDED, That the task force shall not consider, nor shall its findings or recommendations include, matters relating to rates, rate setting, or price-fixing by Washington ports or local associate development organizations.

(3) The task force shall consist of the following twenty members:

(a) A member of the governing board of each county-wide port district in a class A or AA county selected by the respective port commissions;

(b) The executive director of each county-wide port district in a class A or AA county;

(c) A member of a governing board of a port district which is located east of the Cascade mountains, appointed by the governor;

(d) A member of a governing board of a port district which has an industrial area and a marine terminal, appointed by the governor;

(e) An executive director of a port district which is located east of the Cascade mountains, appointed by the governor;

(f) An executive director of a port district which has an industrial area and a marine terminal, appointed by the governor;

(g) Four members from the general public representing business, labor, and community organizations, appointed by the governor;

(h) Two executive directors of local associate development organizations, one of which is located east of the Cascade mountains, appointed by the governor;

(i) The directors, or the directors' designees, of the department of community development and the department of trade and economic development to serve as nonvoting members; and

(j) A representative from each of the four legislative caucuses. The president of the senate shall appoint the two senate members and the speaker of the house of representatives shall appoint the two house members. The legislators shall serve as nonvoting members.

(4) The governor shall designate the chair of the task force.

(5) The department of trade and economic development and the department of community development shall provide staff assistance as required.

(6) Task force members may be reimbursed for necessary travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) The task force shall report its findings and recommendations to the legislature by January 1, 1990.

(8) The task force shall expire on March 1, 1990.

***\*NEW SECTION. Sec. 10. The temporary task force shall also identify opportunities to expand the state's air cargo capacity by identifying air cargo trends worldwide, identifying existing, planned, and potential air cargo capabilities and facilities in the state, analyzing the economic feasibility of planned and potential air cargo facilities with respect to transport shipping***

***costs, and developing alternative policies for state and local government action to help ensure Washington remains competitive with respect to air cargo facilities.***

\*Sec. 10 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 11. Nothing in section 9 or 10 of this act shall be construed to limit or impinge upon the autonomy of port districts.

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.

Sec. 13. Section 10, chapter 276, Laws of 1986 and RCW 53.31.900 are each amended to read as follows:

This chapter shall expire July 1, (~~(+1991)~~) 1994, and shall be subject to review under chapter 43.131 RCW.

Passed the Senate April 18, 1989.

Passed the House April 14, 1989.

Approved by the Governor May 14, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1989.

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

"I am returning herewith, without my approval as to section 10, Substitute Senate Bill No. 5648 entitled:

"AN ACT Relating to creation of a federation of Washington ports."

Substitute Senate Bill No. 5648 amends existing port district enabling legislation to authorize the creation of a federation of Washington ports by the Washington Public Ports Association. The legislation establishes a temporary task force to examine options for cooperation between port districts and local associate development organizations. The legislation also directs the temporary task force to identify international air cargo trends and state air cargo capabilities and facilities, and to identify alternative policies to ensure state competitiveness in air cargo facilities.

Our ports have been and remain critically important to the state's role in the international economy. Efforts to increase cooperation among the port districts and between port districts and associate development organizations to enhance state and local economic development activities are necessary and important. New air cargo transport technologies and increased volumes of international air cargo traffic may require the development of new types of facilities, which would have major implications to the state economy.

I am in agreement with the Legislature's identification of this latter issue as one deserving state involvement to identify problems and opportunities affecting the state's economy. However, the Legislature has not funded the study of air cargo trends provided for in section 10 of this bill. If the state is to anticipate the problems and opportunities we face in the international economy, the Legislature must adequately fund the associated state agency activities. I am also concerned about the practicability of examining air cargo trends through a temporary task force intended to examine cooperation between port districts and associate development organizations.

For these reasons, I am vetoing section 10 of Substitute Senate Bill No. 5648.

However, an examination of the issues identified is valuable and timely. I will explore methods of conducting such an examination on the part of the state and with the cooperation of local government and the private sector.

With the exception of section 10, Substitute Senate Bill No. 5648 is approved.\*

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## CHAPTER 426

[Substitute Senate Bill No. 5289]

### REGIONAL FISHERIES ENHANCEMENT GROUPS

AN ACT Relating to fisheries enhancement; adding a new chapter to Title 75 RCW; adding a new section to chapter 75.08 RCW; and making an appropriation.

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

**NEW SECTION.** Sec. 1. The legislature finds that it is in the best interest of the salmon resource of the state to encourage the development of regional fisheries enhancement groups. The accomplishments of one existing group, the Grays Harbor fisheries enhancement task force, have been widely recognized as being exemplary. The legislature recognizes the potential benefits to the state that would occur if each region of the state had a similar group of dedicated citizens working to enhance the salmon resource.

The legislature authorizes the formation of regional fisheries enhancement groups. These groups shall be eligible for state financial support and shall be actively supported by the department of fisheries. The regional groups shall be operated on a strictly nonprofit basis, and shall seek to maximize the efforts of volunteer and private donations to improve the salmon resource for all citizens of the state.

**\*NEW SECTION.** Sec. 2. *Any interested person may become a member of a regional fisheries enhancement group. To obtain funding from the regional fisheries enhancement group account, the membership of each group shall select its board members and chair by a democratic process. It is desirable for the group to have representation from all categories of fishermen that have interest in salmon within the region, as well as the general public.*

*The director shall appoint a department employee to serve as a liaison between the department and the group. The department liaison shall actively participate in the activities of the group and facilitate its operation in any way possible.*

\*Sec. 2 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 3. *Eight regional fisheries enhancement groups are authorized:*

- (1) *Columbia river, and its tributaries, above Bonneville dam;*
- (2) *Columbia river, and its tributaries, below Bonneville dam;*
- (3) *Grays Harbor;*
- (4) *Willapa Bay;*
- (5) *North Coast and the Straits of Juan de Fuca;*
- (6) *Puget Sound, and adjacent rivers and lakes, north of Everett;*

*(7) Central Puget Sound between Everett and Tacoma; and*

*(8) South Puget Sound, and adjacent rivers and lakes, south of Tacoma.*

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

**NEW SECTION.** Sec. 4. Regional fisheries enhancement groups, consistent with the long-term regional policy statements developed under RCW 75.50.020, shall seek to:

(1) Enhance the salmon resource of the state;

(2) Maximize volunteer efforts and private donations to improve the salmon resource for all citizens;

(3) Assist the department in achieving the goal to double the state-wide salmon catch by the year 2000 under chapter 214, Laws of 1988; and

(4) Develop projects designed to supplement the fishery enhancement capability of the department of fisheries.

**\*NEW SECTION.** Sec. 5. *The director shall cooperate fully with the regional fisheries enhancement groups authorized by this chapter. The director shall supply salmon eggs, technical information, surplus equipment, professional consultation, and any other assistance that can be provided to the group.*

\*Sec. 5 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 6. *The chair of each regional fisheries enhancement group shall coordinate with the department to assure that the department and the group are working in harmony toward mutually agreeable goals.*

\*Sec. 6 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 7. *(1) The legislature finds that the wise management and economic health of the state's recreational and commercial fishing industries are of paramount importance to the people of the state and to the economy of the state as a whole. The legislature finds that it is in the best social, economic, and cultural interest of the state to provide, maintain, and enhance recreational fishing opportunities in the state and offshore waters while maintaining and encouraging a healthy commercial fishing industry.*

*(2) Funding for regional fisheries enhancement groups shall be from a variety of funding sources.*

*(a) Start up grant – Each group is authorized to apply for a one time grant of eight thousand dollars per group. The grant will be administered by the director and shall be utilized for initial organizational and planning expenses.*

*(b) State loan – Each group may apply for state-funded enhancement loans. Loan applications shall be submitted to the salmon advisory council for initial recommendations. The director shall further review loan applications and then submit the applications to the legislature for approval. Payback of said loans shall be structured to coincide with probable income*

*generated from the group's cost recovery program. Funds for enhancement loans shall be appropriated from the regional fisheries enhancement group account.*

*(c) Cost recovery – Sale of salmon carcasses and eggs under RCW 75-.52.035 that return to group facilities.*

*(d) Operational grants – A surcharge of one dollar shall be collected annually on every recreational salmon license sold in the state. The revenues derived from this surcharge shall be placed in the regional fisheries enhancement group account hereby created in the state treasury. A surcharge of fifty dollars shall be collected annually on every commercial salmon fishing license and charter boat license sold in the state. The revenue from this surcharge shall be placed in the regional fisheries enhancement group account.*

*The director shall administer the regional fisheries enhancement group account. Operational grants are to be made to regional groups of up to ninety percent of the project costs to match direct and in-kind contributions secured by the regional group. The director may utilize up to ten percent of the account for department expenses.*

*(e) Private contributions – The groups are encouraged to conduct periodic fundraising activities.*

\*Sec. 7 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 8. A new section is added to chapter 75.08 RCW to read as follows:

*The director shall report annually to the senate environment and natural resources committee and the house fisheries and wildlife committee or their successor committees on the catch by commercial and sport fishers of the fishery resource resulting from enhancement efforts both by the department and volunteer cooperative projects. The first report shall be submitted by January 1, 1990.*

\*Sec. 8 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 9. The sum of sixty-four thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund to the department of fisheries for the biennium ending June 30, 1991, to carry out the purposes of start up grants to regional fisheries enhancement groups.

**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. Sections 1 through 7 of this act shall constitute a new chapter in Title 75 RCW.

Passed the Senate April 23, 1989.

Passed the House April 23, 1989.

Approved by the Governor May 14, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1989.

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

"I am returning herewith, without my approval as to section 2, 3, 5, 6, 7, and 8, Substitute Senate Bill No. 5289 entitled:

"AN ACT Relating to fisheries enhancement."

Our commitment to enhance salmon resources is an empty promise unless we are all willing to provide the financial resources necessary to fulfill it. I believe that the funding mechanism envisioned in this bill can work to supplement other state and federal funds if properly structured.

I am supportive of approaching fisheries enhancement by way of regional and volunteer cooperative groups. I believe, however, that the portions of this bill relating to the formation of these regional groups are so poorly drafted that they could lead to excessive administrative work and lack of accountability for the use of state funds.

As an alternative to sections 2 and 3, I am directing the Department of Fisheries to use its general rule-making authority to implement the intent of the bill in a manner that is workable and, more importantly, accountable. Criteria must be in place requiring recipients of funds to be incorporated as non-profit groups with the Secretary of State. Additionally, requirements for audits must be included.

Sections 5 and 6 fail to establish a clear relationship between the authority of the department and the regional groups. These sections could imply control by the groups. This interference with the decision-making prerogatives of the department is unacceptable to me.

Section 7 is vetoed because it requires legislative approval of each loan application. Decisions on applications for funding should be made by the Department of Fisheries without legislative approval. This veto does not mean that I am not supportive of loans for funding fisheries enhancement. In fact, the opposite is true. Because I am unable to partially veto this language, I must veto the entire section.

I am vetoing section 8 because it will require the department to tag smolt and compile data at great expense in order to document specific fish catch related to enhancement projects.

With the exception of sections 2, 3, 5, 6, 7, and 8, Substitute Senate Bill No. 5289 is approved."

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## CHAPTER 427

[Substitute House Bill No. 1968]

### LONG TERM CARE SERVICES

AN ACT Relating to long-term care; amending RCW 74.08.541, 74.08.545, 74.08.550, 74.08.570, 74.41.050, and 74.09.520; adding a new chapter to Title 74 RCW; adding a new chapter to Title 70 RCW; adding a new section to chapter 74.09 RCW; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70 RCW; adding a new section to chapter 35.22 RCW; adding a new section to chapter 36.32 RCW; creating new sections; repealing RCW 74.08.044; making an appropriation; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature finds that:

Washington's chronically functionally disabled population is growing at a rapid pace. This growth, along with economic and social changes and the coming age wave, presents opportunities for the development of long-term care community services networks and enhanced volunteer participation in those networks, and creates a need for different approaches to currently fragmented long-term care programs. The legislature further recognizes that persons with functional disabilities should receive long-term care services that encourage individual dignity, autonomy, and development of their fullest human potential.

**NEW SECTION.** Sec. 2. The purpose of this chapter is to:

(1) Establish a balanced range of community-based health, social, and supportive services that deliver long-term care services to chronically, functionally disabled persons of all ages;

(2) Ensure that functional disability shall be the determining factor in defining long-term care service needs and that these needs will be determined by a uniform system for comprehensively assessing functional disability;

(3) Ensure that services are provided in the most independent living situation consistent with individual needs;

(4) Ensure that long-term care service options shall be developed and made available that enable functionally disabled persons to continue to live in their homes or other community residential facilities while in the care of their families or other volunteer support persons;

(5) Ensure that long-term care services are coordinated in a way that minimizes administrative cost, eliminates unnecessarily complex organization, minimizes program and service duplication, and maximizes the use of financial resources in directly meeting the needs of persons with functional limitations;

(6) Develop a systematic plan for the coordination, planning, budgeting, and administration of long-term care services now fragmented between the division of developmental disabilities, division of mental health, aging and adult services administration, division of children and family services, division of vocational rehabilitation, office on AIDS, division of health, and bureau of alcohol and substance abuse;

(7) Encourage the development of a state-wide long-term care case management system that effectively coordinates the plan of care and services provided to eligible clients;

(8) Ensure that individuals and organizations affected by or interested in long-term care programs have an opportunity to participate in identification of needs and priorities, policy development, planning, and development, implementation, and monitoring of state supported long-term care programs;



(9) Support educational institutions in Washington state to assist in the procurement of federal support for expanded research and training in long-term care; and

(10) Facilitate the development of a coordinated system of long-term care education that is clearly articulated between all levels of higher education and reflective of both in-home care needs and institutional care needs of functionally disabled persons.

**NEW SECTION.** Sec. 3. A valuable option available to Washington state to achieve the goals of sections 1 and 2 of this act is the flexibility in personal care and other long-term care services encouraged by the federal government under Title XIX of the federal social security act. These services include options to expand community-based long-term care services, such as adult family homes, congregate care facilities, respite, chore services, hospice, and case management.

### I. CHORE SERVICES

Sec. 4. Section 17, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 1, chapter 222, Laws of 1986 and RCW 74.08.541 are each amended to read as follows:

(1) "Department" as used in this chapter, means the department of social and health services.

(2) "Long-term care facility" as used in this chapter, means a nursing home licensed under chapter 18.51 RCW or a residential habilitation center licensed under chapter 71A.20 RCW.

(3) "Chore services," as used in this chapter, means services in performing ~~((light work and household and other))~~ personal care and related tasks ~~((which eligible persons are unable to do for themselves because of frailty or handicapping conditions))~~ as provided in the department's medical assistance state plan provision addressing personal care.

~~((2))~~ (4) Persons eligible for chore services are adult ~~((individuals))~~ persons having resources less than a level determined by the department, ~~((and))~~ whose need for chore services and risk of being placed in a ~~((residential))~~ long-term care facility have been determined by the department, and who are not eligible to receive medical assistance personal care benefits under RCW 74.09.520.

(a) Persons are eligible for the level ~~((or amount))~~ of services determined by the department under RCW 74.08.545 if the persons ~~((are: (i) Adult recipients of supplemental security income or state supplementation; (ii) eligible at the time their eligibility for chore services is determined or redetermined, for limited casualty program medical care as defined by RCW 74.09.010; or (iii))~~ have an income at or below thirty percent of the state median income.

(b) For other persons, the department shall develop a scale which progressively reduces the level ~~((or amount))~~ of chore services provided by the

department based on the ability of applicants and ~~((recipients))~~ clients to purchase the chore services. ~~((To determine the ability of applicants and recipients to purchase chore services;))~~ The department shall not consider income below thirty percent of the state median income.

(c) Effort shall be made to obtain chore services from volunteer chore service providers under the senior citizens services act, chapter 74.38 RCW, for those individuals at risk of being placed in a residential care facility and who are age sixty or over but eligible for five hours of chore services per month or less, rather than have those services provided by paid providers. Any individual at risk of being placed in a residential care facility and who is age sixty or over but not eligible for chore services or eligible for a reduced amount of service shall be referred to a volunteer chore service program under the senior citizens services act, chapter 74.38 RCW, where available for needed services not authorized by the department.

(d) ~~((Individuals))~~ Persons determined by the department to be eligible for adult protective services are eligible to receive emergency chore services without regard to income if the services are essential to, and a subordinate part of, the adult protective services plan. Emergency chore services under adult protective services shall be provided only until the situation necessitating the services has stabilized, not to exceed ninety days.

~~((3))~~ (5) The department shall establish a monthly dollar lid on chore services expenditures as necessary to maintain such expenditures within the legislative appropriation. To maintain expenditures for chore services within the limits of funds appropriated for this purpose, the department may reduce the level ~~((or amount))~~ of services authorized below the level of need assessed pursuant to RCW 74.08.545 for some or all ~~((recipients, but))~~ clients. The reductions shall be done in a manner which maintains state-wide uniformity of eligibility and service authorization standards and which considers the level of need for services and the degree of risk of being placed in a ~~((residential))~~ long-term care facility of all applicants for, and recipients of, chore services: PROVIDED, That the department may implement a ratable reduction of hours or payment for some or all clients receiving chore services.

(6) The department may continue providing chore services for those clients who were receiving assistance only with household tasks prior to December 14, 1987, provided that those clients are receiving this same service as of June 1989.

(7) The department may continue providing chore services to clients who were receiving attendant care services prior to April 1, 1988, provided that those clients are receiving the same services as of June 1989.

Sec. 5. Section 16, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.08.545 are each amended to read as follows:

It is the intent of the legislature that chore services be provided to eligible persons within the limits of funds appropriated for that purpose.

Therefore, the department shall provide services only to those persons identified as at risk of being placed in a ~~((residential))~~ long-term care facility in the absence of such services. Chore services shall be provided ~~((only))~~ to the extent necessary to maintain a safe and healthful living environment. It is the policy of the state to encourage the development of volunteer chore services in local communities as a means of meeting chore care service needs and directing financial resources. In determining ~~((an individual's))~~ eligibility for chore services, the department shall consider the following:

- (1) The kind of services needed;
- (2) The degree of service need, and the extent to which an individual is dependent upon such services to remain in his or her home or return to his or her home;
- (3) The availability of personal or community resources which may be utilized to meet the individual's need; and
- (4) Such other factors as the department considers necessary to insure service is provided only to those persons whose chore service needs cannot be met by relatives, friends, nonprofit organizations, or other persons.

In determining the level of services to be provided under this chapter, ~~((the department shall utilize a client review questionnaire designed))~~ client shall be assessed using an instrument designed by the department to determine ((both)) the ((degree and level of service)) level of functional disability, the need for service and the ((individual's)) person's risk of ((institutionalization if such needs are not met by this chapter)) long-term care facility placement.

Sec. 6. Section 3, chapter 51, Laws of 1973 1st ex. sess. as last amended by section 189, chapter 3, Laws of 1983 and RCW 74.08.550 are each amended to read as follows:

(1) The department ~~((of social and health services))~~ is authorized to develop a program to provide for those services enumerated in RCW 74.08.541.

(2) ~~((The department shall endeavor to assure that, for each individual receiving in-home services, a single caseworker is responsible for coordinating the delivery of all necessary in-home services for which the recipient is eligible.~~

~~((3))~~ The department may provide assistance in the recruiting of providers of the services enumerated in RCW 74.08.541 and seek to assure the timely provision of services in emergency situations.

~~((4))~~ (3) The department shall assure that all providers of the services enumerated in RCW 74.08.541 are compensated for the delivery of the services on a prompt and regular basis.

Sec. 7. Section 3, chapter 137, Laws of 1980 and RCW 74.08.570 are each amended to read as follows:

(1) An otherwise eligible disabled person shall not be deemed ineligible for chore services under this chapter if the person's gross income from employment, adjusted downward by the cost of the chore services to be provided and the disabled person's work expenses, does not exceed the maximum eligibility standard established by the department for such chore services. The department shall establish a sliding scale fee schedule for such disabled persons, taking into consideration the person's ability to pay and work expenses.

(2) If a disabled person arranges for chore services through an individual provider arrangement, the ~~((recipient's))~~ client's contribution shall be counted as first dollar toward the total amount owed to the provider for chore services rendered.

(3) As used in this section:

(a) "Gross income" means total earned wages, commissions, salary, and any bonus;

(b) "Work expenses" includes:

(i) Payroll deductions required by law or as a condition of employment, in amounts actually withheld;

(ii) The necessary cost of transportation to and from the place of employment by the most economical means, except rental cars; and

(iii) Expenses of employment necessary for continued employment, such as tools, materials, union dues, transportation to service customers if not furnished by the employer, and uniforms and clothing needed on the job and not suitable for wear away from the job;

(c) "Employment" means any work activity for which a recipient receives monetary compensation;

(d) "Disabled" means:

(i) Permanently and totally disabled as defined by the department and as such definition is approved by the federal social security ~~((agency))~~ administration for federal matching funds;

(ii) Eighteen years of age or older;

(iii) A resident of the state of Washington; and

(iv) Willing to submit to such examinations as are deemed necessary by the department to establish the extent and nature of the disability.

## II. RESPITE SERVICES

Sec. 8. Section 5, chapter 158, Laws of 1984 as amended by section 4, chapter 409, Laws of 1987 and RCW 74.41.050 are each amended to read as follows:

The department shall ~~((select))~~ contract with area agencies on aging or other appropriate agencies to conduct respite care projects to the extent of available funding. The responsibilities of the ~~((selected area))~~ agencies ~~((on aging))~~ shall include but not be limited to: Negotiating rates of payment, administering sliding-fee scales to enable eligible participants to participate

in paying for respite care, and arranging for respite care services. Rates of payment to respite care service providers shall not exceed, and may be less than, rates paid by the department to providers for the same level of service. In evaluating the need for respite services, consideration shall be given to the mental and physical ability of the caregiver to perform necessary caregiver functions.

### III. TITLE XIX COMMUNITY-BASED LONG-TERM CARE SERVICES

NEW SECTION. Sec. 9. Title XIX of the federal social security act offers valuable opportunities to increase federal funds available to provide community-based long-term care services to functionally disabled persons in their homes, and in noninstitutional residential facilities, such as adult family homes and congregate care facilities.

#### A. PERSONAL CARE, HOSPICE

Sec. 10. Section 5, chapter 30, Laws of 1967 ex. sess. as last amended by section 3, chapter 5, Laws of 1985 and RCW 74.09.520 are each amended to read as follows:

(1) The term "medical assistance" may include the following care and services: ~~((1))~~ (a) Inpatient hospital services; ~~((2))~~ (b) outpatient hospital services; ~~((3))~~ (c) other laboratory and x-ray services; ~~((4))~~ (d) skilled nursing home services; ~~((5))~~ (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; ~~((6))~~ (f) medical care, or any other type of remedial care as may be established by the secretary; ~~((7))~~ (g) home health care services; ~~((8))~~ (h) private duty nursing services; ~~((9))~~ (i) dental services; ~~((10))~~ (j) physical therapy and related services; ~~((11))~~ (k) 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))~~ (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services: PROVIDED, That the department may not cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services.

(2) The department shall amend the state plan for medical assistance under Title XIX of the federal social security act to include personal care services, as defined in 42 C.F.R. 440.170(f), in the categorically needy program.

(3) The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX personal care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care must be approved by a physician and reviewed by a nurse every ninety days.

(4) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

(5) The department shall report to the appropriate fiscal committees of the legislature on the utilization and associated costs of the personal care option under Title XIX of the federal social security act, as defined in 42 C.F.R. 440.170(f), in the categorically needy program. This report shall be submitted by January 1, 1990, and submitted on a yearly basis thereafter.

(6) Effective July 1, 1989, the department shall offer hospice services in accordance with available funds. The department shall provide a complete accounting of the costs of providing hospice services under this section by December 20, 1989. The report shall include an assessment of cost savings which may result by providing hospice to persons who otherwise would use hospitals, nursing homes, or more expensive care. The hospice benefit under this section shall terminate on April 1, 1990, unless extended by the legislature.

## B. COPES RESPITE SERVICES

NEW SECTION. Sec. 11. The department shall request an amendment to its community options program entry system waiver under section 1905(c) of the federal social security act to include respite services as a service available under the waiver.

## C. COMMUNITY-BASED SERVICES FOR PERSONS WITH AIDS

NEW SECTION. Sec. 12. A new section is added to chapter 74.09 RCW to read as follows:

The department shall prepare and request a waiver under section 1915(c) of the federal social security act to provide community based long-term care services to persons with AIDS or AIDS-related conditions who qualify for the medical assistance program under RCW 74.09.510 or the

limited casualty program for the medically needy under RCW 74.09.700. Respite services shall be included as a service available under the waiver.

#### IV. LONG-TERM CARE REFORM IMPLEMENTATION TEAM

NEW SECTION. Sec. 13. (1) A long-term care commission is created. It shall consist of:

(a) Four legislators who shall serve on the executive committee, one from each of the two largest caucuses in the house of representatives and the senate who shall be selected by the president of the senate and the speaker of the house of representatives;

(b) Six members, to be selected by the executive committee, who shall be authorities in gerontology, developmental disabilities, neurological impairments, physical disabilities, mental illness, nursing, long-term care service delivery, long-term care service financing, systems development, or systems analysis;

(c) Three members, to be selected by the executive committee, who represent long-term care consumers, services providers, or advocates;

(d) Two members, to be selected by the executive committee, who represent county government;

(e) One member, to be selected by the secretary of social and health services, to represent the department of social and health services long-term care programs, including at least developmental disabilities, mental health, aging and adult services, AIDS, children's services, alcohol and substance abuse, and vocational rehabilitation; and

(f) Two members, to represent the governor, who shall serve on the executive committee.

The legislative members shall select a chair from the membership of the commission.

The commission shall be staffed, to the extent possible, by staff from the appropriate senate and house of representatives committees.

The commission may form technical advisory committees to assist it with any particular matters deemed necessary by the commission.

The commission and technical advisory committee members shall receive no compensation, but except for publicly funded agency staff, shall, to the extent funds are available, be reimbursed for their expenses while attending any meetings in the same manner as legislators engaged in interim committee business as specified in RCW 44.04.120.

The commission may receive appropriations, grants, gifts, and other payments from any governmental or other public or private entity or person which it may use to defray the cost of its operations or to contract for technical assistance, with the approval of the senate committee on facilities and operations and the house of representatives executive rules committee.

(2) The long-term care commission shall develop legislation and recommend administrative actions necessary to achieve the following long-term care reforms:

(a) The systematic coordination, planning, budgeting, and administration of long-term care services currently administered by the department of social and health services, division of developmental disabilities, aging and adult services administration, division of vocational rehabilitation, office on AIDS, division of health, and the bureau of alcohol and substance abuse;

(b) Provision of long-term care services to persons based on their functional disabilities noncategorically and in the most independent living situation consistent with the person's needs;

(c) A consistent definition of appropriate roles and responsibilities for state and local government, regional organizations, and private organizations in the planning, administration, financing, and delivery of long-term care services;

(d) Technical assistance to enable local communities to have greater participation and control in the planning, administration, and provision of long-term care services;

(e) A case management system that coordinates an appropriate and cost-effective plan of care and services for eligible functionally disabled persons based on their individual needs and preferences;

(f) A sufficient supply of quality noninstitutional residential alternatives for functionally disabled persons, and supports for the providers of such services;

(g) Public and private alternative funding for long-term care services, such as federal Title XIX funding of personal care services through the limited casualty program for the medically needy and other optional services, a uniform fee scale for client participation in state-funded, long-term care programs, and private, long-term care insurance;

(h) A systematic and balanced long-term care services payment and reimbursement system, including nursing home reimbursement, that will provide access to needed services while controlling the rate of cost increases for such services;

(i) Active involvement of volunteers and advocacy groups;

(j) An integrated data base that provides long-term care client tracking;

(k) A coordinated education system for long-term care; and

(l) Other issues deemed appropriate by the implementation team.

The commission shall report to the legislature with its findings, recommendations, and proposed legislation by December 1, 1990.



## V. ADULT FAMILY HOME LICENSING

NEW SECTION. Sec. 14. The legislature finds that adult family homes are an important part of the state's long-term care system. Adult family homes provide an alternative to institutional care and promote a high degree of independent living for residents.

NEW SECTION. Sec. 15. The purposes of this chapter are to:

(1) Encourage the establishment and maintenance of adult family homes that provide a humane, safe, and homelike environment for persons with functional limitations who need personal and special care;

(2) Establish standards for regulating adult family homes that adequately protect residents, but are consistent with the abilities and resources of an adult family home so as not to discourage individuals from serving as adult family home providers; and

(3) Encourage consumers, families, providers, and the public to become active in assuring their full participation in development of adult family homes that provide high quality care.

NEW SECTION. Sec. 16. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adult family home" means a regular family abode of a person or persons who are providing personal care, room, and board to more than one but not more than four adults who are not related by blood or marriage to the person or persons providing the services; except that a maximum of six adults may be permitted if the department determines that the home is of adequate size and that the home and the provider are capable of meeting standards and qualifications as provided for in this act.

(2) "Provider" means any person who is licensed under this chapter to operate an adult family home. The provider shall reside at the adult family home, except that exceptions may be authorized by the department for good cause, as defined in rule.

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

(4) "Resident" means an adult in need of personal or special care in an adult family home who is not related to the provider.

(5) "Adults" means persons who have attained the age of eighteen years.

(6) "Home" means an adult family home.

(7) "Imminent danger" means serious physical harm to or death of a resident has occurred, or there is a serious threat to resident life, health, or safety.

(8) "Special care" means care beyond personal care as defined by the department, in rule.

NEW SECTION. Sec. 17. The following residential facilities shall be exempt from the operation of this chapter:

(1) Nursing homes licensed under chapter 18.51 RCW;

- (2) Boarding homes licensed under chapter 18.20 RCW;
- (3) Facilities approved and certified under chapter 71A.22 RCW;
- (4) Residential treatment centers for the mentally ill licensed under chapter 71.24 RCW;
- (5) Hospitals licensed under chapter 70.41 RCW;
- (6) Homes for the developmentally disabled licensed under chapter 74.15 RCW.

NEW SECTION. Sec. 18. (1) The department shall adopt rules and standards with respect to all adult family homes and the operators thereof to be licensed under this chapter to carry out the purposes and requirements of this chapter. In developing rules and standards the department shall recognize the residential family-like nature of adult family homes and not develop rules and standards which by their complexity serve as an overly restrictive barrier to the development of the adult family homes in the state. Procedures and forms established by the department shall be developed so they are easy to understand and comply with. Paper work requirements shall be minimal. Easy to understand materials shall be developed for homes explaining licensure requirements and procedures.

(2) During the initial stages of development of proposed rules, the department shall provide notice of development of the rules to organizations representing adult family homes and their residents, and other groups that the department finds appropriate. The notice shall state the subject of the rules under consideration and solicit written recommendations regarding their form and content.

(3) Except where provided otherwise, chapter 34.05 RCW shall govern all department rule-making and adjudicative activities under this chapter.

NEW SECTION. Sec. 19. After July 1, 1990, no person shall operate or maintain an adult family home in this state without a license under this chapter.

NEW SECTION. Sec. 20. (1) An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires.

(2) The department shall issue a license to an adult family home if the department finds that the applicant and the home are in compliance with this chapter and the rules adopted under this chapter; and that the applicant has no prior violations of this chapter relating to the adult family home subject to the application or any other adult family home, or of any other law regulating residential care facilities within the past five years that resulted in revocation or nonrenewal of a license.

(3) The license fee shall be submitted with the application.

(4) The department shall serve upon the applicant a copy of the decision granting or denying an application for a license. An applicant shall have the right to contest denial of his or her application for a license as

provided in chapter 34.05 RCW by requesting a hearing in writing within ten days after receipt of the notice of denial.

(5) A provider shall not be licensed for more than one adult family home. Exceptions may be authorized by the department for good cause, as defined in rule. The department shall submit to appropriate committees of the legislature, by December 1, 1991, a report on the number and type of good cause exceptions granted.

(6) The license fee shall be set at fifty dollars per year for each home. A fifty dollar processing fee shall also be charged each home when the home is initially licensed.

NEW SECTION. Sec. 21. An adult family home shall have readily available for review:

- (1) Its license to operate; and
- (2) A copy of each inspection report received by the home from the department for the past three years.

NEW SECTION. Sec. 22. (1) A license shall be valid for one year.

(2) At least ninety days prior to expiration of the license, the provider shall submit an application for renewal of a license. The department shall send the provider an application for renewal prior to this time. The department shall have the authority to investigate any information included in the application for renewal of a license.

(3)(a) Homes applying for a license shall be inspected at the time of licensure.

(b) Homes licensed by the department shall be inspected every eighteen months subject to available funds.

(c) Licensed homes where a complaint has been received by the department may be inspected at any time.

(4) If the department finds that the home is not in compliance with this chapter, it shall require the home to correct any violations as provided in this chapter. If the department finds that the home is in compliance with this chapter and the rules adopted under this chapter, the department shall renew the license of the home.

NEW SECTION. Sec. 23. (1) No public agency contractor or employee shall place, refer, or recommend placement of a person into an adult family home that is operating without a license.

(2) Any public agency contractor or employee who knows that an adult family home is operating without a license shall report the name and address of the home to the department. The department shall investigate any report filed under this section.

NEW SECTION. Sec. 24. An adult family home provider shall have the following minimum qualifications:

- (1) Twenty-one years of age or older;
- (2) Good moral and responsible character and reputation;

(3) Literacy; and

(4) Management and administrative ability to carry out the requirements of this chapter.

***\*NEW SECTION. Sec. 25. The department shall promulgate a list of residents' rights for adult family homes, by rule, which shall be equal to those in rule as of January 1, 1989.***

*\*Sec. 25 was vetoed, see message at end of chapter.*

***NEW SECTION. Sec. 26. (1) Adult family homes shall be maintained internally and externally in good repair and condition. Such homes shall have safe and functioning systems for heating, cooling, hot and cold water, electricity, plumbing, garbage disposal, sewage, cooking, laundry, artificial and natural light, ventilation, and any other feature of the home.***

(2) Adult family homes shall be maintained in a clean and sanitary manner, including proper sewage disposal, food handling, and hygiene practices.

(3) Adult family homes shall develop a fire drill plan for emergency evacuation of residents, shall have smoke detectors in each bedroom where a resident is located, shall have fire extinguishers on each floor of the home, and shall not keep nonambulatory patients above the first floor of the home.

(4) Adult family homes shall have clean, functioning, and safe household items and furnishings.

(5) Adult family homes shall provide a nutritious and balanced diet and shall recognize residents' needs for special diets.

(6) Adult family homes shall establish health care procedures for the care of residents including medication administration and emergency medical care.

(a) Adult family home residents shall be permitted to self-administer medications.

(b) Adult family home providers may administer medications and deliver special care only to the extent that the provider is a licensed health care professional for whom the administration of medications is within the scope of practice under Washington law.

***NEW SECTION. Sec. 27. Each adult family home shall meet applicable local licensing, zoning, building, and housing codes, and state and local fire safety regulations. It is the responsibility of the home to check with local authorities to ensure all local codes are met.***

***NEW SECTION. Sec. 28. Whenever possible adult family homes are encouraged to contact and work with local quality assurance projects such as the volunteer ombudsman with the goal of assuring high quality care is provided in the home.***

***\*NEW SECTION. Sec. 29. The department shall develop written training material to distribute to adult family home providers. The material shall explain licensure requirements established by this chapter and cover other***

*areas to include issues affecting the health, mental health, nutrition, and hygiene of residents as well as other areas pertinent to the care of residents or of the home. The department of social and health services shall provide a report to the long-term care commission by December 1, 1991, on the appropriate provider training and education on adult family homes.*

\*Sec. 29 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 30. (1) During inspections of an adult family home, the department shall have access and authority to examine areas and articles in the home used to provide care or support to residents, including residents' records, accounts, and the physical premises, including the buildings, grounds, and equipment. The department also shall have the authority to interview the provider and residents of an adult family home.

(2) Whenever an inspection is conducted, the department shall prepare a written report that summarizes all information obtained during the inspection, and if the home is in violation of this chapter, serve a copy of the inspection report upon the provider at the same time as a notice of violation. If the home is not in violation of this chapter, a copy of the inspection report shall be mailed to the provider within ten days of the inspection of the home. All inspection reports shall be made available to the public at the department during business hours.

(3) The inspection report shall describe any corrective measures on the part of the provider necessary to pass a reinspection. If the department finds upon reinspection of the home that the corrective measures have been satisfactorily implemented, the department shall cease any actions taken against the home. Nothing in this section shall require the department to license or renew the license of a home where serious physical harm or death has occurred to a resident.

**NEW SECTION.** Sec. 31. (1) The department is authorized to take one or more of the actions listed in subsection (2) of this section in any case in which the department finds that an adult family home provider has:

(a) Failed or refused to comply with the requirements of this chapter or the rules adopted under this chapter;

(b) Operated an adult family home without a license or under a revoked license;

(c) Knowingly or with reason to know made a false statement of material fact on his or her application for license or any data attached thereto, or in any matter under investigation by the department; or

(d) Willfully prevented or interfered with any inspection or investigation by the department.

(2) When authorized by subsection (1) of this section, the department may take one or more of the following actions:

(a) Refuse to issue a license;

(b) Suspend, revoke, or refuse to renew a license; or

(c) Suspend admissions to the adult family home.

**NEW SECTION.** Sec. 32. The department has the authority to immediately suspend a license if it finds that conditions there constitute an imminent danger to residents.

**NEW SECTION.** Sec. 33. Nothing in this chapter or the rules adopted under it may be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents in any adult family home conducted by and for the adherents of a church or religious denomination who rely upon spiritual means alone through prayer for healing in accordance with the tenets and practices of such church or religious denomination and the bona fide religious beliefs genuinely held by such adherents.

**\*NEW SECTION.** Sec. 34. *Section 11, chapter 172, Laws of 1969 ex. sess., section 1, chapter 52, Laws of 1975-'76 2nd ex. sess. and RCW 74.08.044 are each repealed.*

\*Sec. 34 was vetoed, see message at end of chapter.

## VI. RESIDENTIAL CARE FACILITY SITING

**\*NEW SECTION.** Sec. 35. *(1) Unless the context clearly requires otherwise, these definitions shall apply throughout this section and sections 36, 37, 38, 39, 40, and 41 of this act:*

*(a) "Adult family home" means a residential care facility that is regulated by the department of social and health services.*

*(b) "Residential care facility" means a facility that cares for at least five, but not more than fifteen functionally disabled persons.*

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

*(2) An adult family home shall be considered a residential use of property for zoning purposes. Adult family homes shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single family dwellings.*

\*Sec. 35 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 36. A new section is added to chapter 35.63 RCW to read as follows:

Each municipality that does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate

that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

**NEW SECTION.** Sec. 37. A new section is added to chapter 35A.63 RCW to read as follows:

Each municipality that does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

**NEW SECTION.** Sec. 38. A new section is added to chapter 36.70 RCW to read as follows:

Each county that does not provide for the siting of residential care facilities in zones that are designated for single family or other residential uses, shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

**NEW SECTION.** Sec. 39. A new section is added to chapter 35.22 RCW to read as follows:

If a first class city zones pursuant to its inherent charter authority and not pursuant to chapter 35.63 RCW, and does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, the city shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by

August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

NEW SECTION. Sec. 40. A new section is added to chapter 36.32 RCW to read as follows:

If a county operating under home rule charter zones pursuant to its inherent charter authority and not pursuant to chapter 35.63 RCW, nor chapter 36.70 RCW, and that county does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, the county shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

NEW SECTION. Sec. 41. The department of community development shall:

(1) Report to the appropriate committees of the legislature the results of the local reviews provided for in sections 36 through 40 of this act by December 31, 1990.

(2) In consultation with the association of Washington cities, the Washington association of counties, and the long-term care commission, develop a model ordinance for the siting of residential care facilities. The model ordinance shall be developed by December 31, 1990.

NEW SECTION. Sec. 42. The sum of one hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the senate and house of representatives solely for the long-term care commission created under section 13 of this act.

NEW SECTION. Sec. 43. 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. 44. Sections 2 through 43 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 45. Sections 2, 3, 9, 11, 13, and 35 of this act shall constitute a new chapter in Title 74 RCW.

NEW SECTION. Sec. 46. Sections 14 through 33 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 47. Subchapter headings as used in this act do not constitute any part of the law.

Passed the House April 23, 1989.

Passed the Senate April 23, 1989.

Approved by the Governor May 14, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1989.

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

"I am returning herewith, without my approval as to section 25, 29, 34 and 35, Engrossed Substitute House Bill No. 1968 entitled:

"AN ACT Relating to long term care."

Section 25 requires the Department of Social and Health Services to promulgate rules regarding adult family home resident rights, but limits the rules by requiring them to be "equal" to those already in place. Senior advocates and caregivers may recommend the expansion or modification of resident rights, and the department would be prohibited from responding under this language.

Section 29 requires the department to create a written training program for adult family home operators and to report to the Legislature. No appropriation is made to carry out the requirements of this section.

Section 34 repeals the rule-making authority the department needs to regulate congregate care facilities.

Section 35 is a preemptive zoning statute that designates residential facilities serving up to 15 persons as permitted uses under local zoning statutes. The language is overly broad and vague as written and may present a problem to local governments. The Legislature will receive a report from all local governments on the need for these facilities in 1990.

With the exception of sections 25, 29, 34 and 35, Engrossed Substitute House Bill No. 1968 is approved."

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## CHAPTER 428

[House Bill No. 1656]

### CONDOMINIUMS—WARRANTIES OF QUALITY AND CREATION OF CONDOMINIUM STUDY COMMITTEE

AN ACT Relating to the regulation of the sale of lands; creating new sections; and providing an effective date.

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

**\*NEW SECTION. Sec. 1. PUBLIC OFFERING STATEMENT—  
CONDOMINIUM SECURITIES.** *If an interest in a condominium is currently registered with the securities and exchange commission of the United States, a declarant satisfies all requirements relating to the preparation of a public offering statement of this chapter if the declarant delivers to the purchaser a copy of the public offering statement filed with the securities and exchange commission. An interest in a condominium is not a security under the provisions of chapter 21.20 RCW.*

\*Sec. 1 was vetoed, see message at end of chapter.

**NEW SECTION. Sec. 2. EXPRESS WARRANTIES OF QUALITY.** (1) Express warranties made by any seller to a purchaser of a unit, if relied upon by the purchaser, are created as follows:

(a) Any written affirmation of fact or promise which relates to the unit, its use, or rights appurtenant thereto, area improvements to the condominium that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the condominium creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise;

(b) Any model or written description of the physical characteristics of the condominium at the time the purchase agreement is executed, including plans and specifications of or for improvements, creates an express warranty that the condominium will conform to the model or description except pursuant to RCW 64.\_\_\_\_ (section 4-103(1)(v), chapter 43, Laws of 1989);

(c) Any written description of the quantity or extent of the real property comprising the condominium, including plats or surveys, creates an express warranty that the condominium will conform to the description, subject to customary tolerances; and

(d) A written provision that a buyer may put a unit only to a specified use is an express warranty that the specified use is lawful.

(2) Neither formal words, such as "warranty" or "guarantee," nor a specific intention to make a warranty are necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or commendation of the real estate or its value does not create a warranty. A purchaser may not rely on any representation or express warranty unless it is contained in the public offering statement or made in writing signed by the declarant or declarant's agent identified in the public offering statement.

(3) Any conveyance of a unit transfers to the purchaser all express warranties of quality made by previous sellers.

**\*NEW SECTION. Sec. 3. STATUTE OF LIMITATIONS FOR WARRANTIES.** (1) *A judicial proceeding for breach of any obligation arising under RCW 64.\_\_\_\_ or 64.\_\_\_\_ (section 4-111 or 4-112, chapter 43,*

*Laws of 1989) must be commenced within four years after the cause of action accrues.*

*(2) Subject to subsection (3) of this section, a cause of action for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:*

*(a) As to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and*

*(b) As to each common element, at the time the common element is completed or, if later: (i) As to a common element that may be added to the condominium or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser; or (ii) as to a common element within any other portion of the condominium, at the time the first unit in the condominium is conveyed to a bona fide purchaser.*

*(3) If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the condominium, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.*

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

**NEW SECTION. Sec. 4. SUBSTANTIAL COMPLETION OF UNITS.** *In the case of a sale of a unit where delivery of a public offering statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed until the declaration is recorded.*

\*Sec. 4 was vetoed, see message at end of chapter.

**NEW SECTION. Sec. 5. STUDY COMMITTEE.** A statutory committee is created to:

(1) Review the Washington condominium act, and consider comments concerning the act;

(2) Draft recommended revisions to the act; and

(3) Prepare written comments on the act to be included in the Senate or House Journals. The committee shall consist of the following members:

(a) One member each of the majority and minority parties of the senate, appointed by the president of the senate;

(b) One member each of the majority and minority parties of the house of representatives, appointed by the speaker of the house of representatives;

(c) Four members of the drafting subcommittee of the senate judiciary condominium task force;

(d) One member appointed by the Washington land title association;

(e) One member appointed by the Washington mortgage bankers association;

(f) One member appointed by the Washington association of realtors;

(g) One member appointed by the Washington chapter of the community associations institute;

(h) One member appointed by the homebuilders association of Washington state;

(i) One member appointed by the Washington state bar association;

(j) One member appointed by the Washington association of county officials; and

(k) Two members appointed by the governor.

The committee shall report to the senate law and justice committee and the house judiciary committee before March 1, 1990.

This section shall expire March 1, 1990.

NEW SECTION. Sec. 6. CAPTIONS. Section captions as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 7. EFFECTIVE DATE. Sections 1 through 4 of this act shall take effect July 1, 1990.

Passed the House April 23, 1989.

Passed the Senate April 23, 1989.

Approved by the Governor May 14, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1989.

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

"I am returning herewith, without my approval as to section 1, 3, and 4, House Bill No. 1656 entitled:

"AN ACT Relating to regulation of the sale of lands."

I vetoed similar language contained in Substitute Senate Bill No. 5208, because the interests of purchasers were not adequately protected.

The Legislature responded by making changes to sections 2 and 5, so I am approving those sections today. However, sections 1, 3 and 4 still substantially limit the rights of individual condominium purchasers.

Section 1 is related to public offering statements. It states that an interest in a condominium is not a security for state regulatory purposes, under RCW 21.20, if the seller delivers to the purchaser a copy of the securities and exchange commission public offering statement. State security provisions do apply to an interest in a condominium in some cases. This section exempts a developer from having to give the carefully tailored public offering statement required by state law to purchasers. Purchasers need the information in the more detailed state public offering statement, since developers are given expanded rights to do phased projects and to control the homeowners' associations during the phasing.

Section 3 limits the time in which a purchaser can take action for breach of a warranty of quality. Purchasers must take action within four years of the time they take possession, regardless of when the defect is discovered.

Furthermore, the statute of limitations can possibly be interpreted to run four years after common elements are completed, regardless of when a purchaser buys into the project. I urge the Legislature to look at the interrelationship of purchasers' rights and the expanded rights of developers to ensure a balance. Under current case law, purchasers have three years from the date a construction defect is discovered, or should reasonably have been discovered, to bring an action. Hence it offers more protection to purchasers.

Section 4 leaves unclear when a conveyance is completed for purposes of determining when the risk of loss shifts to the purchaser, determining when the statute of limitations begins to run, and ascertaining when the seller has a right to the purchase

funds. Under current case law, the risk of property loss shifts to the purchaser at the time of conveyance, and the statute of limitations on certain actions against the builder under state law begins to run from the time of conveyance. Note, the provisions in the Uniform Condominium Act (UCA) requires a developer to file a certificate of substantial completion before the conveyance occurs. I believe current case law offers more protection for the purchaser, but recommend the Legislature consider adopting the provision in the UCA.

With the exception of sections 1, 3, and 4, House Bill No. 1656 is approved."

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## CHAPTER 429

[Substitute Senate Bill No. 5984]

### YAKIMA RIVER BASIN—CONSERVATION AND WATER RIGHTS

AN ACT Relating to use of the waters of the Yakima river basin; and adding a new chapter to Title 90 RCW.

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

**NEW SECTION.** Sec. 1. (1) The legislature finds that:

(a) Under present physical conditions in the Yakima river basin there is an insufficient supply of water to satisfy the needs of the basin;

(b) Pursuant to P.L. 96-162, which was urged for enactment by this state, the United States is now conducting a study of ways to provide needed waters through improvements of the federal water project presently existing in the Yakima river basin;

(c) The interests of the state will be served by developing programs, in cooperation with the United States and the various water users in the basin, that increase the overall ability to manage basin waters in order to better satisfy both present and future needs for water in the Yakima river basin.

(2) It is the purpose of this chapter, consistent with these findings, to improve the ability of the state to work with the United States and various water users of the Yakima river basin in a program designed to satisfy both existing rights, and other presently unmet as well as future needs of the basin.

(3) The provisions of this chapter apply only to waters of the Yakima river basin.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of ecology.

(2) "Net water savings" means the amount of water that through hydrological analysis is determined to be conserved and usable for other purposes without impairing existing water rights, reducing the ability to deliver water, or reducing the supply of water that otherwise would have been available to other water users.

(3) "Trust water right" means that portion of an existing water right, constituting net water savings, that is no longer required to be diverted for beneficial use due to the installation of a water conservation project that

improves an existing system. The term "trust water right" also applies to any other water right acquired by the department under this chapter for management in the Yakima river basin trust water rights program.

(4) "Water conservation project" means any project funded to further the purposes of this chapter and that achieves physical or operational improvements of efficiency in existing systems for diversion, conveyance, or application of water under existing water rights.

**NEW SECTION.** Sec. 3. (1) The department may acquire water rights, including but not limited to storage rights, by purchase, gift, or other appropriate means other than by condemnation, from any person or entity or combination of persons or entities. Once acquired, such rights are trust water rights.

(2) The department may make such other arrangements, including entry into contracts with other persons or entities as appropriate to ensure that trust water rights acquired in accordance with this chapter can be exercised to the fullest possible extent.

(3) The trust water rights may be acquired on a temporary or permanent basis.

**NEW SECTION.** Sec. 4. (1) For the purposes of this chapter, the department is authorized to enter into contracts with water users for the purpose of providing moneys to users to assist in the financing of water conservation projects. In exchange for the financial assistance provided for the purposes of this chapter, the water users shall convey the trust water rights, created as a result of the assistance, to the department of ecology.

(2) No contract shall be entered into by the department with a water user under this chapter unless it appears to the department that, upon the completion of a water conservation project financed with moneys as provided in this section, a valid water right exists for conveyance to the department.

(3) The department shall cooperate fully with the United States in the implementation of this chapter. Trust water rights may be acquired through expenditure of funds provided by the United States and shall be treated in the same manner as trust water rights resulting from the expenditure of state funds.

(4) When water is proposed to be acquired by or conveyed to the department as a trust water right by an irrigation district, evidence of the district's authority to represent the water right holders must be submitted to, and for the satisfaction of, the department.

(5) The department shall not acquire an individual's water right under this chapter that is appurtenant to land lying within an irrigation district without the approval of the board of directors of the irrigation district.

**NEW SECTION.** Sec. 5. (1) All trust water rights acquired by the department shall be placed in the Yakima river basin trust water rights

program to be managed by the department. The department shall issue a water right certificate in the name of the state of Washington for each trust water right it acquires.

(2) Trust water rights shall retain the same priority date as the water right from which they originated. Trust water rights may be modified as to purpose or place of use or point of diversion, including modification from a diversionary use to a nondiversionary instream use.

(3) Trust water rights may be held by the department for instream flows and/or irrigation use.

(4) A schedule of the amount of net water saved as a result of water conservation projects carried out in accordance with this chapter, shall be developed annually to reflect the predicted hydrologic and water supply conditions, as well as anticipated water demands, for the upcoming irrigation season. This schedule shall serve as the basis for the distribution and management of trust water rights each year.

(5) No exercise of a trust water right may be authorized unless the department first determines that no existing water rights, junior or senior in priority, will be impaired as to their exercise or injured in any manner whatever by such authorization. Before any trust water right is exercised, the department shall publish notice thereof in a newspaper of general circulation published in the county or counties in which the storage, diversion, and use are to be made, and in such other newspapers as the department determines are necessary, once a week for two consecutive weeks. At the same time the department may also send notice thereof containing pertinent information to the director of fisheries and the director of wildlife.

(6) RCW 90.03.380 and 90.14.140 through 90.14.910 shall have no applicability to trust water rights held by the department under this chapter or exercised under this section.

NEW SECTION. Sec. 6. The department may adopt rules as appropriate to ensure full implementation of this chapter.

NEW SECTION. Sec. 7. The policies and purposes of this chapter shall not be construed as replacing or amending the policies or the purposes for which funds available under chapter 43.83B or 43.99E RCW may be used within or without the Yakima river basin.

NEW SECTION. Sec. 8. It is not the intent of this chapter to facilitate the transfer of water rights from one irrigation district to another.

NEW SECTION. Sec. 9. Nothing in this chapter shall authorize the impairment or operate to impair any existing water rights.

**NEW SECTION.** Sec. 10. Sections 1 through 9 of this act shall constitute a new chapter in Title 90 RCW.

Passed the Senate April 17, 1989.

Passed the House April 12, 1989.

Approved by the Governor May 14, 1989.

Filed in Office of Secretary of State May 14, 1989.

## CHAPTER 430

[Second Substitute Senate Bill No. 6051]

### CHILD CARE FACILITIES DEVELOPMENT—EMPLOYER INVOLVEMENT

AN ACT Relating to encouraging employer involvement in child care facilities development and services; amending RCW 43.31.085 and 43.168.050; adding new sections to chapter 43.31 RCW; creating new sections; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature finds that increasing the availability and affordability of quality child care will enhance the stability of the family and facilitate expanded economic prosperity in the state. The legislature finds that balancing work and family life is a critical concern for employers and employees. The dramatic increase in participation of women in the work force has resulted in a demand for affordable child care exceeding the supply. The future of the state's work force depends in part upon the availability of quality affordable child care. There are not enough child care services and facilities to meet the needs of working parents, the costs of care are often beyond the resources of working parents, and facilities are not located conveniently to work places and neighborhoods. The prospect for labor shortages resulting from the aging of the population and the importance of the quality of the work force to the competitiveness of Washington businesses make the availability of quality child care an important concern for the state's businesses.

The legislature further finds that a partnership between business and child care providers can help the market for child care adjust to the needs of businesses and working families and improve productivity, reduce absenteeism, improve recruitment, and improve morale among Washington's labor force. The legislature further finds that private and public partnerships and investments are necessary to increase the supply, affordability, and quality of child care in the state.

Sec. 2. Section 11, chapter 466, Laws of 1985 as amended by section 3, chapter 348, Laws of 1987 and RCW 43.31.085 are each amended to read as follows:

The business assistance center shall:

(1) Serve as the state's lead agency and advocate for the development and conservation of businesses.



(2) Coordinate the delivery of state programs to assist businesses.

(3) Provide comprehensive referral services to businesses requiring government assistance.

(4) Serve as the business ombudsman within state government and advise the governor and the legislature of the need for new legislation to improve the effectiveness of state programs to assist businesses.

(5) Aggressively promote business awareness of the state's business programs and distribute information on the services available to businesses.

(6) Develop, in concert with local economic development and business assistance organizations, coordinated processes that complement both state and local activities and services.

(7) The business assistance center shall work with other federal, state, and local agencies and organizations to ensure that business assistance services including small business, trade services, and distressed area programs are provided in a coordinated and cost-effective manner.

(8) In collaboration with the child care coordinating committee in the department of social and health services, prepare and disseminate information on child care options for employers and the existence of the program. As much as possible, and through interagency agreements where necessary, such information should be included in the routine communications to employers from (a) the department of revenue, (b) the department of labor and industries, (c) the department of community development, (d) the employment security department, (e) the department of trade and economic development, (f) the small business development center, and (g) the department of social and health services.

(9) In collaboration with the child care coordinating committee in the department of social and health services, compile information on and facilitate employer access to individuals, firms, organizations, and agencies that provide technical assistance to employers to enable them to develop and support child care services or facilities.

(10) Actively seek public and private money to support the child care facility fund described in section 3 of this act, staff and assist the child care facility fund committee as described in section 4 of this act, and work to promote applications to the committee for loan guarantees, loans, and grants.

NEW SECTION. Sec. 3. A child care facility fund is created. Money in the fund shall be used solely for the purpose of starting or improving a child care facility pursuant to sections 2 through 8 of this act. Only moneys from private or federal sources may be deposited into this fund.

NEW SECTION. Sec. 4. The child care facility fund committee is established within the business assistance center of the department of trade and economic development. The committee shall administer the child care facility fund, with review by the director of the department of trade and economic development.

(1) The committee shall have five members. The director of the department of trade and economic development shall appoint the members, who shall include:

(a) Two persons experienced in investment finance and having skills in providing capital to new businesses, in starting and operating businesses, and providing professional services to small or expanding businesses;

(b) One person representing a philanthropic organization with experience in evaluating funding requests;

(c) One child care services expert; and

(d) One early childhood development expert.

In making these appointments, the director shall give careful consideration to ensure that the various geographic regions of the state are represented and that members will be available for meetings and are committed to working cooperatively to address child care needs in Washington state.

(2) The committee shall elect officers from among its membership and shall adopt policies and procedures specifying the lengths of terms, methods for filling vacancies, and other matters necessary to the ongoing functioning of the committee.

(3) Committee members shall serve without compensation, but may request reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) Committee members shall not be liable to the state, to the child care facility fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violation of the law. The department of trade and economic development may purchase liability insurance for members and may indemnify these persons against the claims of others.

NEW SECTION. Sec. 5. The child care facility fund committee is authorized to solicit applications for and award grants and loans from the child care facility fund to assist persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed child care facility. Grants and loans shall be awarded on a one-time only basis, shall not be awarded to cover operating expenses beyond the first three months of business, and no grant or loan shall exceed twenty-five thousand dollars.

NEW SECTION. Sec. 6. The child care facility fund committee is authorized, upon application, to use the child care facility fund to guarantee loans made to persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed child care facility.

(1) Loan guarantees shall be awarded on a one-time only basis, and shall not be awarded for loans to cover operating expenses beyond the first three months of business.

(2) The total aggregate amount of the loan guarantee awarded to any applicant may not exceed twenty-five thousand dollars and may not exceed eighty percent of the loan.

(3) The total aggregate amount of guarantee from the child care facility fund, with respect to the guaranteed portions of loans, may not exceed at any time an amount equal to five times the balance in the child care facility fund.

**NEW SECTION.** Sec. 7. The child care facility fund committee shall award loan guarantees, loans or grants to those persons, businesses, or organizations meeting the minimum standards set forth in this chapter who will best serve the intent of the chapter to increase the availability of high quality, affordable child care in Washington state. The committee shall promulgate rules regarding the application for and disbursement of loan guarantees, loans, or grants from the fund, including loan terms and repayment procedures. At a minimum, such rules shall require an applicant to submit a plan which includes a detailed description of:

(1) The need for a new or improved child care facility in the area served by the applicant;

(2) The steps the applicant will take to serve a reasonable number of handicapped children as defined in chapter 72.40 RCW, sick children, infants, children requiring night time or weekend care, or children whose costs of care are subsidized by government;

(3) Why financial assistance from the state is needed to start or improve the child care facility;

(4) How the guaranteed loan, loan, or grant will be used, and how such uses will meet the described need;

(5) The child care services to be available at the facility and the capacity of the applicant to provide those services; and

(6) The financial status of the applicant, including other resources available to the applicant which will ensure the continued viability of the facility and the availability of its described services.

Recipients shall annually for two years following the receipt of the loan guarantee, loan, or grant, submit to the child care facility fund committee a report on the facility and how it is meeting the child care needs for which it was intended.

**NEW SECTION.** Sec. 8. Where the child care facility fund committee makes a grant to a person, organization, or business, the grant shall be repaid to the child care facility fund if the child care facility using the grant to start or expand ceases to provide child care earlier than the following time periods from the date the grant is made: (1) Twelve months for a grant up to five thousand dollars; (2) twenty-four months for a grant over five thousand dollars up to ten thousand dollars; (3) thirty-six months for a grant over ten thousand dollars up to fifteen thousand dollars; (4) forty-eight months for a grant over fifteen thousand dollars up to twenty thousand

dollars; and (5) sixty months for a grant over twenty thousand dollars up to twenty-five thousand dollars.

Sec. 9. Section 5, chapter 164, Laws of 1985 as last amended by section 4, chapter 461, Laws of 1987 and RCW 43.168.050 are each amended to read as follows:

(1) The committee may only approve an application providing a loan for a project which the committee finds:

(a) Will result in the creation of employment opportunities or the maintenance of threatened employment;

(b) Has been approved by the director as conforming to federal rules and regulations governing the spending of federal community development block grant funds;

(c) Will be of public benefit and for a public purpose, and that the benefits, including increased or maintained employment, improved standard of living, and the employment of disadvantaged workers, will primarily accrue to residents of the area;

(d) Will probably be successful;

(e) Would probably not be completed without the loan because other capital or financing at feasible terms is unavailable or the return on investment is inadequate.

(2) The committee shall, subject to federal block grant criteria, give higher priority to economic development projects that contain provisions for child care.

(3) The committee may not approve an application if it fails to provide for adequate reporting or disclosure of financial data to the committee. The committee may require an annual or other periodic audit of the project books.

~~((3))~~ (4) The committee may require that the project be managed in whole or in part by a local development organization and may prescribe a management fee to be paid to such organization by the recipient of the loan or grant.

~~((4))~~ (5) (a) Except as provided in (b) of this subsection, the committee shall not approve any application which would result in a loan or grant in excess of three hundred fifty thousand dollars.

(b) The committee may approve an application which results in a loan or grant of up to seven hundred thousand dollars if the application has been approved by the director.

~~((5))~~ (6) The committee shall fix the terms and rates pertaining to its loans.

~~((6))~~ (7) Should there be more demand for loans than funds available for lending, the committee shall provide loans for those projects which will lead to the greatest amount of employment or benefit to a community. In determining the "greatest amount of employment or benefit" the committee shall also consider the employment which would be saved by its loan.

~~((7))~~ (8) To the extent permitted under federal law the committee shall require applicants to provide for the transfer of all payments of principal and interest on loans to the Washington state development loan fund created under this chapter. Under circumstances where the federal law does not permit the committee to require such transfer, the committee shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer.

~~((8))~~ (9) The committee shall not approve any application to finance or help finance a shopping mall.

~~((9))~~ (10) The committee shall make at least eighty percent of the appropriated funds available to projects located in distressed areas, and may make up to twenty percent available to projects located in areas not designated as distressed. The committee shall not make funds available to projects located in areas not designated as distressed if the fund's net worth is less than seven million one hundred thousand dollars.

~~((10))~~ (11) If an objection is raised to a project on the basis of unfair business competition, the committee shall evaluate the potential impact of a project on similar businesses located in the local market area. A grant may be denied by the committee if a project is not likely to result in a net increase in employment within a local market area.

NEW SECTION. Sec. 10. Sections 3 through 8 of this act are each added to chapter 43.31 RCW.

NEW SECTION. Sec. 11. If specific funding for the purposes of this act, referencing this act by bill number, is not provided by June 30, 1989, in the omnibus appropriations act, this act shall be null and void.

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 is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 22, 1989.

Passed the House April 22, 1989.

Approved by the Governor May 15, 1989.

Filed in Office of Secretary of State May 15, 1989.

## CHAPTER 431

[Substitute House Bill No. 1671]  
SOLID WASTE MANAGEMENT

AN ACT Relating to solid waste; amending RCW 70.95.010, 70.95.030, 70.95.090, 70.95.110, 70.95.100, 70.95.130, 70.95.160, 70.95.165, 70.95.280, 35.21.120, 81.77.010, 81.77.020, 81.77.030, 81.77.040, 81.77.050, 81.77.060, 81.77.080, 81.77.100, 81.77.110, 36.58.030, 36.58.040, 82.04.070, 43.21A.520, 35.21.130, 36.58.010, 35.23.352, 39.30.040, 35.22.620, 43.19.1911, 43.160.010, 43.160.060, 82.18.010, 82.18.020, 82.18.030, 82.18.040, 82.18.050, 82.18.060, 82.18.070, 82.18.080, 70.95.510, 70.95.520, and 70.95.560; amending section 15, chapter 528, Laws of 1987 as amended by section 6, chapter 184, Laws of 1988 (uncodified); reenacting and amending RCW 70.95.260 and 36.32.250; adding new sections to chapter 70.95 RCW; adding a new section to chapter 35.21 RCW; adding new sections to chapter 81.77 RCW; adding new sections to chapter 36.58 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding new sections to chapter 70.95C RCW; adding a new section to chapter 82.02 RCW; adding a new section to chapter 43.160 RCW; adding a new section to chapter 43.31 RCW; adding a new section to chapter 82.18 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to Title 70 RCW; creating new sections; prescribing penalties; providing an expiration date; providing effective dates; and declaring an emergency.

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

## I.

## LEGISLATIVE FINDINGS AND DEFINITIONS

Sec. 1. Section 1, chapter 134, Laws of 1969 ex. sess. as last amended by section 1, chapter 345, Laws of 1985 and RCW 70.95.010 are each amended to read as follows:

**FINDINGS.** The legislature finds:

(1) Continuing technological changes in methods of manufacture, packaging, and marketing of consumer products, together with the economic and population growth of this state, the rising affluence of its citizens, and its expanding industrial activity have created new and ever-mounting problems involving disposal of garbage, refuse, and solid waste materials resulting from domestic, agricultural, and industrial activities.

(2) Traditional methods of disposing of solid wastes in this state are no longer adequate to meet the ever increasing problem. Improper methods and practices of handling and disposal of solid wastes pollute our land, air and water resources, blight our countryside, adversely affect land values, and damage the overall quality of our environment.

(3) Considerations of natural resource limitations, energy shortages, economics and the environment make necessary the development and implementation of solid waste recovery and/or recycling plans and programs.

(4) ~~((The following priorities in the management of solid waste are necessary and should be followed in order of descending priority as applicable:~~

- ~~(a) Waste reduction;~~
- ~~(b) Waste recycling;~~

(c) Energy recovery or incineration; and

(d) Landfill.

(5)) Waste reduction must become a fundamental strategy of solid waste management. It is therefore necessary to change manufacturing and purchasing practices and waste generation behaviors to reduce the amount of waste that becomes a governmental responsibility.

(5) Source separation of waste must become a fundamental strategy of solid waste management. Collection and handling strategies should have, as an ultimate goal, the source separation of all materials with resource value or environmental hazard.

(6)(a) It is the responsibility of every person to minimize his or her production of wastes and to separate recyclable or hazardous materials from mixed waste.

(b) It is the responsibility of state, county, and city governments to provide for a waste management infrastructure to fully implement waste reduction and source separation strategies and to process and dispose of remaining wastes in a manner that is environmentally safe and economically sound. It is further the responsibility of state, county, and city governments to monitor the cost-effectiveness and environmental safety of combusting separated waste, processing mixed waste, and recycling programs.

(c) It is the responsibility of county and city governments to assume primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies.

(d) It is the responsibility of state government to ensure that local governments are providing adequate source reduction and separation opportunities and incentives to all, including persons in both rural and urban areas, and nonresidential waste generators such as commercial, industrial, and institutional entities, recognizing the need to provide flexibility to accommodate differing population densities, distances to and availability of recycling markets, and collection and disposal costs in each community; and to provide county and city governments with adequate technical resources to accomplish this responsibility.

(7) Environmental and economic considerations in solving the state's solid waste management problems requires strong consideration by local governments of regional solutions and intergovernmental cooperation.

(8) The following priorities for the collection, handling, and management of solid waste are necessary and should be followed in descending order as applicable:

(a) Waste reduction;

(b) Recycling, with source separation of recyclable materials as the preferred method;

(c) Energy recovery, incineration, or landfill of separated waste;

(d) Energy recovery, incineration, or landfilling of mixed wastes.

(9) It is the state's goal to achieve a fifty percent recycling rate by 1995.

(10) Steps should be taken to make recycling at least as affordable and convenient to the ratepayer as mixed waste disposal.

(11) It is necessary to compile and maintain adequate data on the types and quantities of solid waste that are being generated and to monitor how the various types of solid waste are being managed.

(12) Vehicle batteries should be recycled and the disposal of vehicle batteries into landfills or incinerators should be discontinued.

(13) Excessive and nonrecyclable packaging of products should be avoided.

(14) Comprehensive education should be conducted throughout the state so that people are informed of the need to reduce, source separate, and recycle solid waste.

(15) All governmental entities in the state should set an example by implementing aggressive waste reduction and recycling programs at their workplaces and by purchasing products that are made from recycled materials and are recyclable.

(16) To ensure the safe and efficient operations of solid waste disposal facilities, it is necessary for operators and regulators of landfills and incinerators to receive training and certification.

(17) It is necessary to provide adequate funding to all levels of government so that successful waste reduction and recycling programs can be implemented.

(18) The development of stable and expanding markets for recyclable materials is critical to the long-term success of the state's recycling goals. Market development must be encouraged on a state, regional, and national basis to maximize its effectiveness. The state shall assume primary responsibility for the development of a multifaceted market development program to carry out the purposes of this act.

(19) There is an imperative need to anticipate, plan for, and accomplish effective storage, control, recovery, and recycling of discarded ((vehicle)) tires and other problem wastes with the subsequent conservation of resources and energy.

## II.

### RECYCLING SERVICE LEVELS, LOCAL COMPREHENSIVE SOLID WASTE MANAGEMENT PLANS, AND FINANCIAL AND TECHNICAL ASSISTANCE

Sec. 2. Section 3, chapter 134, Laws of 1969 ex. sess. as last amended by section 3, chapter 345, Laws of 1985 and RCW 70.95.030 are each amended to read as follows:

DEFINITIONS. As used in this chapter, unless the context indicates otherwise:



- (1) "City" means every incorporated city and town.
- (2) "Commission" means the utilities and transportation commission.
- (3) "Committee" means the state solid waste advisory committee.
- ~~((3))~~ (4) "Department" means the department of ecology.
- ~~((4))~~ (5) "Director" means the director of the department of ecology.
- ~~((5))~~ (6) "Disposal site" means the location where any final treatment, utilization, processing, or ~~((depository))~~ deposit of solid waste occurs.
- ~~((6))~~ (7) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste.
- (8) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.
- ~~((7))~~ (9) "Incineration" means a process of reducing the volume of solid waste operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.
- (10) "Jurisdictional health department" means city, county, city-county, or district public health department.
- ~~((8))~~ (11) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.
- (12) "Local government" means a city, town, or county.
- (13) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.
- ~~((9))~~ (14) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan. Prior to the adoption of the local comprehensive solid waste plan, adopted pursuant to section 5(2) of this act, local governments may identify recyclable materials by ordinance from the effective date of this act.
- (15) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.
- (16) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and ~~((discarded commodities))~~ recyclable materials.
- ~~((10))~~ (17) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from ~~((such))~~ solid wastes or

the conversion of the energy in ~~((such))~~ solid wastes to more useful forms or combinations thereof.

~~((++))~~ (18) "Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

(19) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, or watercourse and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, or watercourse, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(20) "Waste reduction" means reducing the amount or ((type)) toxicity of waste generated or reusing materials.

~~((12)) "Waste recycling" means reusing waste materials and extracting valuable materials from a waste stream:~~

~~(13) "Energy recovery or incineration" means reducing the volume of wastes by use of an enclosed device using controlled flame combustion:~~

~~(14) "Landfill" means a disposal facility or part of a facility at which waste is placed in or on land and which is not a land treatment facility:~~

~~(15) "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human or animal power or used exclusively upon stationary rails or tracks:))~~

Sec. 3. Section 9, chapter 134, Laws of 1969 ex. sess. as last amended by section 5, chapter 123, Laws of 1984 and RCW 70.95.090 are each amended to read as follows:

LOCAL WASTE MANAGEMENT PLANS. Each county and city comprehensive solid waste management plan shall include the following:

(1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.

(2) The estimated long-range needs for solid waste handling facilities projected twenty years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

(a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;

(b) Take into account the comprehensive land use plan of each jurisdiction;

(c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and

(d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.

(4) A program for surveillance and control.

(5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

(a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his or her place of business and the area covered by ~~((his operation))~~ the franchise;

(b) Any city solid waste operation within the county and the boundaries of such operation;

(c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;

(d) The projected solid waste collection needs for the respective jurisdictions for the next six years.

(6) A comprehensive waste reduction and recycling element that, in accordance with the priorities established in RCW 70.95.010, provides programs that (a) reduce the amount of waste generated, (b) provide incentives and mechanisms for source separation, and (c) establish recycling opportunities for the source separated waste.

(7) The waste reduction and recycling element shall include the following:

(a) Waste reduction strategies;

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences in urban and rural areas. In urban areas, these programs shall include collection of source separated recyclable materials from residential dwellings, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the rate payer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(ii) Programs to monitor the collection of source separated waste at nonresidential sites where there is sufficient density to sustain a program;

(iii) Programs to collect yard waste, if the county or city submitting the plan finds that there are adequate markets or capacity for composted

yard waste within or near the service area to consume the majority of the material collected; and

(iv) Programs to educate and promote the concepts of waste reduction and recycling;

(c) Recycling strategies, including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

(d) Other information the county or city submitting the plan determines is necessary.

(8) An assessment of the plan's impact on the costs of solid waste collection. The assessment shall be prepared in conformance with guidelines established by the utilities and transportation commission. The commission shall cooperate with the Washington state association of counties and the association of Washington cities in establishing such guidelines.

(9) A review of potential areas that meet the criteria as outlined in RCW 70.95.165.

NEW SECTION. Sec. 4. A new section is added to chapter 70.95 RCW to read as follows:

**SERVICE LEVELS IN PLANS.** Levels of service shall be defined in the waste reduction and recycling element of each local comprehensive solid waste management plan and shall include the services set forth in RCW 70.95.090. In determining which service level is provided to residential and nonresidential waste generators in each community, counties and cities shall develop clear criteria for designating areas as urban or rural. In designating urban areas, local governments shall consider the planning guidelines adopted by the department, total population, population density, and any applicable land use or utility service plans.

Sec. 5. Section 11, chapter 134, Laws of 1969 ex. sess. as amended by section 7, chapter 123, Laws of 1984 and RCW 70.95.110 are each amended to read as follows:

**PLANNING DEADLINES.** (1) The comprehensive county solid waste management plans and any comprehensive city solid waste management plans prepared in accordance with RCW 70.95.080 shall be maintained in a current condition and reviewed and revised periodically by counties and cities as may be required by the department. Upon each review such plans shall be extended to show long-range needs for solid waste handling facilities for twenty years in the future, and a revised construction and capital acquisition program for six years in the future. Each revised solid waste management plan shall be submitted to the department.

Each plan shall be reviewed and revised within five years of (~~June 7~~) July 1, 1984, and thereafter shall be reviewed, and revised if necessary(~~, at~~)

~~least once every five years))~~ according to the schedule provided in subsection (2) of this section.

(2) Cities and counties preparing solid waste management plans shall submit the waste reduction and recycling element required in RCW 70.95-.090 and any revisions to other elements of its comprehensive solid waste management plan to the department no later than:

- (a) July 1, 1991, for class one areas;
- (b) July 1, 1992, for class two areas; and
- (c) July 1, 1994, for class three areas.

Thereafter, each plan shall be reviewed and revised, if necessary, at least every five years. Nothing in this act shall prohibit local governments from submitting a plan prior to the dates listed in this subsection.

(3) The classes of areas are defined as follows:

(a) Class one areas are the counties of Spokane, Snohomish, King, Pierce, and Kitsap and all the cities therein.

(b) Class two areas are all other counties located west of the crest of the Cascade mountains and all the cities therein.

(c) Class three areas are the counties east of the crest of the Cascade mountains and all the cities therein, except for Spokane county.

(4) Cities and counties shall begin implementing the programs to collect source separated materials no later than one year following the adoption and approval of the waste reduction and recycling element and these programs shall be fully implemented within two years of approval.

Sec. 6. Section 10, chapter 134, Laws of 1969 ex. sess. as amended by section 6, chapter 123, Laws of 1984 and RCW 70.95.100 are each amended to read as follows:

TECHNICAL ASSISTANCE. (1) The department or the commission, as appropriate, shall provide to counties and cities technical assistance including, but not limited to, planning guidelines, in the preparation, review, and revision of solid waste management plans required by this chapter. ((Each comprehensive county solid waste management plan shall be submitted to the department for technical review and approval. The department may recommend revisions essential to the achievement of effective solid waste management and the purposes of this chapter.)) Guidelines prepared under this section shall be consistent with the provisions of this chapter. Guidelines for the preparation of the waste reduction and recycling element of the comprehensive solid waste management plan shall be completed by the department by March 15, 1990. These guidelines shall provide recommendations to local government on materials to be considered for designation as recyclable materials. The state solid waste management plan prepared pursuant to RCW 70.95.260 shall be consistent with these guidelines.

(2) The department shall be responsible for development and implementation of a comprehensive state-wide public information program designed to encourage waste reduction, source separation, and recycling by the public. The department shall operate a toll free hotline to provide the public information on waste reduction and recycling.

(3) The department shall provide technical assistance to local governments in the development and dissemination of informational materials and related activities to assure recognition of unique local waste reduction and recycling programs.

(4) Local governments shall make all materials and information developed with the assistance grants provided under RCW 70.95.130 available to the department for potential use in other areas of the state.

*\*Sec. 7. Section 13, chapter 134, Laws of 1969 ex. sess. and RCW 70.95.130 are each amended to read as follows:*

**FINANCIAL ASSISTANCE.** *Any county may apply to the department on a form prescribed thereby for financial aid for the preparation of the comprehensive county plan for solid waste management required by RCW 70.95.080. Any city electing to prepare an independent city plan, a joint city plan, or a joint county-city plan for solid waste management for inclusion in the county comprehensive plan may apply for financial aid for such purpose through the county. Every city application for financial aid for planning shall be filed with the county auditor and shall be included as a part of the county's application for financial aid. ((Any city preparing an independent plan shall provide for disposal sites wholly within its jurisdiction:))*

*Any city or county may also apply directly to the department for financial aid to prepare public informational materials promoting waste reduction and recycling and for related programs pursuant to the comprehensive plan.*

*The department shall allocate to the counties and cities applying for financial aid for planning, such funds as may be available pursuant to legislative appropriations or from any federal grants for such purpose.*

*The department shall determine priorities and allocate available funds among the counties and cities applying for aid according to criteria established by regulations of the department considering population, urban development, environmental effects of waste disposal, existing waste handling practices, proposed programs for waste reduction and recycling, and the local justification of their proposed expenditures.*

*\*Sec. 7 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 8. A new section is added to chapter 70.95 RCW to read as follows:

**ECOLOGY REVIEW OF LOCAL PLANS.** (1) The department and local governments preparing plans are encouraged to work cooperatively during plan development. Each county and city preparing a comprehensive solid waste management plan shall submit a preliminary draft plan to the department for technical review. The department shall review and comment

on the draft plan within one hundred twenty days of receipt. The department's comments shall state specific actions or revisions that must be completed for plan approval.

(2) Each final draft solid waste management plan shall be submitted to the department for approval. The department will limit its comments on the final draft plans to those issues identified during its review of the draft plan and any other changes made between submittal of the preliminary draft and final draft plans. Disapproval of the local comprehensive solid waste management plan shall be supported by specific findings. A final draft plan shall be deemed approved if the department does not disapprove it within forty-five days of receipt.

(3) If the department disapproves a plan or any plan amendments, the submitting entity may appeal the decision under the procedures of Part IV of chapter 34.05 RCW. An administrative law judge shall preside over the appeal. The appeal shall be limited to review of the specific findings which supported the disapproval under subsection (2) of this section.

Sec. 9. Section 26, chapter 134, Laws of 1969 ex. sess. as amended by section 23, chapter 6, Laws of 1985 and by section 8, chapter 345, Laws of 1985 and RCW 70.95.260 are each reenacted and amended to read as follows:

**STATE PLAN.** The department shall in addition to its other powers and duties:

(1) Cooperate with the appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out the provisions of this chapter.

(2) Coordinate the development of a solid waste management plan for all areas of the state in cooperation with local government, the department of community development, and other appropriate state and regional agencies. The plan shall relate to solid waste management for twenty years in the future and shall be reviewed biennially, revised as necessary, and extended so that perpetually the plan shall look to the future for twenty years as a guide in carrying out a state coordinated solid waste management program. The plan shall be developed into a single integrated document and shall be adopted no later than October 1990. The plan shall be revised regularly after its initial completion so that local governments revising local comprehensive solid waste management plans can take advantage of the data and analysis in the state plan.

(3) Provide technical assistance to any person as well as to cities, counties, and industries.

(4) Initiate, conduct, and support research, demonstration projects, and investigations, and coordinate research programs pertaining to solid waste management systems.

(5) Develop state-wide programs to increase public awareness of and participation in tire recycling, and to stimulate and encourage local private tire recycling centers and public participation in tire recycling.

(6) May, under the provisions of the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW, as now or hereafter amended, from time to time promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

Sec. 10. Section 16, chapter 134, Laws of 1969 ex. sess. as amended by section 29, chapter 127, Laws of 1988 and RCW 70.95.160 are each amended to read as follows:

**IMPLEMENTING SERVICE LEVELS.** Each county, or any city, or jurisdictional board of health shall adopt regulations or ordinances governing solid waste handling implementing the comprehensive solid waste management plan covering storage, collection, transportation, treatment, utilization, processing and final disposal including but not limited to the issuance of permits and the establishment of minimum levels and types of service for any aspect of solid waste handling. County regulations or ordinances adopted regarding levels and types of service shall not apply within the limits of any city where the city has by local ordinance determined that the county shall not exercise such powers within the corporate limits of the city. Such regulations or ordinances shall assure that solid waste storage and disposal facilities are located, maintained, and operated in a manner so as properly to protect the public health, prevent air and water pollution, are consistent with the priorities established in RCW 70.95.010, and avoid the creation of nuisances. Such regulations or ordinances may be more stringent than the minimum functional standards adopted by the department. Regulations or ordinances adopted by counties, cities, or jurisdictional boards of health shall be filed with the department.

Nothing in this section shall be construed to authorize the operation of a solid waste collection system by counties.

Sec. 11. Section 4, chapter 123, Laws of 1984 and RCW 70.95.165 are each amended to read as follows:

(1) Each county or city siting a solid waste disposal facility shall review each potential site for conformance with the standards as set by the department for:

- (a) Geology;
- (b) Ground water;
- (c) Soil;
- (d) Flooding;
- (e) Surface water;
- (f) Slope;
- (g) Cover material;
- (h) Capacity;
- (i) Climatic factors;



- (j) Land use;
- (k) Toxic air emissions; and
- (l) Other factors as determined by the department.

(2) The standards in subsection (1) of this section shall be designed to use the best available technology to protect the environment and human health, and shall be revised periodically to reflect new technology and information.

(3) Each county shall establish a local solid waste advisory committee to assist in the development of programs and policies concerning solid waste handling and disposal and to review and comment upon proposed rules, policies, or ordinances prior to their adoption. Such committees shall consist of ~~((up to))~~ a minimum of nine members and shall represent a balance of interests including, but not limited to, citizens, public interest groups, business, the waste management industry, and local elected public officials. The members shall be appointed by the county legislative authority. A county or city shall not apply for funds from the state and local improvements revolving account, Waste Disposal Facilities, 1980, under chapter 43.99F RCW, for the preparation, update, or major amendment of a comprehensive solid waste management plan unless the plan or revision has been prepared with the active assistance and participation of a local solid waste advisory committee.

**NEW SECTION.** Sec. 12. A new section is added to chapter 70.95 RCW to read as follows:

**UTILITIES AND TRANSPORTATION COMMISSION COST ASSESSMENT.** Upon receipt, the department shall immediately provide the utilities and transportation commission with a copy of each preliminary draft local comprehensive solid waste management plan. Within forty-five days after receiving a plan, the commission shall have reviewed the plan's assessment of solid waste collection cost impacts on rates charged by solid waste collection companies regulated under chapter 81.77 RCW and shall advise the county or city submitting the plan and the department of the probable effect of the plan's recommendations on those rates.

Sec. 13. Section 1, chapter 184, Laws of 1988 and RCW 70.95.280 are each amended to read as follows:

**WASTE STREAM MONITORING.** The department of ecology shall determine the best management practices for categories of solid waste in accordance with the priority solid waste management methods established in RCW 70.95.010. In order to make this determination, the department shall conduct a comprehensive solid waste stream analysis and evaluation. Following establishment of baseline data resulting from an initial in-depth analysis of the waste stream, the department shall develop a less intensive method of monitoring the disposed waste stream including, but not limited

to, changes in the amount of waste generated and waste type. The department shall monitor curbside collection programs and other waste segregation and disposal technologies to determine, to the extent possible, the effectiveness of these programs in terms of cost and participation, their applicability to other locations, and their implications regarding rules adopted under this chapter. Persons who collect solid waste shall annually report to the department the types and quantities of solid waste that are collected and where it is delivered. The department shall adopt guidelines for reporting and for keeping proprietary information confidential.

### III.

#### RECYCLING SERVICES

*\*Sec. 14. Section 35.21.120, chapter 7, Laws of 1965 as amended by section 18, chapter 282, Laws of 1985 and RCW 35.21.120 are each amended to read as follows:*

*Every city or town may by ordinance provide for the establishment of a system of ((garbage)) solid waste collection and disposal or recyclable materials collection and disposal, or both, for the entire city or town or for portions thereof, and award contracts for ((garbage)) solid waste collection and disposal and recyclable materials collection and disposal, or provide for it under the direction of officials and employees of the city or town. Contracts for solid waste handling may provide that a city or town pay a minimum periodic fee in consideration of the operational availability of a solid waste or recyclable materials handling system or plant, without regard to the ownership of the system or plant or the amount of solid waste or recyclable materials actually handled during all or any part of the contract period. There shall be included in the contract specific allocation of financial responsibility in cases where the amount of solid waste or recyclable materials handled during the contract period falls below the minimum level provided in the contract.*

*\*Sec. 14 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 15. A new section is added to chapter 36.58 RCW to read as follows:

**COUNTY SURCHARGE.** (1) The legislative authority of any county may impose a fee upon the solid waste collection services of a solid waste collection company operating within the unincorporated areas of the county, to fund the administration and planning expenses that may be incurred by the county in complying with the requirements in RCW 70.95.090. The fee may be in addition to any other solid waste services fees and charges a county may legally impose.

(2) Each county imposing the fee authorized by this section shall notify the Washington utilities and transportation commission and the affected solid waste collection companies of the amount of the fee ninety days prior to its implementation.

NEW SECTION. Sec. 16. A new section is added to chapter 70.95 RCW to read as follows:

**ECOLOGY/LOCAL HEALTH DEPARTMENT AGREEMENTS.**

Any jurisdictional health department and the department of ecology may enter into an agreement providing for the exercise by the department of ecology of any power that is specified in the contract and that is granted to the jurisdictional health department under this chapter. However, the jurisdictional health department shall have the approval of the legislative authority or authorities it serves before entering into any such agreement with the department of ecology.

**IV.**

**COLLECTION OF RECYCLABLES**

Sec. 17. Section 2, chapter 295, Laws of 1961 and RCW 81.77.010 are each amended to read as follows:

As used in this chapter:

(1) "Motor vehicle" means any truck, trailer, semitrailer, tractor or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting (~~garbage and refuse~~) solid waste, for the collection and/or disposal thereof;

(2) "Public highway" means every street, road, or highway in this state;

(3) "Common carrier" means any person who undertakes to transport (~~garbage and refuse~~) solid waste, for the collection and/or disposal thereof, by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules;

(4) "Contract carrier" means all garbage and refuse transporters not included under the terms "common carrier" and "private carrier," as herein defined, and further, shall include any person who under special and individual contracts or agreements transports (~~garbage and refuse~~) solid waste by motor vehicle for compensation;

(5) "Private carrier" means a person who, in his own vehicle, transports (~~garbage or refuse~~) solid waste purely as an incidental adjunct to some other established private business owned or operated by him in good faith: PROVIDED, That a person who transports solid waste from residential sources in a vehicle designed or used primarily for 'he transport of solid waste shall not constitute a private carrier;

(6) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any (~~garbage or refuse~~) solid waste is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rail or tracks;

(7) "~~((Garbage and refuse))~~ Solid waste collection company" means every person or his lessees, receivers, or trustees, owning, controlling, operating or managing vehicles used in the business of transporting ~~((garbage and refuse))~~ solid waste for collection and/or disposal for compensation, except septic tank pumpers, over any public highway in this state whether as a "common carrier" thereof or as a "contract carrier" thereof;

(8) Solid waste collection does not include collecting or transporting recyclable materials from a drop-box or recycling buy-back center, nor collecting or transporting recyclable materials by or on behalf of a commercial or industrial generator of recyclable materials to a recycler for use or reclamation. Transportation of these materials is regulated under chapter 81.80 RCW; and

(9) "Solid waste" means the same as defined under RCW 70.95.030, except for the purposes of this chapter solid waste does not include recyclable materials except for source separated recyclable materials collected from residences.

Sec. 18. Section 3, chapter 295, Laws of 1961 and RCW 81.77.020 are each amended to read as follows:

No person, his lessees, receivers, or trustees, shall engage in the business of operating as a ~~((garbage and refuse))~~ solid waste collection company in this state, except in accordance with the provisions of this chapter: PROVIDED, That the provisions of this chapter shall not apply to the operations of any ~~((garbage and refuse))~~ solid waste collection company under a contract of ~~((garbage or refuse))~~ solid waste disposal with any city or town, nor to any city or town which itself undertakes the disposal of ~~((garbage or refuse))~~ solid waste.

NEW SECTION. Sec. 19. A new section is added to chapter 81.77 RCW to read as follows:

The provisions of chapter 81.77 RCW shall not apply to the collection or transportation of source separated recyclable materials from residences under a contract with any county, city, or town, nor to any city or town which itself undertakes the collection and transportation of source separated recyclable materials from residences.

Sec. 20. Section 4, chapter 295, Laws of 1961 as last amended by section 1, chapter 239, Laws of 1987 and RCW 81.77.030 are each amended to read as follows:

The commission shall supervise and regulate every ~~((garbage and refuse))~~ solid waste collection company in this state,

- (1) By fixing and altering its rates, charges, classifications, rules and regulations;
- (2) By regulating the accounts, service, and safety of operations;
- (3) By requiring the filing of annual and other reports and data;

(4) By supervising and regulating such persons or companies in all other matters affecting the relationship between them and the public which they serve;

(5) By ~~((reviewing))~~ requiring compliance with local solid waste management plans ~~((through letters of compliance submitted by the county legislative authority. The compliance letters shall become part of the record in any rate, compliance, or any hearing held by the commission on the issuance, revocation, or reissuance of a certificate as provided for in RCW 81.77.070))~~ and related implementation ordinances;

(6) By requiring certificate holders under chapter 81.77 RCW to use rate structures and billing systems consistent with the solid waste management priorities set forth under RCW 70.95.010 and the minimum levels of solid waste collection and recycling services pursuant to local comprehensive solid waste management plans. The commission may order consolidated billing and provide for reasonable and necessary expenses to be paid to the administering company if more than one certificate is granted in an area.

The commission, on complaint made on its own motion or by an aggrieved party, at any time, after the holding of a hearing of which the holder of any certificate has had notice and an opportunity to be heard, and at which it shall be proven that the holder has wilfully violated or refused to observe any of the commission's orders, rules, or regulations, or has failed to operate as a ~~((garbage and refuse))~~ solid waste collection company for a period of at least one year preceding the filing of the complaint, may suspend, revoke, alter, or amend any certificate issued under the provisions of this chapter.

Sec. 21. Section 5, chapter 295, Laws of 1961 as amended by section 2, chapter 239, Laws of 1987 and RCW 81.77.040 are each amended to read as follows:

No ~~((garbage and refuse))~~ solid waste collection company shall hereafter operate for the hauling of ~~((garbage and refuse))~~ solid waste for compensation without first having obtained from the commission a certificate declaring that public convenience and necessity require such operation. A condition of operating a ~~((garbage and refuse))~~ solid waste company in the unincorporated areas of a county shall be complying with the solid waste management plan prepared under chapter 70.95 RCW applicable in the company's franchise area.

Issuance of the certificate of necessity shall be determined upon, but not limited to, the following factors: The present service and the cost thereof for the contemplated area to be served; an estimate of the cost of the facilities to be utilized in the plant for ~~((garbage and refuse))~~ solid waste collection and disposal, sworn to before a notary public; a statement of the assets on hand of the person, firm, association or corporation which will be expended on the purported plant for ~~((garbage and refuse))~~ solid waste collection and disposal, sworn to before a notary public; a statement of prior

experience, if any, in such field by the petitioner, sworn to before a notary public; and sentiment in the community contemplated to be served as to the necessity for such a service.

Except as provided in section 29 of this act, when an applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, the commission may, after hearing, issue the certificate only if the existing (~~(garbage and refuse)~~) solid waste collection company or companies serving the territory will not provide service to the satisfaction of the commission.

In all other cases, the commission may, with or without hearing, issue certificates, or for good cause shown refuse to issue them, or issue them for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted such terms and conditions as, in its judgment, the public convenience and necessity may require.

Any right, privilege, certificate held, owned, or obtained by a (~~(garbage and refuse)~~) solid waste collection company may be sold, assigned, leased, transferred, or inherited as other property, but only upon authorization by the commission.

Any (~~(garbage and refuse)~~) solid waste collection company which upon July 1, 1961 is operating under authority of a common carrier or contract carrier permit issued under the provisions of chapter 81.80 RCW shall be granted a certificate of necessity without hearing upon compliance with the provisions of this chapter. Such (~~(garbage and refuse)~~) solid waste collection company which has paid the plate fee and gross weight fees required by chapter 81.80 RCW for the year 1961 shall not be required to pay additional like fees under the provisions of this chapter for the remainder of such year.

For purposes of issuing certificates under this chapter, the commission may adopt categories of solid wastes as follows: Garbage, refuse, recyclable materials, and demolition debris. A certificate may be issued for one or more categories of solid waste. Certificates issued on or before the effective date of this act shall not be expanded or restricted by operation of this chapter.

Sec. 22. Section 6, chapter 295, Laws of 1961 as amended by section 9, chapter 115, Laws of 1973 and RCW 81.77.050 are each amended to read as follows:

Any application for a certificate (~~(of public convenience and necessity)~~) issued under this chapter or amendment thereof, or application to sell, lease, mortgage, or transfer a certificate (~~(of public convenience and necessity)~~) issued under this chapter or any interest therein, shall be accompanied by such filing fee as the commission may prescribe by rule: PROVIDED, That such fee shall not exceed two hundred dollars.

Sec. 23. Section 7, chapter 295, Laws of 1961 and RCW 81.77.060 are each amended to read as follows:

The commission, in granting certificates to operate a (~~garbage and refuse~~) solid waste collection company, shall require the owner or operator to first procure liability and property damage insurance from a company licensed to make liability insurance in the state or a surety bond of a company licensed to write surety bonds in the state, on each motor propelled vehicle used or to be used in transporting (~~garbage or refuse~~) solid waste for compensation in the amount of not less than twenty-five thousand dollars for any recovery for personal injury by one person, and not less than ten thousand dollars and in such additional amount as the commission shall determine, for all persons receiving personal injury by reason of one act of negligence, and not less than ten thousand dollars for damage to property of any person other than the assured, and to maintain such liability and property damage insurance or surety bond in force on each motor propelled vehicle while so used. Each policy for liability or property damage insurance or surety bond required herein shall be filed with the commission and kept in full force and effect and failure so to do shall be cause for revocation of the delinquent's certificate.

Sec. 24. Section 9, chapter 295, Laws of 1961 as last amended by section 3, chapter 143, Laws of 1971 ex. sess. and RCW 81.77.080 are each amended to read as follows:

Every (~~garbage and refuse~~) solid waste collection company shall, on or before the 1st 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 equal to (~~eight-tenths of~~) one percent of the amount of gross operating revenue: PROVIDED, That the fee shall in no case be less than one dollar.

It is the intent of the legislature that the fees collected under the provisions of this chapter shall reasonably approximate the cost of supervising and regulating motor carriers subject thereto, and to that end the utilities and transportation commission is authorized to decrease the schedule of fees provided in this section by general order entered before March 1st of any year in which it determines that the moneys then in the (~~garbage and refuse~~) solid waste collection companies account of the public service revolving fund and the fees currently to be paid will exceed the reasonable cost of supervising and regulating such carriers.

All fees collected under this section or under any other provision of this chapter shall be paid to the commission and shall be by it transmitted to the state treasurer within thirty days to be deposited to the credit of the public service revolving fund.

Sec. 25. Section 11, chapter 295, Laws of 1961 as amended by section 2, chapter 436, Laws of 1985 and RCW 81.77.100 are each amended to read as follows:

Neither this chapter nor any provision thereof shall apply, or be construed to apply, to commerce with foreign nations or commerce among the several states except insofar as the same may be permitted under the provisions of the Constitution of the United States and the acts of congress.

However, in order to protect public health and safety and to ensure ~~((garbage and refuse))~~ solid waste collection services are provided to all areas of the state, the commission, in accordance with this chapter, shall regulate all ~~((garbage or refuse))~~ solid waste collection companies conducting business in the state.

Sec. 26. Section 2, chapter 105, Laws of 1965 ex. sess. and RCW 81-.77.110 are each amended to read as follows:

The commission may with or without a hearing issue temporary certificates to engage in the business of operating a ~~((garbage and refuse))~~ solid waste collection company, but only after it finds that the issuance of such temporary certificate is consistent with the public interest. Such temporary certificate may be issued for a period up to one hundred eighty days where the area or territory covered thereby is not contained in the certificate of any other ~~((garbage and refuse))~~ solid waste collection company. In all other cases such temporary certificate may be issued for a period not to exceed one hundred twenty days. The commission may prescribe such special rules and regulations and impose such special terms and conditions with reference thereto as in its judgment are reasonable and necessary in carrying out the provisions of this chapter. The commission shall collect a fee of twenty-five dollars for an application for such temporary certificate.

Sec. 27. Section 1, chapter 58, Laws of 1975-'76 2nd ex. sess. and RCW 36.58.030 are each amended to read as follows:

As used in RCW 36.58.030 through 36.58.060, the term "transfer station" means a staffed, fixed supplemental facility used by persons and route collection vehicles to deposit solid wastes into transfer trailers for transportation to a disposal site. This does not include detachable containers, except in third class or smaller counties, and in any first class county located east of the crest of the Cascade mountain range, where detachable containers shall be securely fenced, staffed by an attendant during all hours when the detachable container is open to the public, charge a tipping fee that shall cover the cost of providing and for use of the service, and shall be operated as a transfer station.

Sec. 28. Section 2, chapter 58, Laws of 1975-'76 2nd ex. sess. as amended by section 20, chapter 282, Laws of 1986 and RCW 36.58.040 are each amended to read as follows:

The legislative authority of each county may by ordinance provide for the establishment of a system of solid waste disposal for all the unincorporated areas of the county or for portions thereof. Each county may designate disposal sites for all solid waste collected in the unincorporated areas



pursuant to the provisions of a comprehensive solid waste plan adopted pursuant to chapter 70.95 RCW: PROVIDED, That for any solid waste collected by a private hauler operating pursuant to a certificate granted by the Washington utilities and transportation commission under the provisions of chapter 81.77 RCW and which certificate is for collection in a geographic area lying in more than one county, such designation of disposal sites shall be pursuant to an interlocal agreement between the involved counties.

Such systems may also provide for the processing and conversion of solid wastes into other valuable or useful products with full jurisdiction and authority to construct, lease, purchase, acquire, manage, regulate, maintain, operate, and control such system and plants, and to enter into agreements with public or private parties providing for the construction, purchase, acquisition, lease, maintenance, and operation of systems and plants for the processing and conversion of solid wastes and for the sale of said products. Contracts shall be for facilities that are in substantial compliance with the solid waste management plans prepared pursuant to chapter 70.95 RCW.

The legislative authority of a county may award contracts for solid waste handling, and such contracts may provide that a county pay a minimum periodic fee in consideration of the operational availability of a solid waste handling system or plant, without regard to the ownership of the system or plant or the amount of solid waste actually handled during all or any part of the contractual period. There shall be included in the contract specific allocation of financial responsibility in cases where the amount of solid waste handled during the contract period falls below the minimum level provided in the contract.

The legislative authority of a county may:

(1) By ordinance award a contract to collect source separated recyclable materials from residences within unincorporated areas. The legislative authority has complete authority to manage, regulate, and fix the price of the source separated recyclable collection service. The contracts may provide that the county pay minimum periodic fees to a municipal entity or permit holder; or

(2) Notify the commission in writing to carry out and implement the provisions of the waste reduction and recycling element of the comprehensive solid waste management plan.

This election may be made by counties at any time after the effective date of this act. An initial election must be made no later than ninety days following approval of the local comprehensive waste management plan required by section 3 of this act.

Nothing in this section shall be construed to authorize the operation of a solid waste collection system by counties.

NEW SECTION. Sec. 29. A new section is added to chapter 81.77 RCW to read as follows:

(1) Beginning July 1, 1991, on its own motion, or upon petition by any person, the commission shall determine the competitiveness of a market for the collection of source separated recyclable materials from residences, except for markets served by cities or towns, or under contract with cities, towns, or counties. If the commission finds that the market is effectively competitive it shall award authority to collect such recyclable materials using a competitive bidding process. For purposes of this section "effective competition" means that:

(a) Sufficient competition exists to ensure that no single competitor can exercise undue market power in the bidding process; and

(b) Use of competitive bidding will result in cost-effective recycling.

(2) Authority awarded using competitive bidding shall last no longer than five years.

(3) The competitive bidding process shall be conducted according to commission rules. The selection of the winning bid shall be made by the local government with solid waste planning authority for the market area. The local government may reject all bids. After the local government has selected a winning bidder, that bidder shall be subject to commission jurisdiction for purposes of enforcing compliance with the terms of the bid. If the commission awards authority using competitive bidding, a local government may not use its option under section 18 of this act until the expiration of the authority.

The commission shall adopt rules to implement this section no later than October 1, 1990.

If the commission approves a program to collect source separated recyclables from residences from the effective date of this act through June 30, 1991, the approval shall not be for more than three years.

This section expires June 30, 1991.

**NEW SECTION.** Sec. 30. A new section is added to chapter 81.77 RCW to read as follows:

**PASS-THROUGH RATES.** The commission, in fixing and altering collection rates charged by every solid waste collection company under this section, shall include in the base for the collection rates:

(1) All charges for the disposal of solid waste at the facility or facilities that the solid waste collection company is required to use under a local comprehensive solid waste management plan or ordinance designating disposal sites; and

(2) All known and measurable costs related to implementation of the approved county or city comprehensive solid waste management plan.

If a solid waste collection company files a tariff to recover the costs specified under this section, and the commission suspends the tariff, the portion of the tariff covering costs specified in this section shall be placed in effect by the commission at the request of the company on an interim basis

as of the originally filed effective date, subject to refund, pending the commission's final order. The commission may adopt rules to implement this section.

**NEW SECTION.** Sec. 31. A new section is added to chapter 81.77 RCW to read as follows:

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

**NEW SECTION.** Sec. 32. A new section is added to chapter 70.95 RCW to read as follows:

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

**NEW SECTION.** Sec. 33. A new section is added to chapter 35.21 RCW to read as follows:

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

**NEW SECTION.** Sec. 34. A new section is added to chapter 36.58 RCW to read as follows:

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

NEW SECTION. Sec. 35. A new section is added to chapter 35A.21 RCW to read as follows:

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

NEW SECTION. Sec. 36. A new section is added to chapter 81.77 RCW to read as follows:

**DISPOSAL FEES IN RATES.** For rate-making purposes, a fee, charge, or tax on the disposal of solid waste shall be considered a normal operating expense of the solid waste collection company.

## V.

### VEHICLE BATTERIES

NEW SECTION. Sec. 37. A new section is added to chapter 70.95 RCW to read as follows:

**BATTERY DISPOSAL.** (1) No person may knowingly dispose of a vehicle battery except by delivery to: A person or entity selling lead acid batteries, a person or entity authorized by the department to accept the battery, or to a secondary lead smelter.

(2) No owner or operator of a solid waste disposal site shall knowingly accept for disposal used vehicle batteries except when authorized to do so by the department or by the federal government.

(3) Any person who violates this section shall be subject to a fine of up to one thousand dollars. Each battery will constitute a separate violation. Nothing in this section and sections 38 through 42 of this act shall supersede the provisions under chapter 70.105 RCW.

(4) For purposes of this section and sections 38 through 42 of this act, "vehicle battery" means batteries capable for use in any vehicle, having a core consisting of elemental lead, and a capacity of six or more volts.

NEW SECTION. Sec. 38. A new section is added to chapter 70.95 RCW to read as follows:

**IDENTIFICATION OF PERSONS ACCEPTING BATTERIES.** The department shall establish a procedure to identify, on an annual basis, those persons accepting used vehicle batteries from retail establishments.

**NEW SECTION.** Sec. 39. A new section is added to chapter 70.95 RCW to read as follows:

**ACCEPTING USED BATTERIES.** A person selling vehicle batteries at retail in the state shall:

(1) Accept, at the time of purchase of a replacement battery, in the place where the new batteries are physically transferred to the purchasers, and in a quantity at least equal to the number of new batteries purchased, used vehicle batteries from the purchasers, if offered by the purchasers. When a purchaser fails to provide an equivalent used battery or batteries, the purchaser may reclaim the core charge paid under section 40 of this act by returning, to the point of purchase within thirty days, a used battery or batteries and a receipt showing proof of purchase from the establishment where the replacement battery or batteries were purchased; and

(2) Post written notice which must be at least eight and one-half inches by eleven inches in size and must contain the universal recycling symbol and the following language:

(a) "It is illegal to put a motor vehicle battery or other vehicle battery in your garbage."

(b) "State law requires us to accept used motor vehicle batteries or other vehicle batteries for recycling, in exchange for new batteries purchased."

(c) "When you buy a battery, state law also requires us to include a core charge of five dollars or more if you do not return your old battery for exchange."

**NEW SECTION.** Sec. 40. A new section is added to chapter 70.95 RCW to read as follows:

**RETAIL CORE CHARGE.** Each retail sale of a vehicle battery shall include, in the price of the battery for sale, a core charge of not less than five dollars. When a purchaser offers the seller a used battery of equivalent size, the seller shall omit the core charge from the price of the battery.

**NEW SECTION.** Sec. 41. A new section is added to chapter 70.95 RCW to read as follows:

**WHOLESALE CORE CHARGE.** (1) A person selling vehicle batteries at wholesale to a retail establishment in this state shall accept, at the time and place of transfer, used vehicle batteries in a quantity at least equal to the number of new batteries purchased, if offered by the purchaser.

(2) When a battery wholesaler, or agent of the wholesaler, fails to accept used vehicle batteries as provided in this section, a retailer may file a complaint with the department and the department shall investigate any such complaint.

(3)(a) The department shall issue an order suspending any of the provisions of sections 39 through 42 of this act whenever it finds that the market price of lead has fallen to the extent that new battery wholesalers' estimated state-wide average cost of transporting used batteries to a smelter

or other person or entity in the business of purchasing used batteries is clearly greater than the market price paid for used lead batteries by such smelter or person or entity.

(b) The order of suspension shall only apply to batteries that are sold at retail during the period in which the suspension order is effective.

(c) The department shall limit its suspension order to a definite period not exceeding six months, but shall revoke the order prior to its expiration date should it find that the reasons for its issuance are no longer valid.

NEW SECTION. Sec. 42. A new section is added to chapter 70.95 RCW to read as follows:

**NOTICES—WARNINGS—CITATIONS.** The department shall produce, print, and distribute the notices required by section 39 of this act to all places where vehicle batteries are offered for sale at retail and in performing its duties under this section the department may inspect any place, building, or premise governed by section 40 of this act. Authorized employees of the agency may issue warnings and citations to persons who fail to comply with the requirements of sections 37 through 43 of this act. Failure to conform to the notice requirements of section 39 of this act shall subject the violator to a fine imposed by the department not to exceed one thousand dollars. However, no such fine shall be imposed unless the department has issued a warning of infraction for the first offense. Each day that a violator does not comply with the requirements of this act following the issuance of an initial warning of infraction shall constitute a separate offense.

NEW SECTION. Sec. 43. A new section is added to chapter 70.95 RCW to read as follows:

**RULES.** The department shall adopt rules providing for the implementation and enforcement of sections 37 through 42 of this act.

*\*Sec. 44. Section 82.04.070, chapter 15, Laws of 1961 and RCW 82-.04.070 are each amended to read as follows:*

***BUSINESS AND OCCUPATION TAX EXEMPTION.*** "*Gross proceeds of sales*" means the value proceeding or accruing from the sale of tangible personal property and/or for services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses; *PROVIDED, That "gross proceeds of sales" shall not include: (1) The value of core deposits or credits when received or transferred as consideration in a retail or wholesale sale. For purposes of this section, the term "core deposits or credits" means the amount representing the value of returnable products such as batteries, starters, brakes, and other products with returnable value added for the purpose of recycling or remanufacturing; or (2) the new tire fee imposed under section 92 of this act, upon the sale of a new replacement tire.*

*\*Sec. 44 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 45. A new section is added to chapter 82.08 RCW to read as follows:

**SALES TAX EXEMPTION.** The tax levied by RCW 82.08.020 shall not apply to consideration: (1) Received as core deposits or credits in a retail or wholesale sale; or (2) received or collected upon the sale of a new replacement vehicle tire as a fee imposed under section 92 of this act. For purposes of this section, the term "core deposits or credits" means the amount representing the value of returnable products such as batteries, starters, brakes, and other products with returnable value added for the purpose of recycling or remanufacturing.

NEW SECTION. Sec. 46. A new section is added to chapter 82.12 RCW to read as follows:

**USE TAX EXEMPTION.** The provisions of this chapter shall not apply: (1) To the value of core deposits or credits in a retail or wholesale sale; or (2) to the fees imposed under section 92 of this act upon the sale of a new replacement vehicle tire. For purposes of this section, the term "core deposits or credits" means the amount representing the value of returnable products such as batteries, starters, brakes, and other products with returnable value added for the purpose of recycling or remanufacturing.

## VI.

### PRODUCT PACKAGING

Sec. 47. Section 1, chapter 67, Laws of 1987 and RCW 43.21A.520 are each amended to read as follows:

**PRODUCT AWARDS.** (1) The department of ecology shall develop and implement an environmental excellence awards program that recognizes products that are produced, labeled, or packaged in a manner that helps ensure environmental protection. The award shall be in recognition of products that are made from recycled materials, easy to recycle, substitute for more hazardous products, or otherwise help protect the environment. Application for the award shall be voluntary. The awards may be made in ((the following)) a variety of product categories including, but not limited to:

- (a) Paint products;
- (b) Cleaning ((agents)) products;
- (c) ((Pesticides)) Pest control products;
- (d) Automotive, marine, and related maintenance products; ((and))
- (e) Hobby and recreation products; and
- (f) Any other product available for retail or wholesale sale.

(2) The state solid waste advisory committee shall establish an environmental excellence product award subcommittee to develop and recommend criteria for awarding environmental excellence awards for products. The subcommittee shall also review award applications and make recommendations to the department.

The subcommittee shall consist of equal representation of: (a) Product manufacturing or other business representatives; (b) environmental representatives; (c) labor or consumer representatives; and (d) independent technical experts. Members of the subcommittee need not necessarily be regular members of the state solid waste advisory committee.

(3) Products receiving an environmental excellence award pursuant to this section ((would)) shall be entitled to display a logo or other symbol developed by the department to signify the award. Awards shall be given each year to as many products as qualify. The award logo may be displayed for a period to be determined by the department.

NEW SECTION. Sec. 48. A new section is added to chapter 70.95C RCW to read as follows:

**TASK FORCE.** (1) The office shall establish a product packaging task force. The purpose of the task force shall be to investigate and evaluate methods to:

- (a) Reduce the volume or weight, or both, of product packaging entering the waste stream;
- (b) Reduce the toxicity of product packaging entering the waste stream;
- (c) Reduce the reliance on single use, disposable packaging;
- (d) Increase product packaging recycling; and
- (e) Increase public awareness of the contribution of packaging to the solid waste problem.

In fulfilling the purpose of this subsection, the task force shall consider all applicable federal and state packaging standards and requirements. The task force shall coordinate with regional or national groups, or both, engaged in evaluating packaging issues. Any standards recommended by this task force must consider available packaging materials, packaging weight or volume, or both, and educational package labeling.

The task force shall involve representatives from the department of trade and economic development, the department of ecology, the public, local governments, environmental associations, and industry, including but not limited to, product and packaging manufacturers, retail businesses, solid waste collection companies, and recycling businesses. However, fifty percent of the task force appointees shall be representative of industry.

The task force shall submit an action plan, including short and long-range recommendations, to achieve the purposes of this subsection to the legislature by January 2, 1991. The task force shall be terminated upon submittal of the plan to the legislature.

(2) The task force shall submit guidelines on product packaging to the environmental excellence product award subcommittee for purposes of the environmental excellence product award program by January 2, 1990.

NEW SECTION. Sec. 49. A new section is added to chapter 82.02 RCW to read as follows:



**PRODUCTS AND PRODUCT PACKAGING—STATE PRE-EMPTION.** (1) After April 1, 1989, the state preempts the field of imposing deposits or taxes upon a limited class of products and product packaging for the purpose of affecting the disposal of the product or the product packaging. The state shall have the exclusive authority to impose such deposits or taxes. No local or regional subdivision of the state shall have any authority to impose such a deposit or tax unless specifically granted authority by the state legislature. This section shall not apply to an ordinance or resolution adopted prior to April 1, 1989.

(2) This section shall expire July 1, 1993.

**NEW SECTION.** Sec. 50. A new section is added to chapter 70.95C RCW to read as follows:

**PRODUCTS AND PRODUCT PACKAGING—STATE PRE-EMPTION.** (1) After April 1, 1989, the state preempts the field of imposing prohibitions on the sale or distribution of products and product packaging for the purpose of affecting the disposal of the product or product packaging. The state shall have exclusive authority to impose such prohibitions or bans. No local or regional subdivision of the state shall have any authority to impose such a prohibition or ban on products or product packaging unless specifically granted such authority by the state legislature. This section shall not apply to an ordinance or resolution adopted prior to April 1, 1989.

This section shall expire July 1, 1993.

Sec. 51. Section 35.21.130, chapter 7, Laws of 1965 and RCW 35.21-.130 are each amended to read as follows:

A ~~((garbage))~~ solid waste or recyclable materials collection ordinance may:

(1) Require property owners and occupants of premises to use the ~~((garbage))~~ solid waste collection and disposal system or recyclable materials collection and disposal system, and to dispose of their ~~((garbage))~~ solid waste and recyclable materials as provided in the ordinance; PROVIDED, That a solid waste or recycling ordinance shall not require any retail enterprise engaged in the sale of consumer-packaged products to locate or place a public recycling collection site or buy-back center upon or within a certain distance of the retail establishment as a condition of engaging in the sale of consumer-packaged products; and

(2) Fix charges for ~~((garbage))~~ solid waste collection and disposal, recyclable materials collection and disposal, or both, and the manner and time of payment therefor including therein a provision that upon failure to pay the charges, the amount thereof shall become a lien against the property for which the ~~((garbage))~~ solid waste or recyclable materials collection service is rendered. The ordinance may also provide penalties for its violation.

Sec. 52. Section 36.58.010, chapter 4, Laws of 1963 and RCW 36.58-.010 are each amended to read as follows:

Any (~~board of county commissioners~~) county legislative authority may acquire by purchase or by gift, dedication, or donation, (~~garbage~~) sites for the use of the public in disposing of (~~garbage and refuse~~) solid waste or recyclable materials. However, no county legislative authority shall be authorized to require any retail enterprise engaged in the sale of consumer-packaged products to locate or place a public solid waste collection site or buy-back center upon or within a certain distance of the retail establishment as a condition of engaging in the sale of consumer-packaged products.

## VII.

### STATE GOVERNMENT WASTE REDUCTION AND RECYCLING

NEW SECTION. Sec. 53. A new section is added to chapter 70.95C RCW to read as follows:

**WASTE REDUCTION AND RECYCLING PLAN.** The legislature finds and declares that the buildings and facilities owned and leased by state government produce significant amounts of solid and hazardous wastes, and actions must be taken to reduce and recycle these wastes and thus reduce the costs associated with their disposal. In order for the operations of state government to provide the citizens of the state an example of positive waste management, the legislature further finds and declares that state government should undertake an aggressive program designed to reduce and recycle solid and hazardous wastes produced in the operations of state buildings and facilities to the maximum extent possible.

The office of waste reduction, in cooperation with the department of general administration, shall establish an intensive waste reduction and recycling program to promote the reduction of waste produced by state agencies and to promote the source separation and recovery of recyclable and reusable materials.

All state agencies, including but not limited to, colleges, community colleges, universities, offices of elected and appointed officers, the supreme court, court of appeals, and administrative departments of state government shall fully cooperate with the office of waste reduction and recycling in all phases of implementing the provisions of this section. The office shall establish a coordinated state plan identifying each agency's participation in waste reduction and recycling. The office shall develop the plan in cooperation with a multi-agency committee on waste reduction and recycling. Appointments to the committee shall be made by the director of the department of general administration. The director shall notify each agency of the committee, which shall implement the applicable waste reduction and recycling plan elements. All state agencies are to use maximum efforts to achieve a goal of increasing the use of recycled paper by fifty percent by July 1, 1993.

**NEW SECTION.** Sec. 54. A new section is added to chapter 70.95C RCW to read as follows:

**WASTE REDUCTION AND RECYCLING AWARDS PROGRAM.** The office of waste reduction shall develop, in consultation with the superintendent of public instruction, an awards program to achieve waste reduction and recycling in the public schools, grades kindergarten through high school. The office shall develop guidelines for program development and implementation. Each public school shall implement a waste reduction and recycling program conforming to guidelines developed by the office.

For the purpose of granting awards, the office may group schools into not more than three classes, based upon student population, distance to markets for recyclable materials, and other criteria, as deemed appropriate by the office. Awards shall be granted each year to the schools that achieve the greatest levels of waste reduction and recycling. Each award shall be of a sum not less than ten thousand dollars. The office shall also develop recommendations for an awards program for waste reduction in the public schools. The office shall submit these recommendations to the appropriate standing committees in the house of representatives and senate on or before November 30, 1989.

The superintendent of public instruction shall distribute guidelines and other materials developed by the office to implement programs to reduce and recycle waste generated in administrative offices, classrooms, laboratories, cafeterias, and maintenance operations.

**NEW SECTION.** Sec. 55. A new section is added to chapter 70.95 RCW to read as follows:

No solid waste incineration or energy recovery facility shall be operated prior to the completion of an environmental impact statement containing the considerations required under RCW 43.21C.030(2)(c) and prepared pursuant to the procedures of chapter 43.21C RCW. This section does not apply to a facility operated prior to January 1, 1989, as a solid waste incineration facility or energy recovery facility burning solid waste.

## VIII.

### PREFERENTIAL RECYCLING PRODUCT PURCHASES

Sec. 56. Section 2, chapter 120, Laws of 1987 as amended by section 3, chapter 168, Laws of 1988 and RCW 35.23.352 are each amended to read as follows:

(1) Any second or third class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of thirty thousand dollars if more than one craft or trade is involved with the public works, or twenty thousand dollars if a single craft or trade is involved with the public works or the public works project is

street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon posting notice calling for sealed bids upon the work. The notice thereof shall be posted in a public place in the city or town and by publication in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, once each week for two consecutive weeks before the date fixed for opening the bids. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in the full amount of the contract price. If the bidder fails to enter into the contract in accordance with his bid and furnish a bond within ten days from the date at which he is notified that he is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(3) In lieu of the procedures of subsection (1) of this section, a second or third class city or a town may use a small works roster and award contracts under this subsection for contracts of one hundred thousand dollars or less.

(a) The city or town may maintain a small works roster comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in this state.

(b) Whenever work is done by contract, the estimated cost of which is one hundred thousand dollars or less, and the city uses the small works roster, the city or town shall invite proposals from all appropriate contractors on the small works roster: **PROVIDED**, That whenever possible, the city or town shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section. The invitation shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(c) When awarding such a contract for work, the estimated cost of which is one hundred thousand dollars or less, the city or town shall award the contract to the contractor submitting the lowest responsible bid.

(4) After September 1, 1987, each second class city, third class city, and town shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(6) Any purchase of supplies, material, equipment or services other than professional services, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids: **PROVIDED**, That the limitations herein shall not apply to any purchases of materials at auctions conducted by the government of the United States, any agency thereof or by the state of Washington or a political subdivision thereof.

(7) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper published or of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(8) For advertisement and competitive bidding to be dispensed with as to purchases between seven thousand five hundred and fifteen thousand dollars, the city legislative authority must authorize by resolution a procedure for securing telephone and/or written quotations from enough vendors to assure establishment of a competitive price and for awarding the contracts for purchase of materials, equipment, or services to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

(9) These requirements for purchasing may be waived by resolution of the city or town council which declared that the purchase is clearly and legitimately limited to a single source or supply within the near vicinity, or the materials, supplies, equipment, or services are subject to special market conditions, and recites why this situation exists. Such actions are subject to RCW 39.30.020.

(10) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(11) Nothing in this section shall prohibit any second or third class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

Sec. 57. Section 36.32.250, chapter 4, Laws of 1963 as last amended by section 9, chapter 169, Laws of 1985 and by section 1, chapter 369, Laws of 1985 and RCW 36.32.250 are each reenacted and amended to read as follows:

No contract, lease, or purchase may be entered into by the county legislative authority or by any elected or appointed officer of such county until after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection, and an advertisement thereof stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, or material, equipment, or service to be purchased, and that specifications therefor may be seen at the office of the clerk of the county legislative authority, shall be published in the county official newspaper: PROVIDED, That advertisements for public works contracts for construction, alteration, repair, or improvement of public facilities shall be additionally published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done: AND PROVIDED FURTHER, That if the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done publication of an advertisement of the applicable specifications in the county official newspaper only shall be sufficient. Such advertisements shall be published at least once in each week for two consecutive weeks prior to the last date upon which bids will be received and as many additional publications as shall be determined by the county legislative authority. The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in said advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed. The contract for the

public work, lease, or purchase shall be awarded to the lowest responsible bidder, taking into consideration the quality of the articles or equipment to be purchased or leased. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law. If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. In the letting of any contract, lease, or purchase involving less than three thousand five hundred dollars, advertisement and competitive bidding may be dispensed with on order of the county legislative authority. Notice of intention to let contracts or to enter into lease agreements involving amounts exceeding one thousand dollars but less than three thousand five hundred dollars, shall be posted by the county legislative authority on a bulletin board in its office not less than three days prior to making such lease or contract. For advertisement and competitive bidding to be dispensed with as to purchases between one thousand and three thousand five hundred dollars, the county legislative authority must authorize by resolution a county procedure for securing telephone or written quotations, or both, from enough vendors to assure establishment of a competitive price and for awarding such contracts for purchase of materials, equipment, or services to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. Wherever possible, supplies shall be purchased in quantities for a period of at least three months, and not to exceed one year. Supplies generally used throughout the various departments shall be standardized insofar as possible, and may be purchased and stored for general use by all of the various departments which shall be charged for the supplies when withdrawn from the purchasing department.

This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

Nothing in this section shall prohibit the legislative authority of any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

Sec. 58. Section 1, chapter 72, Laws of 1985 and RCW 39.30.040 are each amended to read as follows:

(1) Whenever a unit of local government is required to make purchases from the lowest bidder or from the supplier offering the lowest price for the

items desired to be purchased, the unit of local government may, at its option when awarding a purchase contract, take into consideration tax revenue it would receive from purchasing the supplies, materials, or equipment from a supplier located within its boundaries. The unit of local government must award the purchase contract to the lowest bidder after such tax revenue has been considered. However, any local government may allow for preferential purchase of products made from recycled materials or products that may be recycled or reused. The tax revenues which units of local government may consider include sales taxes that the unit of local government imposes upon the sale of such supplies, materials, or equipment from the supplier to the unit of local government, and business and occupation taxes that the unit of local government imposes upon the supplier that are measured by the gross receipts of the supplier from such sale. Any unit of local government which considers tax revenues it would receive from the imposition of taxes upon a supplier located within its boundaries, shall also consider tax revenues it would receive from taxes it imposes upon a supplier located outside its boundaries.

(2) As used in this section, the term "unit of local government" means any county, city, town, metropolitan municipal corporation, public transit benefit area, county transportation authority, or other municipal or quasi-municipal corporation authorized to impose sales and use taxes or business and occupation taxes.

Sec. 59. Section 1, chapter 120, Laws of 1987 and RCW 35.22.620 are each amended to read as follows:

(1) As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first class city has a county perform for it under RCW 35.77.020 shall be included within this ten percent limitation.

If a first class city has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city



when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population in excess of one hundred fifty thousand shall not have public employees perform a public works project in excess of fifty thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of twenty-five thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population of one hundred fifty thousand or less shall not have public employees perform a public works project in excess of thirty-five thousand dollars if more than one craft or trade is involved with the public works project, or a public works project in excess of twenty thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

(4) In addition to the accounting and record-keeping requirements contained in RCW 39.04.070, every first class city annually shall prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ten percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report shall indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ten percent of the total biennial construction budget.

After September 1, 1987, each first class city with a population of one hundred fifty thousand or less shall use the form required by RCW 43.09-.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) When any emergency shall require the immediate execution of such public work, upon the finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the city council shall adopt a resolution certifying the existence of this emergency situation.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first class city may use a small works roster and award contracts under this subsection for contracts of one hundred thousand dollars or less.

(a) The city may maintain a small works roster comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in this state.

(b) Whenever work is done by contract, the estimated cost of which is one hundred thousand dollars or less, and the city uses the small works roster, the city shall invite proposals from all appropriate contractors on the small works roster: PROVIDED, That not less than five separate appropriate contractors, if available, shall be invited to submit bids on any one contract: PROVIDED FURTHER, That whenever possible, the city shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section. Once a bidder on the small works roster has been offered an opportunity to bid, that bidder shall not be offered another opportunity until all other appropriate contractors on the small works roster have been afforded an opportunity to submit a bid. Invitations shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(c) When awarding such a contract for work, the estimated cost of which is one hundred thousand dollars or less, the city shall award the contract to the contractor submitting the lowest responsible bid.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

Sec. 60. Section 43.19.1911, chapter 8, Laws of 1965 as last amended by section 4, chapter 183, Laws of 1983 and RCW 43.19.1911 are each amended to read as follows:

When purchases are made through competitive bidding, the contract shall be let to the lowest responsible bidder, subject to any preferences provided by law to Washington products and vendors and to RCW 43.19.704, taking into consideration the quality of the articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery: PROVIDED, That whenever there is reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the division of purchasing may call for new bids or enter into direct negotiations to achieve the best possible price. Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection. In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

(1) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(2) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(3) Whether the bidder can perform the contract within the time specified;

(4) The quality of performance of previous contracts or services;

(5) The previous and existing compliance by the bidder with laws relating to the contract or services;

(6) Such other information as may be secured having a bearing on the decision to award the contract: PROVIDED, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner. Nothing in this section shall prohibit any state agency, department, board, commission, committee, or other state-level entity from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

## IX.

## MARKETING OF RECYCLABLE MATERIALS

Sec. 61. Section 1, chapter 40, Laws of 1982 1st ex. sess. as last amended by section 1, chapter 422, Laws of 1987 and RCW 43.160.010 are each amended to read as follows:

**FINDINGS REGARDING RECYCLING MARKETS.** (1) The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabitants of the state. Reducing unemployment and reducing the time citizens remain jobless is important for the economic welfare of the state. A valuable means of fostering economic development is the construction of public facilities which contribute to the stability and growth of the state's economic base. Strengthening the economic base through issuance of industrial development bonds, whether single or umbrella, further serves to reduce unemployment. Consolidating issues of industrial development bonds when feasible to reduce costs additionally advances the state's purpose to improve economic vitality. Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include:

(a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;

(b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;

(c) Encouraging wider access to financial resources for both large and small industrial development projects;

(d) Encouraging new economic development or expansions to maximize employment;

(e) Encouraging the retention of viable existing firms and employment; and

(f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment.

(2) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways in the vicinity of new industries considering locating in this state or existing industries that are considering significant expansion.

(a) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.

(b) It is the intent of the legislature to create an economic development account within the motor vehicle fund from which expenditures can be made by the department of transportation for state highway improvements necessitated by planned economic development. All such improvements must first be approved by the state transportation commission and the community economic revitalization board in accordance with the procedures established by RCW 43.160.074 and 47.01.280. It is further the intent of the legislature that such improvements not jeopardize any other planned highway construction projects. The improvements are intended to be of limited size and cost, and to include such items as additional turn lanes, signalization, illumination, and safety improvements.

(3) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of the waste stream. The legislature finds that public facilities which result in private construction of processing or remanufacturing facilities for recyclable materials are eligible for consideration from the board.

Sec. 62. Section 6, chapter 40, Laws of 1982 1st ex. sess. as last amended by section 5, chapter 422, Laws of 1987 and RCW 43.160.060 are each amended to read as follows:

**COMMUNITY ECONOMIC REVITALIZATION BOARD LOANS AND GRANTS.** The board is authorized to make direct loans to political subdivisions of the state for the purposes of assisting the political subdivisions in financing the cost of public facilities, including development of land and improvements for public facilities, as well as the acquisition, construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not make a grant or loan:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that probably would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) For the acquisition of real property, including buildings and other fixtures which are a part of real property.

(2) The board shall only make grants or loans:

(a) For those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, and industrial distribution((:)); (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; or ~~((ii))~~ (iv) which substantially support the trading of goods or services outside of the state's borders.

(b) For projects which it finds will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities.

(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the grant or loan is made.

(3) The board shall prioritize each proposed project according to the number of jobs it would create after the project is completed and according to the unemployment rate in the area in which the jobs would be located. As long as there is more demand for loans or grants than there are funds available for loans or grants, the board is instructed to fund projects in order of their priority.

(4) A responsible official of the political subdivision shall be present during board deliberations and provide information that the board requests.

Before any loan or grant application is approved, the political subdivision seeking the loan or grant must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

NEW SECTION. Sec. 63. A new section is added to chapter 43.160 RCW to read as follows:

**ECOLOGY REVIEW.** (1) Before board consideration of an application from a political subdivision that includes a request for assistance in financing the cost of public facilities to encourage the development of a private facility to process recyclable materials, the application shall be forwarded by the board to the department of ecology.

(2) The department of ecology shall submit a recommendation on all applications related to processing recyclable materials to the board for their consideration.

(3) Upon receiving an application for assistance in financing the cost of public facilities to encourage the development of a private facility to process

recyclable materials from the board, the department of ecology shall, within thirty days, determine whether or not the proposed assistance:

(a) Has a significant impact on the residential and commercial waste stream;

(b) Results in a product that has a ready market;

(c) Does not jeopardize any other planned market development projects; and

(d) Results in a product that would otherwise be purchased out-of-state.

(4) Upon completion of its determination of the factors contained in subsection (3) of this section and any other factors it deems pertinent, the department of ecology shall forward its recommended approval, as submitted or amended, or recommended disapproval of the proposed improvements to the board, along with any recommendation it may wish to make concerning the desirability and feasibility of the proposed market development. If the department of ecology recommends disapproval of any proposed project, it shall specify its reasons for recommending disapproval.

(5) The board shall notify the department of ecology of its decision regarding any application made under this section.

**NEW SECTION.** Sec. 64. A new section is added to chapter 43.31 RCW to read as follows:

**DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT.** (1) The department is the lead state agency to assist in establishing and improving markets for recyclable materials generated in the state. This priority on creating and expanding a recyclables market should be fully integrated into the current targeted sector marketing programs of the department. In carrying out these marketing responsibilities, the department shall work closely with the office of waste reduction in the department of ecology.

(2) The department of trade and economic development, with the assistance of the department of ecology and the committee for recycling markets created by section 100 of this act, shall develop programs to accomplish the following:

(a) Develop new markets inside and outside this state for recycled materials;

(b) Attract new businesses to this state whose purpose is to use recycled materials;

(c) Educate businesses and consumers about the high quality of Washington recycled materials;

(d) Promote business and consumer use of products made from recycled materials;

(e) Provide technical market assistance to businesses and local governments;

(f) Cooperate with and secure the cooperation of any department, agency, commission, or instrumentality in state or local government affected by or concerned with market development; and

(g) Create and maintain a list of recyclers, collectors, and other persons or entities interested in the development of markets for recycling and solicit the opinions of those persons with respect to market development.

## X.

### CERTIFICATION OF LANDFILL AND INCINERATOR OPERATORS

NEW SECTION. Sec. 65. DEFINITIONS. Unless the context clearly requires otherwise the definitions in this section apply throughout this chapter.

(1) "Board" means the board of advisors for solid waste incinerator and landfill operator certification established by section 69 of this act.

(2) "Certificate" means a certificate of competency issued by the director stating that the operator has met the requirements for the specified operator classification of the certification program.

(3) "Department" means the department of ecology.

(4) "Director" means the director of ecology.

(5) "Incinerator" means a facility which has the primary purpose of burning or which is designed with the primary purpose of burning solid waste or solid waste derived fuel, but excludes facilities that have the primary purpose of burning hog fuel.

(6) "Landfill" means a landfill as defined under RCW 70.95.030.

(7) "Owner" means, in the case of a town or city, the city or town acting through its chief executive officer or the lessee if operated pursuant to a lease or contract; in the case of a county, the chief elected official of the county legislative authority or the chief elected official's designee; in the case of a board of public utilities, association, municipality, or other public body, the president or chief elected official of the body or the president's or chief elected official's designee; in the case of a privately owned landfill or incinerator, the legal owner.

(8) "Solid waste" means solid waste as defined under RCW 70.95.030.

NEW SECTION. Sec. 66. CERTIFIED INCINERATION FACILITY OPERATORS. (1) By January 1, 1992, the owner or operator of a solid waste incineration facility shall employ a certified operator. At a minimum, the individual on-site at a solid waste incineration facility who is designated by the owner as the operator in responsible charge of the operation and maintenance of the facility on a routine basis shall be certified by the department.

(2) If a solid waste incinerator is operated on more than one daily shift, the operator in charge of each shift shall be certified.



(3) Operators not required to be certified are encouraged to become certified on a voluntary basis.

(4) The department shall adopt and enforce such rules as may be necessary for the administration of this section.

**NEW SECTION. Sec. 67. CERTIFIED LANDFILL OPERATORS.**

(1) By January 1, 1992, the owner or operator of a landfill shall employ a certified landfill operator.

(2) For each of the following types of landfills defined in existing regulations: Inert, demolition waste, problem waste, and municipal solid waste, the department shall adopt rules classifying all landfills in each class. The factors to be considered in the classification shall include, but not be limited to, the type and amount of waste in place and projected to be disposed of at the site, whether the landfill currently meets state and federal operating criteria, the location of the landfill, and such other factors as may be determined to affect the skill, knowledge, and experience required of an operator to operate the landfill in a manner protective of human health and the environment.

(3) The rules shall identify the landfills in each class in which the owner or operator will be required to employ a certified landfill operator who is on-site at all times the landfill is operating. At a minimum, the rule shall require that owners and operators of landfills are required to employ a certified landfill operator who is on call at all times the landfill is operating.

**NEW SECTION. Sec. 68. CERTIFICATION PROCESS.** (1) The department shall establish a process to certify incinerator and landfill operators. To the greatest extent possible, the department shall rely on the certification standards and procedures developed by national organizations and the federal government.

(2) Operators shall be certified if they:

- (a) Attend the required training sessions;
- (b) Successfully complete required examinations; and
- (c) Pay the prescribed fee.

(3) By January 1, 1991, the department shall adopt rules to require incinerator and appropriate landfill operators to:

(a) Attend a training session concerning the operation of the relevant type of landfill or incinerator;

(b) Demonstrate sufficient skill and competency for proper operation of the incinerator or landfill by successfully completing an examination prepared by the department; and

(c) Renew the certificate of competency at reasonable intervals established by the department.

(4) The department shall provide for the collection of fees for the issuance and renewal of certificates. These fees shall be sufficient to recover the costs of the certification program.

(5) The department shall establish an appeals process for the denial or revocation of a certificate.

(6) The department shall establish a process to automatically certify operators who have received comparable certification from another state, the federal government, a local government, or a professional association.

(7) Upon the effective date of this act and prior to January 1, 1992, the owner or operator of an incinerator or landfill may apply to the department for interim certification. Operators shall receive interim certification if they:

(a) Have received training provided by a recognized national organization, educational institution, or the federal government that is acceptable to the department; or

(b) Have received individualized training in a manner approved by the department; and

(c) Have successfully completed any required examinations.

(8) No interim certification shall be valid after January 1, 1992, and interim certification shall not automatically qualify operators for certification pursuant to subsections (2) through (4) of this section.

NEW SECTION, Sec. 69. BOARD OF ADVISORS. (1) A board of advisors for solid waste incinerator and landfill operator certification shall be established. The board shall be a subcommittee of the solid waste advisory committee created under RCW 70.95.040 and shall be comprised of five members appointed by the director. The members shall be knowledgeable about solid waste handling technologies including but not limited to combustion boiler and pollution control technologies and their potential environmental impacts such as air emissions and ash residues. Collectively, the committee shall include at least two members who are knowledgeable about the operation and management of landfills and are certified by a national organization or the federal government as landfill operators.

(2) This board shall act as an advisory committee to the department and shall review and comment on the rules adopted under this chapter.

NEW SECTION, Sec. 70. REVOCATION OF CERTIFICATION. (1) The director may, with the recommendation of the board and after a hearing before the board, revoke a certificate:

(a) If it were found to have been obtained by fraud or deceit;

(b) For gross negligence in the operation of a solid waste incinerator or landfill;

(c) For violating the requirements of this chapter or any lawful rule or order of the department; or

(d) If the facility operated by the certified employee is operated in violation of state or federal environmental laws.

(2) A person whose certificate is revoked under this section shall not be eligible to apply for a certificate for one year from the effective date of the final order or revocation.

**NEW SECTION. Sec. 71. CERTIFICATION OF INSPECTORS.** Any person who is employed by a public agency to inspect the operation of a landfill or a solid waste incinerator to determine the compliance of the facility with state or local laws or rules shall be required to be certified in the same manner as an operator under this chapter.

**NEW SECTION. Sec. 72. AUTHORITY OF DIRECTOR.** To carry out the provisions and purposes of this chapter, the director may:

(1) Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as the director deems appropriate, with other state, federal, or interstate agencies, municipalities, educational institutions, or other organizations or individuals.

(2) Receive financial and technical assistance from the federal government, other public agencies, and private agencies.

(3) Participate in related programs of the federal government, other states, interstate agencies, other public agencies, or private agencies or organizations.

(4) Upon request, furnish reports, information, and materials relating to the certification program authorized by this chapter to federal, state, or interstate agencies, municipalities, educational institutions, and other organizations and individuals.

(5) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out this chapter.

(6) Adopt rules under chapter 34.05 RCW.

**NEW SECTION. Sec. 73. UNLAWFUL ACTS.** After January 1, 1992, it is unlawful for any person, firm, corporation, municipal corporation, or other governmental subdivision or agency to operate a solid waste incineration or landfill facility unless the operators are duly certified by the director under this chapter or any lawful rule or order of the department. It is unlawful for any person to perform the duties of an operator without being duly certified under this chapter. The department shall adopt rules that allow the owner or operator of a landfill or solid waste incineration facility to request a variance from this requirement under emergency conditions. The department may impose such conditions as may be necessary to protect human health and the environment during the term of the variance.

**NEW SECTION. Sec. 74. PENALTIES.** Any person, including any firm, corporation, municipal corporation, or other governmental subdivision or agency, with the exception of incinerator operators, violating any provision of this chapter or the rules adopted under this chapter, is guilty of a misdemeanor. Incinerator operators who violate any provision of this chapter shall be guilty of a gross misdemeanor. Each day of operation in violation of this chapter or any rules adopted under this chapter shall constitute

a separate offense. The prosecuting attorney or the attorney general, as appropriate, shall secure injunctions of continuing violations of any provisions of this chapter or the rules adopted under this chapter.

**NEW SECTION.** Sec. 75. **DEPOSIT OF RECEIPTS.** All receipts realized in the administration of this chapter shall be paid into the general fund.

**NEW SECTION.** Sec. 76. Sections 65 through 75 of this act shall constitute a new chapter in Title 70 RCW.

**NEW SECTION.** Sec. 77. A new section is added to chapter 70.95 RCW to read as follows:

Incineration of medical waste shall be conducted under sufficient burning conditions to reduce all combustible material to a form such that no portion of the combustible material is visible in its uncombusted state.

## XI. REVENUE

Sec. 78. Section 6, chapter 282, Laws of 1986 and RCW 82.18.010 are each amended to read as follows:

For purposes of this chapter:

(1) "~~((Refuse))~~ Solid waste collection business" means every person who receives solid waste for transfer, storage, or disposal including but not limited to all collection services, public or private dumps, transfer stations, and similar operations.

(2) "Person" shall have the meaning given in RCW 82.04.030 or any later, superseding section.

(3) "Solid waste" means garbage, trash, rubbish, or other material discarded as worthless or not economically viable for further use. The term does not include hazardous or toxic waste nor does it include material collected primarily for recycling or salvage.

(4) "Taxpayer" means that person upon whom the ~~((refuse))~~ solid waste collection tax is imposed.

Sec. 79. Section 7, chapter 282, Laws of 1986 and RCW 82.18.020 are each amended to read as follows:

**SOLID WASTE COLLECTION TAX.** There is imposed on each person using the solid waste services of a ~~((refuse))~~ solid waste collection business a ~~((refuse))~~ solid waste collection tax equal to three and six-tenths percent of the consideration charged for the services.

**NEW SECTION.** Sec. 80. A new section is added to chapter 82.18 RCW to read as follows:

**SOLID WASTE COLLECTION TAX.** (1) There is imposed on each person using the services of a solid waste collection business a solid waste collection tax of one percent of the consideration charged for the services.

This tax shall be applied only to a service charge for actual solid waste collection services that are provided. For residential collection service only, the tax shall apply to the lesser of the consideration charged for the services or:

(a) For customers with less than two-can service, the first eight dollars of the monthly charge for the services.

(b) For customers with two-can service or more, the first twelve dollars of the monthly charge for the services.

(2) Money collected under this section shall be held in trust until paid to the state. Money received by the state shall be deposited in the solid waste management account created by section 90 of this act.

(3) This section expires July 1, 1993.

NEW SECTION. Sec. 81. The expiration of section 80 of this act shall not be construed as affecting any existing right acquired or liability or obligation incurred under that section or under any rule or order adopted under that section, nor as affecting any proceeding instituted under that section.

NEW SECTION. Sec. 82. Section 80 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

NEW SECTION. Sec. 83. The joint select committee on preferred solid waste management created pursuant to section 91 of this act shall report to the legislature by January 1, 1993, as to whether the tax imposed under section 80 of this act should be continued or modified to achieve the purposes of this act.

Sec. 84. Section 8, chapter 282, Laws of 1986 and RCW 82.18.030 are each amended to read as follows:

The person collecting the charges made for using the ~~((refuse))~~ solid waste collection business shall collect the tax imposed in ~~((section 6 of this act))~~ this chapter. If any person charged with collecting the tax fails to bill the taxpayer for the tax, or in the alternative has not notified the taxpayer in writing of the imposition of the tax, or having collected the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of the person's own acts or the result of acts or conditions beyond the person's control, he or she shall, nevertheless, be personally liable to the state for the amount of the tax.

Sec. 85. Section 9, chapter 282, Laws of 1986 and RCW 82.18.040 are each amended to read as follows:

Taxes collected under this chapter shall be held in trust until paid to the state. Except for taxes received under section 80 of this act, taxes so received by the state shall be deposited in the public works assistance account created in RCW 43.155.050. Any person collecting the tax who appropriates or converts the tax collected shall be guilty of a gross misdemeanor if

the money required to be collected is not available for payment on the date payment is due. If a taxpayer fails to pay the tax imposed by this chapter to the person charged with collection of the tax and the person charged with collection fails to pay the tax to the department, the department may, in its discretion, proceed directly against the taxpayer for collection of the tax.

The tax shall be due from the taxpayer within twenty-five days from the date the taxpayer is billed by the person collecting the tax.

The tax shall be due from the person collecting the tax at the end of the tax period in which the tax is received from the taxpayer. If the taxpayer remits only a portion of the total amount billed for taxes, consideration, and related charges, the amount remitted shall be applied first to payment of the ~~((refuse))~~ solid waste collection tax and this tax shall have priority over all other claims to the amount remitted.

Sec. 86. Section 10, chapter 282, Laws of 1986 and RCW 82.18.050 are each amended to read as follows:

The ~~((refuse))~~ solid waste collection ~~((tax))~~ taxes imposed in this chapter shall not apply to any agency, division, or branch of the federal government or to services rendered under a contract therewith.

Sec. 87. Section 11, chapter 282, Laws of 1986 and RCW 82.18.060 are each amended to read as follows:

To prevent pyramiding and multiple taxation of a single transaction, ~~((this tax))~~ the solid waste collection taxes imposed in this chapter shall not apply to any ~~((refuse))~~ solid waste collection business using the services of another ~~((refuse))~~ solid waste collection business for the transfer, storage, processing, or disposal of the waste collected during the transaction.

To be eligible for this exemption, a person first must be certified by the department of revenue as a ~~((refuse))~~ solid waste collection business.

Sec. 88. Section 12, chapter 282, Laws of 1986 and RCW 82.18.070 are each amended to read as follows:

Chapter 82.32 RCW applies to the ~~((tax))~~ taxes imposed under this chapter.

Sec. 89. Section 13, chapter 282, Laws of 1986 and RCW 82.18.080 are each amended to read as follows:

The department of revenue shall have the power to enforce the ~~((tax))~~ taxes imposed in this chapter through appropriate rules.

NEW SECTION. Sec. 90. A new section is added to chapter 70.95 RCW to read as follows:

**SOLID WASTE MANAGEMENT ACCOUNT.** The solid waste management account is created in the state treasury. Moneys in the account may only be spent after appropriation. Expenditures from the account may

only be used to carry out the purposes of this act. All earnings from the investment of balances in the solid waste management account except as provided in RCW 43.84.090, shall be deposited into the solid waste management account.

## XII.

### REAUTHORIZATION OF JOINT SELECT COMMITTEE

Sec. 91. Section 15, chapter 528, Laws of 1987 as amended by section 6, chapter 184, Laws of 1988 (uncodified) is amended to read as follows:

~~(1) ((The Washington state legislature finds that the state faces a solid waste disposal crisis. The siting of new landfills, the location and design of new solid waste incinerators, the disposal of ash residue, and compliance with the priorities of the solid waste management act and the hazardous waste management act require that an effort be made by the state to ensure that local governments and private industry have adequate technical information, and that programs are developed to accomplish the statutory waste management priorities.~~

~~(2) A comprehensive evaluation of preferred solid waste management programs shall be undertaken by))~~ The joint select committee for preferred solid waste management is created for the purpose of monitoring the implementation of this act and for making further recommendations for legislation to fulfill the purposes of this act. The committee shall consist of four members of the house of representatives appointed by the speaker of the house and four members of the senate appointed by the president of the senate. Equal membership of each major political caucus shall be provided. The president of the senate and the speaker of the house of representatives shall each designate a cochair of the committee. The committee shall involve the department of ecology, the utilities and transportation commission, and representatives of organizations representing cities, counties, the public, the waste management industry, the energy recovery and incineration industry waste haulers, and the private recycling industry. The committee shall report its findings and recommendations to the appropriate standing committees of the legislature ((by January 1, 1989)).

~~((3))~~ (2) The department of ecology may provide the committee with specific recommendations on waste management programs from studies the department has undertaken as required by RCW 70.95.263.

~~((4))~~ (3) The committee shall attempt to determine the reasons why higher rates of waste reduction and recycling have not been achieved in the state and develop recommendations on how to achieve higher rates.

~~((5))~~ (4) The committee's recommendations shall include (a) specific programs for waste reduction, recycling, incineration, and landfills, (b) specific goals for solid waste management, and (c) specific responsibilities for state government, local government, and the private sectors to accomplish the committee's recommendations. The committee shall also recommend

specific legislation and rule-making requirements to accomplish the committee's findings.

~~((6))~~ (5) The joint select committee for preferred solid waste management shall cease to exist on July 1, ~~((1989))~~ 1991.

### XIII. WASTE TIRES

Sec. 92. Section 5, chapter 345, Laws of 1985 and RCW 70.95.510 are each amended to read as follows:

**NEW TIRE ASSESSMENT.** There is levied ~~((and there shall be collected by the department of revenue from every person engaging within this state in business making))~~ a one dollar per tire fee on the retail sale(s) of new replacement vehicle tires ~~((, an annual assessment equal to the gross proceeds of the sales of new replacement vehicle tires sold within this state, multiplied by twelve hundredths of one percent))~~ for a period of five years, beginning October 1, 1989. The fee imposed in this section shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the fee. The fee collected from the buyer by the seller less the ten percent amount retained by the seller as provided in section 93 of this act shall be paid to the department of revenue in accordance with RCW 82.32-.045. All ~~((of the))~~ other applicable provisions of chapter 82.32 RCW have full force and application with respect to ~~((taxes))~~ the fee imposed under this section. The department of revenue shall administer this section.

For the purposes of this section, "new replacement vehicle tires" means tires that are newly manufactured for vehicle purposes and does not include retreaded vehicle tires.

**NEW SECTION.** Sec. 93. A new section is added to chapter 70.95 RCW to read as follows:

**WASTE TIRE CLEANUP.** (1) Every person engaged in making retail sales of new replacement vehicle tires in this state shall retain ten percent of the collected one dollar fee. The moneys retained may be used for costs associated with the proper management of the waste vehicle tires by the retailer.

(2) The department of ecology will administer the funds for the purposes specified in RCW 70.95.020(5) including, but not limited to:

(a) Making grants to local governments for pilot demonstration projects for on-site shredding and recycling of tires from unauthorized dump sites;

(b) Grants to local government for enforcement programs;

(c) Implementation of a public information and education program to include posters, signs, and informational materials to be distributed to retail tire sales and tire service outlets;

(d) Product marketing studies for recycled tires and alternatives to land disposal.



Sec. 94. Section 6, chapter 345, Laws of 1985 and RCW 70.95.520 are each amended to read as follows:

There is created an account within the state treasury to be known as the vehicle tire recycling account. All assessments and other funds collected or received under this chapter shall be deposited in the vehicle tire recycling account and used by the department of ecology for ((the)) administration and implementation of this chapter ((as provided by RCW 70.95.530)). After October 1, 1989, the department of revenue shall deduct two percent from funds collected pursuant to section 92 of this act for the purpose of administering and collecting the fee from new replacement vehicle tire retailers.

Sec. 95. Section 5, chapter 250, Laws of 1988 and RCW 70.95.560 are each amended to read as follows:

**PENALTIES.** Any person who transports or stores waste tires without a license in violation of RCW 70.95.555 shall be guilty of a gross misdemeanor and upon conviction shall be punished under RCW ~~((9A.20.020(2)))~~ 9A.20.021(2).

#### XIV. STUDIES AND GRANTS

NEW SECTION. Sec. 96. A new section is added to chapter 70.95 RCW to read as follows:

**SOLID WASTE ENFORCEMENT STUDY.** The institute for urban and local studies at Eastern Washington State University shall conduct a study of enforcement of solid waste management laws and regulations as a component of the 1990 state solid waste management plan. This study shall include, but shall not be limited to:

(1) A review of current state and local solid waste rules, requirements, policies, and resources devoted to state and local solid waste enforcement, and of the effectiveness of these programs in promoting environmental health and public safety;

(2) An examination of federal regulations and the latest proposed amendments to the Resource Conservation and Recovery Act, in subtitle D of the code of federal regulations;

(3) A review of regulatory approaches used by other states;

(4) A review and evaluation of educational and technical assistance programs related to enforcement;

(5) An inventory of regulatory compliance for all processing and disposal facilities handling mixed solid waste;

(6) A review of the role and effectiveness of other enforcement jurisdictions;

(7) An evaluation of the need for redefining institutional roles and responsibilities for enforcement of solid waste management laws and regulations in order to establish public confidence in solid waste management systems and ensure public protection; and

(8) An evaluation of possible benefits in separating the solid waste planning and technical assistance responsibilities from the enforcement responsibilities within the department.

NEW SECTION. Sec. 97. A new section is added to chapter 70.95 RCW to read as follows:

**COMPOSTING GRANTS AND STUDY.** (1) In order to establish the feasibility of composting food and yard wastes, the department shall provide funds, as available, to local governments submitting a proposal to compost such wastes.

(2) The department, in cooperation with the department of trade and economic development, may approve an application if the project can demonstrate the essential parameters for successful composting, including, but not limited to, cost-effectiveness, handling and safety requirements, and current and potential markets.

(3) The department shall periodically report to the appropriate standing committees of the legislature on the need for, and feasibility of, composting systems for food and yard wastes.

NEW SECTION. Sec. 98. **ENERGY RECOVERY STUDY.** In order to develop and enhance markets for scrap waste paper and to establish the safety and feasibility of burning certain plastics for energy recovery, the state energy office, in cooperation with the department of trade and economic development, shall conduct a study including, but not limited to, the following:

(1) A characterization of the facilities combusting scrap paper and plastics, including the design of handling equipment, combustors, and pollution control equipment;

(2) A determination of the quantity of scrap paper available for the fuel market, and the locations of potential suppliers;

(3) A determination of the capital and operating and maintenance costs of safely combusting scrap paper and plastic fuels;

(4) A determination of the market value of the fuel to potential users. The office shall report its finding to the legislature by December 31, 1989.

NEW SECTION. Sec. 99. **STUDY OF RECYCLED PAPER AS FEED STOCK.** The office of waste reduction shall conduct a study of the current use of, and potential capacity for, use of recycled paper as feed stock to the state's pulp and paper industry. The office shall report its findings to the legislature by December 31, 1989.

**NEW SECTION.** Sec. 100. COMMITTEE FOR RECYCLING MARKETS. (1) There is created, within the department of trade and economic development, the Washington committee for recycling markets. The committee shall be appointed by the director and shall involve representatives of: Recycling businesses; solid waste collection businesses; local government officials; local chambers of commerce; citizen recycling groups; manufacturers; institutions of higher education; the department of ecology; and other agencies, businesses, and individuals and organizations as may have an interest in development of recycling markets. The committee shall also include such legislative members as are appointed by the speaker of the house of representatives and the president of the senate.

(2) The committee shall convene on or before September 1, 1989, and shall meet no less than monthly.

(3) The committee shall be supported by staff from the department of trade and economic development with assistance of the department of ecology.

**NEW SECTION.** Sec. 101. RECOMMENDATIONS. The committee shall make recommendations for development of new markets for recycled materials, with particular attention to markets for yard waste, plastics, mixed waste papers and waste tires, and for increasing the effectiveness of the market development responsibilities of the department of trade and economic development under section 64 of this act.

**NEW SECTION.** Sec. 102. CONTRACTS AND REPORTS. The committee may enter into contracts to assist in its responsibilities, provided that the state funds for such contracts are matched by at least an equal amount from private sources. The committee shall provide a report to the legislature on or before January 2, 1990, and a final report on or before November 30, 1990, and its duties shall be terminated upon delivery of the final report.

**NEW SECTION.** Sec. 103. Sections 100 through 102 of this act shall constitute a new chapter in Title 43 RCW.

**NEW SECTION.** Sec. 104. PROBLEM WASTE STUDY. (1) The department shall share information on household hazardous waste pilot projects and strategies for management of moderate risk wastes with local governments as elements of a problem waste study. In doing so, the department shall prepare a report detailing progress in managing moderate risk wastes throughout the state.

The department of ecology shall conduct a study of the following problem wastes:

- (a) Moderate risk wastes generated by businesses and households;
- (b) Waste lubricating oil;
- (c) Petroleum contaminated soils;
- (d) Gypsum wastes from construction and demolition.

The study shall include an analysis and evaluation of the best available technologies for environmentally sound collection, storage, processing and/or disposal. Technologies shall be evaluated based on economic and environmental impacts. The priority shall be on the development of recommendations for achieving reduction and recycling of these wastes.

(2) In conducting the study, the department shall involve, consult, and create special advisory committees that will include membership from relevant industries, environmental groups, and local governments. The department shall submit a report, including recommendations, to the house of representatives environmental affairs committee and the senate environment and natural resources committee by December 15, 1990, and shall make the results of the study available to local governments. In its study, the department shall consider, at a minimum, the following:

(a) Education programs about using alternative products that minimize adverse effects to the environment;

(b) Program development and enhancement to divert problem wastes from the waste stream, including current recycling programs and household hazardous waste collection programs;

(c) Waste treatment and stabilization; and

(d) Environmental impacts.

(3) In addition, the department shall conduct a literature search to investigate existing toxic materials in landfills, in sewage sludge disposal, in incinerator air emissions, and in incinerator fly and bottom ash, including, but not limited to, lead, mercury, cadmium, chromium, dioxins, furans, oxides of sulphur, carbon, nitrogen, and other toxic organic materials. Furthermore, the study shall review the adequacy of the state's air quality and ash quality standards for solid waste incinerators, by including a comparison of Washington state standards with the latest standards adopted by other countries such as Sweden and West Germany.

(4) The purpose of the investigation and the standards review is to evaluate the potential for damage to the environment and public health from these toxic materials, to identify the sources of the toxic materials, and to evaluate the potential solid waste management practices for eliminating or reducing the amount of toxic materials entering disposal facilities, or reducing the toxicity of such materials.

***\*NEW SECTION. Sec. 105. REGIONAL FACILITY PLANNING. (1) The department of ecology shall award a maximum of three grants prior to June 30, 1991, to local governments for the purpose of planning for a regional facility or facilities with the capacity to manage solid waste in the region on an integrated waste management basis. The award may be made to any general jurisdictional unit of local government or more than one such unit acting cooperatively in planning for such a facility.***

***(2) In making the awards the department shall apply the following criteria:***

(a) *The applicant proposes a plan for a system or facility that will accept a majority of the volume of the solid waste from beyond the boundaries of the local governments applying for the grant;*

(b) *The proposed plan will address the need for shared responsibility for the operation and closure of the facility among the local governments using the facility, and an equitable distribution of the liability that may be incurred based upon the origin of the solid waste handled at the facility;*

(c) *The plan will identify the public participation process to be used in planning and developing the system or facility;*

(d) *The plan will identify regulatory, planning, and financial issues that should be addressed by the state government and make recommendations for legislative or administrative actions;*

(e) *The plan is consistent with any applicable state and local solid waste management plans and the purposes of this act; and*

(f) *The applicant proposes a plan that will incorporate existing energy recovery, incineration, and/or disposal facilities.*

(3) *Where the applications received otherwise meet the criteria of this section the department shall endeavor to make awards for plans that will address regional solid waste management needs in each of the major geographic regions of the state.*

(4) *Grant recipients shall provide periodic progress reports to the department.*

\*Sec. 105 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 106. *A facility that achieves an integrated waste management strategy relying upon several of the management priorities specified in RCW 70.95.010, and that receives a substantial volume of waste from an entire region of the state, shall be provided flexibility in the pursuit of such integrated waste management by the local government or governments preparing a comprehensive solid waste management plan for the area in which the facility is located.*

\*Sec. 106 was vetoed, see message at end of chapter.

## XV.

### SEVERABILITY AND EMERGENCY CLAUSES

**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. *Captions and headings used in this act do not constitute any part of the law.*

**NEW SECTION.** Sec. 109. *Sections 49 and 50 of this act are necessary for the immediate preservation of the public peace, health, or safety, or*

support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the House April 18, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 15, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 15, 1989.

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

"I am returning herewith, without my approval as to sections 7, 14, 44, 105, and 106, Engrossed Substitute House Bill No. 1671 entitled:

"AN ACT Relating to solid waste."

This is landmark legislation. It is a major step forward in solid waste management and is entirely consistent with my explicitly stated goal that this state do far more in the area of waste reduction and recycling.

This bill makes significant changes in the way this state manages solid waste. Specifically, the thrust of this bill is to move solid waste management toward waste reduction and recycling in order to provide greater environmental protection and to minimize costly cleanup of environmental problems. Over the last two years, the Joint Select Committee for Preferred Solid Waste Management has examined this issue thoroughly and this legislation is the result of effort. The bill puts into place mechanisms to ensure that waste reduction and recycling is treated as a priority and implemented in order to minimize reliance on incineration and landfills. It establishes as a fundamental strategy the segregation of waste at its source in order to clean out of the waste stream those materials that have resource value, and to segregate those wastes which pose particular environmental hazards for proper management.

However, I have found it necessary to veto a number of sections of this bill. Section 7 removes a requirement in current statute that any city preparing an independent solid waste management plan must provide for disposal sites wholly within its jurisdiction. There has been a very long debate, involving many complex issues, over the proper county-city roles in the area of solid waste management. I am concerned that section 7 is inconsistent with the intent expressed in section 1 which is to encourage regional solutions.

Section 14 amends RCW 35.21.120 and makes technical changes clarifying city authority over solid waste handling. However, the same technical changes to RCW 35.21.120 were also made in section 1 of Substitute House Bill No. 1568. To avoid confusion, I am vetoing section 14.

Section 44 exempts business establishments from paying the B&O tax on the value of core deposits or credits on returnable products such as batteries, starters, brakes and other products. These deposits constitute gross proceeds and, in Washington, gross proceeds are taxed. Further, the reference to "other products with returnable value" is unqualified and potentially opens up a broad category of unknown products which are exempt from the B&O tax. I do not believe the incentive to recycle most of the currently discussed items will be impacted by the taxable status of the returnable value. For these reasons I am vetoing section 44.

Section 105 states that the Department of Ecology may give grants to local governments for regional facilities to manage wastes on an integrated waste management basis. This section duplicates the direction provided in section 1 that regional solutions be encouraged. Section 105 also directs the Department to give grants for integrated waste facilities; however, the Department already has this authority under current law. Finally, this section directs the Department to spend public funds on landfills and incineration facilities — clearly designated in Engrossed Substitute House Bill 1671 as lower waste management priorities — which possibly might come at the expense of the higher waste management priorities. By vetoing this section, I do not intend to compromise movement toward regional cooperation and facilities;

clearly, section 1(7) of Engrossed Substitute House Bill No. 1671 states that regional solutions and intergovernmental cooperation are required if we are to solve this state's solid waste management problems.

Section 106 states that a facility that achieves an integrated waste management strategy, and which receives a substantial volume of waste from a region, shall be provided flexibility by local government preparing a solid waste management plan. The thrust of this amendment is inconsistent with the objectives of Engrossed Substitute House Bill No. 1671. First, there are not several waste management priorities. There is a priority among them, and clearly the bill, as well as current statute, states that waste reduction and recycling are of the highest order. Second, the reference, "provided flexibility," suggests that a facility has some added leeway to depart from the reduction and recycling element which Engrossed Substitute House Bill No. 1671 requires to be adopted as part of each local government's solid waste management plan. The apparent inconsistency of this section with the overall intent of Engrossed Substitute House Bill No. 1671, and the ambiguity and the public policy implications warrant a veto of section 106.

With the exception of sections 7, 14, 44, 105, and 106, I am pleased to sign Engrossed Substitute House Bill No. 1671."





# **WASHINGTON LAWS**

**1989 FIRST EXTRAORDINARY SESSION**



## CHAPTER 1

[Senate Bill No. 6150]

## RETIREMENT SYSTEMS—SUPPLEMENTAL RATES—DATE OF INITIAL APPLICATION

AN ACT Relating to actuarial funding of state pension systems; and amending RCW 41.—.—.

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

Sec. 1. Section 7, chapter ... (SSB 5418), Laws of 1989 and RCW 41.—.— are each amended to read as follows:

(1) Beginning September 1, 1990, in addition to the basic employer contribution rate established in section 6 of this act, the department shall also charge employers of public employees' retirement system, teachers' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems after January 1, (~~(+1991)~~) 1989. The supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) Beginning September 1, 1990, in addition to the basic state contribution rate established in section 6 of this act for the law enforcement officers' and fire fighters' retirement system the department shall also establish a supplemental rate to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system after January 1, (~~(+1990)~~) 1989. This supplemental rate shall be calculated by the state actuary and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan I, the teachers' retirement system plan I, the law enforcement officers' and fire fighters' retirement system plan I, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan II, the teachers' retirement system plan II, or the law enforcement officers' and fire fighters' retirement system plan II, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.40.650, 41.32.775, or 41-.26.450, respectively.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan I and the teachers' retirement system plan I shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

Passed the Senate May 4, 1989.

Passed the House May 5, 1989.

Approved by the Governor May 8, 1989.

Filed in Office of Secretary of State May 8, 1989.

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CHAPTER 2

[House Bill No. 2242]

OCEAN RESOURCES MANAGEMENT ACT

AN ACT Relating to oil spills and the transfer and safety of petroleum products across the marine waters of the state of Washington; adding a new chapter to Title 88 RCW; adding a new chapter to Title 43 RCW; adding new sections to chapter 90.58 RCW; creating new sections; prescribing penalties; and making appropriations.

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

NEW SECTION. Sec. 1. The legislature recognizes that oil spills and other forms of incremental pollution present serious danger to the fragile marine environment of Washington state. It is the intent and purpose of this chapter to define and prescribe financial responsibility requirements for vessels that transport petroleum products across the waters of the state of Washington.

NEW SECTION. Sec. 2. The following definitions apply throughout this chapter:

- (1) "Department" means the state department of ecology;
- (2) "Petroleum products" means oil as it is defined in RCW 90.48.315;
- (3) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

NEW SECTION. Sec. 3. Any vessel over three hundred gross tons, that transports petroleum products as cargo, using any port or place in the state of Washington or the navigable waters of the state shall establish, under rules prescribed by the director of the department of ecology, evidence of financial responsibility in the amount of the greater of one million dollars, or one hundred fifty dollars per gross ton of such vessel, to meet the liability to the state of Washington for the following: (1) The actual costs

for removal of spills of petroleum products; (2) civil penalties and fines; and (3) natural resource damages.

**NEW SECTION.** Sec. 4. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the director of the department of ecology: (1) Evidence of insurance; (2) surety bonds; (3) qualification as a self-insurer; or (4) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States. Documentation of such financial responsibility shall be kept on any barge or tank vessel transporting petroleum products as cargo and filed with the department. The owner or operator of any other vessel shall maintain on the vessel a certificate issued by the United States coast guard evidencing compliance with the requirements of section 311 of the federal clean water act, 33 U.S.C. Sec. 1251 et seq.

**NEW SECTION.** Sec. 5. Any vessel owner or operator that does not meet the financial responsibility requirements of this act and any rules prescribed thereunder shall be reported to the secretary of transportation who shall suspend the privilege of operating said vessel until financial responsibility is demonstrated.

**NEW SECTION.** Sec. 6. Any owner or operator of a vessel subject to this chapter, who fails to comply with section 3 of this act or any regulation issued thereunder, shall be subject to a penalty not to exceed ten thousand dollars. The penalty shall be imposed pursuant to RCW 43.21B.300.

**NEW SECTION.** Sec. 7. Sections 1 through 6 of this act shall constitute a new chapter in Title 88 RCW.

**NEW SECTION.** Sec. 8. **LEGISLATIVE FINDINGS.** (1) Washington's coastal waters, seabed, and shorelines are among the most valuable and fragile of its natural resources.

(2) Ocean and marine-based industries and activities, such as fishing, aquaculture, tourism, and marine transportation have played a major role in the history of the state and will continue to be important in the future. Other industries and activities, such as those based on the development and extraction of minerals and other nonrenewable resources, can provide social and economic benefits as well.

(3) Washington's coastal waters, seabed, and shorelines are faced with conflicting use demands. Some uses may pose unacceptable environmental or social risks at certain times.

(4) At present, there is not enough information available to adequately assess the potential adverse effects of oil and gas exploration and production off Washington's coast.

(5) The state of Washington has primary jurisdiction over the management of coastal and ocean natural resources within three miles of its coastline. From three miles seaward to the boundary of the two hundred mile exclusive economic zone, the United States federal government has

primary jurisdiction. Since protection, conservation, and development of the natural resources in the exclusive economic zone directly affect Washington's economy and environment, the state has an inherent interest in how these resources are managed.

**NEW SECTION. Sec. 9. LEGISLATIVE POLICY AND INTENT.**

(1) The purpose of this chapter is to articulate policies and establish guidelines for the exercise of state and local management authority over Washington's coastal waters, seabed, and shorelines.

(2) There shall be no leasing of Washington's tidal or submerged lands extending from mean high tide seaward three miles along the Washington coast from Cape Flattery south to Cape Disappointment, nor in Grays Harbor, Willapa Bay, and the Columbia river downstream from the Longview bridge, for purposes of oil or gas exploration, development, or production until at least July 1, 1995. During the 1995 legislative session, the legislature shall determine whether the moratorium on leasing should be extended past July 1, 1995. This determination shall be based on the information available at that time, including the analysis described in section 12 of this act. If the legislature does not extend the moratorium on leasing, the moratorium will end on July 1, 1995. At any time that oil or gas leasing, exploration, and development are allowed to occur, these activities shall be required to meet or exceed the standards and criteria contained in section 11 of this act.

(3) When conflicts arise among uses and activities, priority shall be given to resource uses and activities that will not adversely impact renewable resources over uses which are likely to have an adverse impact on renewable resources.

(4) It is the policy of the state of Washington to actively encourage the conservation of liquid fossil fuels, and to explore available methods of encouraging such conservation.

(5) It is not currently the intent of the legislature to include recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources within the uses and activities which must meet the planning and review criteria set forth in section 11 of this act. It is not the intent of the legislature, however, to permanently exclude these uses from the requirements of section 11 of this act. If information becomes available which indicates that such uses should reasonably be covered by the requirements of section 11 of this act, the permitting government or agency may require compliance with those requirements, and appeals of that decision shall be handled through the established appeals procedure for that permit or approval.

(6) The state shall participate in federal ocean and marine resource decisions to the fullest extent possible to ensure that the decisions are consistent with the state's policy concerning the use of those resources.

**NEW SECTION.** Sec. 10. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Coastal counties" means Clallam, Jefferson, Grays Harbor, and Pacific counties.

(2) "Coastal waters" means the waters of the Pacific Ocean seaward from Cape Flattery south to Cape Disappointment, from mean high tide seaward two hundred miles.

**NEW SECTION.** Sec. 11. PLANNING AND PROJECT REVIEW CRITERIA. (1) When the state of Washington and local governments develop plans for the management, conservation, use, or development of natural resources in Washington's coastal waters, the policies in section 9 of this act shall guide the decision-making process.

(2) Uses or activities that require federal, state, or local government permits or other approvals and that will adversely impact renewable resources, marine life, fishing, aquaculture, recreation, navigation, air or water quality, or other existing ocean or coastal uses, may be permitted only if the criteria below are met or exceeded:

(a) There is a demonstrated significant local, state, or national need for the proposed use or activity;

(b) There is no reasonable alternative to meet the public need for the proposed use or activity;

(c) There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;

(d) All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia river, Willapa Bay and Grays Harbor estuaries, and Olympic national park;

(e) All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;

(f) Compensation is provided to mitigate adverse impacts to coastal resources or uses;

(g) Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and

(h) The use or activity complies with all applicable local, state, and federal laws and regulations.

**NEW SECTION.** Sec. 12. OIL AND GAS LEASING ANALYSIS. Prior to September 1, 1994, the department of natural resources and the department of ecology, working together and at the direction of the joint select committee on marine and ocean resources, shall complete an analysis of the potential positive and negative impacts of the leasing of state-owned lands which is described in section 9(2) of this act. The department shall consult with the departments of fisheries, wildlife, community development,

and trade and economic development, and with the public, when preparing this analysis. The analysis shall be presented to the legislature no later than September 1, 1994. This analysis shall be used by the legislature in determining whether the oil and gas leasing moratorium contained in section 9 of this act should be extended.

NEW SECTION. Sec. 13. A new section is added to chapter 90.58 RCW to read as follows:

**SHORELINE MASTER PLAN REVIEW.** (1) The department of ecology, in cooperation with other state agencies and coastal local governments, shall prepare and adopt ocean use guidelines and policies to be used in reviewing, and where appropriate, amending, shoreline master programs of local governments with coastal waters or coastal shorelines within their boundaries. These guidelines shall be finalized by April 1, 1990.

(2) After the department of ecology has adopted the guidelines required in subsection (1) of this section, counties, cities, and towns with coastal waters or coastal shorelines shall review their shoreline master programs to ensure that the programs conform with sections 9 and 11 of this act and with the department of ecology's ocean use guidelines. Amended master programs shall be submitted to the department of ecology for its approval under RCW 90.58.090 by June 30, 1991.

NEW SECTION. Sec. 14. The energy office shall prepare and transmit to the governor and the appropriate legislative committees of the legislature no later than September 1, 1994, a report on liquid fossil fuel supply and demand and on strategies which exist or which can be developed for conserving liquid fossil fuels. This report shall include information on how the conservation of liquid fossil fuels might affect the need for new supplies of liquid fossil fuels, and how conservation might affect the need for oil or gas leasing, exploration, or development off the coast of Washington. This report shall also contain suggestions for implementing the identified conservation strategies. This report shall be used by the legislature in determining whether the oil and gas leasing moratorium contained in section 9 of this act should be extended.

NEW SECTION. Sec. 15. A new section is added to chapter 90.58 RCW to read as follows:

The department of ecology shall consult with affected state agencies, local governments, Indian tribes, and the public prior to responding to federal coastal zone management consistency certifications for uses and activities occurring on the federal outer continental shelf.

NEW SECTION. Sec. 16. The authority for the joint select committee on marine and ocean resources is extended until June 30, 1994. During this time, the committee shall perform the following tasks:



(1) Analyze how the state can maximize the potential positive impacts and minimize the potential negative impacts associated with proposed federal outer continental shelf lands act oil and gas lease sales of Washington's coastal waters.

(2) Analyze the advantages and disadvantages of using the energy facilities—site locations act for making decisions on onshore energy facilities. The committee shall also explore alternative approaches for making these decisions.

(3) Work in coordination with, and provide direction to, the department of natural resources in preparing the analysis described in section 12 of this act.

(4) Complete those tasks assigned to it during the 1987 legislative session in SHCR 4407.

**NEW SECTION.** Sec. 17. (1) The sum of one hundred eighty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the department of ecology for the purposes of section 13 of this act. One hundred twenty thousand dollars of this amount, or as much thereof as may be necessary, shall be distributed by the department of ecology to local governments for the purpose of reviewing and amending their shoreline master programs.

(2) The sum of one hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the joint select committee on marine and ocean resources to be used to contract with the departments of ecology and natural resources for purposes of the analysis in section 12 of this act.

(3) To the maximum extent possible, the department of ecology and the department of natural resources shall use federal grant funds instead of the appropriations under this section.

**NEW SECTION.** Sec. 18. Section captions as used in this act do not constitute any part of the law.

**NEW SECTION.** Sec. 19. Sections 8 through 12 of this act shall constitute a new chapter in Title 43 RCW and may be known and cited as the ocean resources management act.

**NEW SECTION.** Sec. 20. 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 May 1, 1989.

Passed the Senate May 3, 1989.

Approved by the Governor May 8, 1989.

Filed in Office of Secretary of State May 8, 1989.

## CHAPTER 3

[Substitute House Bill No. 1479]

## SUPPLEMENTAL BUDGET, 1987-1989

AN ACT Relating to the budget; amending section 107, chapter 7, Laws of 1987 1st ex. sess. as amended by section 102, chapter 289, Laws of 1988 (uncodified); amending section 108, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 111, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 113, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 114, chapter 7, Laws of 1987 1st ex. sess. as amended by section 105, chapter 289, Laws of 1988 (uncodified); amending section 130, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 201, chapter 7, Laws of 1987 1st ex. sess. as amended by section 201, chapter 289, Laws of 1988 (uncodified); amending section 209, chapter 7, Laws of 1987 1st ex. sess. as amended by section 209, chapter 289, Laws of 1988 (uncodified); amending section 217, chapter 7, Laws of 1987 1st ex. sess. as amended by section 215, chapter 289, Laws of 1988 (uncodified); amending section 219, chapter 7, Laws of 1987 1st ex. sess. as amended by section 217, chapter 289, Laws of 1988 (uncodified); amending section 223, chapter 7, Laws of 1987 1st ex. sess. as amended by section 218, chapter 289, Laws of 1988 (uncodified); amending section 303, chapter 7, Laws of 1987 1st ex. sess. as amended by section 303, chapter 289, Laws of 1988 (uncodified); amending section 312, chapter 7, Laws of 1987 1st ex. sess. as amended by section 308, chapter 289, Laws of 1988 (uncodified); amending section 313, chapter 7, Laws of 1987 1st ex. sess. as amended by section 309, chapter 289, Laws of 1988 (uncodified); amending section 316, chapter 7, Laws of 1987 1st ex. sess. as amended by section 313, chapter 289, Laws of 1988 (uncodified); amending section 12, chapter 8, Laws of 1987 1st ex. sess. as amended by section 312, chapter 289, Laws of 1988 (uncodified); amending section 402, chapter 7, Laws of 1987 1st ex. sess. as amended by section 402, chapter 289, Laws of 1988 (uncodified); amending section 502, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 503, chapter 7, Laws of 1987 1st ex. sess. as last amended by section 502, chapter 289, Laws of 1988 (uncodified); amending section 504, chapter 7, Laws of 1987 1st ex. sess. as last amended by section 503, chapter 289, Laws of 1988 (uncodified); amending section 505, chapter 7, Laws of 1987 1st ex. sess. as last amended by section 504, chapter 289, Laws of 1988 (uncodified); amending section 507, chapter 7, Laws of 1987 1st ex. sess. as amended by section 506, chapter 289, Laws of 1988 (uncodified); amending section 508, chapter 7, Laws of 1987 1st ex. sess. as amended by section 507, chapter 289, Laws of 1988 (uncodified); amending section 509, chapter 7, Laws of 1987 1st ex. sess. as amended by section 508, chapter 289, Laws of 1988 (uncodified); amending section 510, chapter 7, Laws of 1987 1st ex. sess. as amended by section 509, chapter 289, Laws of 1988 (uncodified); amending section 511, chapter 7, Laws of 1987 1st ex. sess. as amended by section 510, chapter 289, Laws of 1988 (uncodified); amending section 513, chapter 7, Laws of 1987 1st ex. sess. as amended by section 511, chapter 289, Laws of 1988 (uncodified); amending section 514, chapter 7, Laws of 1987 1st ex. sess. as amended by section 512, chapter 289, Laws of 1988 (uncodified); amending section 515, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 516, chapter 7, Laws of 1987 1st ex. sess. as amended by section 513, chapter 289, Laws of 1988 (uncodified); amending section 521, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 522, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 514, chapter 289, Laws of 1988 (uncodified); amending section 601, chapter 7, Laws of 1987 1st ex. sess. as amended by section 601, chapter 289, Laws of 1988 (uncodified); amending section 603, chapter 7, Laws of 1987 1st ex. sess. as amended by section 603, chapter 289, Laws of 1988 (uncodified); amending section 604, chapter 7, Laws of 1987 1st ex. sess. as amended by section 604, chapter 289, Laws of 1988 (uncodified); amending section 712, chapter 7, Laws of 1987 1st ex. sess. as amended by section 705, chapter 289, Laws of 1988 (uncodified); amending section 714, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 715, chapter 7, Laws of 1987 1st ex. sess. as amended by section 706, chapter 289, Laws of 1988 (uncodified); amending section 716, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 717, chapter 7, Laws of 1987 1st ex. sess. as amended by section 707, chapter 289, Laws of 1988 (uncodified); amending section 708, chapter 289, Laws of 1988 (uncodified); amending section 709, chapter 289, Laws of 1988 (uncodified); adding new sections to chapter 7, Laws of 1987 1st ex. sess. (uncodified); creating new sections; repealing section 202, chapter 7, Laws of 1987 1st ex. sess., section 202, chapter 289,

Laws of 1988 (uncodified); repealing section 203, chapter 7, Laws of 1987 1st ex. sess., section 203, chapter 289, Laws of 1988 (uncodified); repealing section 204, chapter 7, Laws of 1987 1st ex. sess., section 204, chapter 289, Laws of 1988 (uncodified); repealing section 205, chapter 7, Laws of 1987 1st ex. sess., section 205, chapter 289, Laws of 1988 (uncodified); repealing section 206, chapter 7, Laws of 1987 1st ex. sess., section 206, chapter 289, Laws of 1988 (uncodified); repealing section 207, chapter 7, Laws of 1987 1st ex. sess., section 207, chapter 289, Laws of 1988 (uncodified); repealing section 208, chapter 7, Laws of 1987 1st ex. sess., section 208, chapter 289, Laws of 1988 (uncodified); repealing section 210, chapter 7, Laws of 1987 1st ex. sess., section 210, chapter 289, Laws of 1988 (uncodified); repealing section 211, chapter 7, Laws of 1987 1st ex. sess., section 211, chapter 289, Laws of 1988 (uncodified); repealing section 212, chapter 7, Laws of 1987 1st ex. sess., section 212, chapter 289, Laws of 1988 (uncodified); repealing section 213, chapter 7, Laws of 1987 1st ex. sess., section 213, chapter 289, Laws of 1988 (uncodified); repealing section 214, chapter 7, Laws of 1987 1st ex. sess., section 214, chapter 289, Laws of 1988 (uncodified); repealing section 215, chapter 7, Laws of 1987 1st ex. sess. (uncodified); repealing section 216, chapter 7, Laws of 1987 1st ex. sess. (uncodified); and repealing section 56, chapter 112, Laws of 1988 (uncodified); and declaring an emergency.

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

**NEW SECTION.** Sec. 1. (1) A budget is hereby adopted and, subject to the provisions set forth in the following sections, the several amounts specified in the following sections, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for salaries, wages, and other expenses of the agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 1987, and ending June 30, 1989, except as otherwise provided, out of the several funds of the state hereinafter named.

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

(a) "Fiscal year 1988" or "FY 1988" means the fiscal year ending June 30, 1988.

(b) "Fiscal year 1989" or "FY 1989" means the fiscal year ending June 30, 1989.

(c) "FTE" means full time equivalent.

(d) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is unnecessary to fulfill the specified purpose shall revert.

(e) "Revert" or "lapse" means the amount shall return to an unappropriated status.

**PART I  
GENERAL GOVERNMENT**

Sec. 101. Section 107, chapter 7, Laws of 1987 1st ex. sess. as amended by section 102, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE SUPREME COURT**

General Fund Appropriation . . . . . \$ ((+0,924,000))  
11,524,000

The appropriation in this section is subject to the following conditions and limitations: (~~(\$3,337,000)~~) \$3,937,000 is provided solely for the indigent appeals program.

Sec. 102. Section 108, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

**FOR THE LAW LIBRARY**

General Fund Appropriation . . . . . \$ ~~((2,574,000))~~  
2,617,000

Sec. 103. Section 111, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

**FOR THE ((JUDICIAL QUALIFICATIONS)) COMMISSION ON JUDICIAL CONDUCT**

General Fund Appropriation . . . . . \$ ~~((477,000))~~  
572,000

Sec. 104. Section 113, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

**FOR THE LIEUTENANT GOVERNOR**

General Fund Appropriation . . . . . \$ ~~((363,000))~~  
391,000

Sec. 105. Section 114, chapter 7, Laws of 1987 1st ex. sess. as amended by section 105, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE SECRETARY OF STATE**

General Fund Appropriation . . . . . \$ ~~((6,457,000))~~  
7,428,000

**Archives and Records Management Account**

Appropriation . . . . . \$ 2,116,000  
Total Appropriation . . . . . \$ ~~((8,573,000))~~  
9,544,000

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

(1) ~~\$(1,021,000)~~ 967,000 of the general fund appropriation is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures.

(2) ~~\$(1,661,000)~~ \$2,627,000 of the general fund appropriation is provided solely for the verification of initiative and referendum petitions and the maintenance of related voter registration records, legal advertising of state measures, and the publication and distribution of the voters and candidates pamphlet.

(3) \$60,000 of the archives and records management account appropriation is provided solely for a project that will evaluate the need for, and potential archival requirements of, storage of data contained in magnetic

media (tapes and disks). Implementation of an archival program for magnetic media shall not begin prior to approval of the findings and recommendations of the project by the office of financial management.

(4) ~~\$(83,000)~~ 59,000 of the general fund appropriation is provided solely for advertising Washington state's March 8, 1988, precinct caucuses.

(5) \$19,000 of the general fund appropriation is provided solely for census maps and activities related to the census redistricting data program.

(6) \$20,000 of the general fund appropriation is provided solely for the payment of productivity board awards under chapter 41.60 RCW.

Sec. 106. Section 130, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

**FOR THE BOARD OF TAX APPEALS**

General Fund Appropriation . . . . . \$ ~~((1,214,000))~~  
1,253,000

The appropriation in this section is subject to the following conditions and limitations: \$72,070 is provided solely to conduct appeals in eastern Washington and other locations to handle increased appeals from audits and King county board of equalization assessments.

NEW SECTION. Sec. 107. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

**FOR THE DEPARTMENT OF REVENUE**

State Toxics Control Account Appropriation . . . . . \$ 106,000

The appropriation in this section shall be reduced by any amounts expended under the appropriations in section 53, chapter 2, Laws of 1987 3rd ex. sess. and section 53, chapter 112, Laws of 1988.

**PART II  
HUMAN SERVICES**

Sec. 201. Section 201, chapter 7, Laws of 1987 1st ex. sess. as amended by section 201, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**(1) COMMUNITY SERVICES**

General Fund Appropriation . . . . . \$ 62,559,000  
Public Safety and Education Account Approp-  
riation . . . . . \$ 100,000  
Total Appropriation . . . . . \$ 62,659,000

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

(a) \$2,071,000 of the general fund appropriation is provided solely for the support of the office of the director of community services.

(b) \$200,000 of the general fund appropriation is provided solely for the notification of victims and witnesses of any parole, work release placement, furlough, or unescorted leave of absence from a state correctional facility of any inmate convicted of a violent offense.

(c) A maximum of \$285,000 of the general fund appropriation may be spent for the replacement of used equipment within the community services division.

(d) \$100,000 of the public safety and education account appropriation is provided solely for training community corrections officers in the identification and prevention of child abuse by offenders under their supervision.

**(2) INSTITUTIONAL SERVICES**

General Fund Appropriation . . . . . \$ 273,329,000

The appropriation in this subsection is subject to the following conditions and limitations:

(a) \$1,725,000 is provided solely for the implementation of the sex offender treatment program within the division of prisons.

(b) \$1,049,000 is provided solely for the operation of the new in-patient floor at the Monroe reformatory hospital.

(c) \$5,369,000 is provided solely for the support of the office of the director of the division of prisons.

(d) A maximum of \$1,898,000 may be spent for the replacement of used equipment within the institutional services division.

(e) \$200,000 is provided solely for alleviation of parking problems experienced by McNeil Island corrections personnel.

**(3) ADMINISTRATION AND PROGRAM SUPPORT**

General Fund Appropriation . . . . . \$ 17,331,000

Institutional Impact Account Appropriation . . . . . \$ 317,000

Total Appropriation . . . . . \$ 17,648,000

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

(a) The department shall report to the ways and means committees of the senate and house of representatives on January 1, 1988, and January 1, 1989, regarding its progress toward employing more minorities and women in top-level management positions.

(b) A maximum of \$1,258,000 of the general fund appropriation may be transferred to the tort claims revolving fund for tort claims against the department. The department shall develop a report, including brief descriptions and estimated amounts of all outstanding tort claims. The report is due to the ways and means committees of the senate and house of representatives on January 1, 1988. During the 1987-89 biennium, the department shall report on a quarterly basis the tort claim payments resulting from settlements and court judgments. New claims against the state shall be included in the quarterly updates.

(c) A maximum of \$150,000 may be spent for the replacement of used equipment within the administration division.

(4) INSTITUTIONAL INDUSTRIES

General Fund Appropriation . . . . . \$ 2,218,000

The appropriation in this subsection is subject to the following conditions and limitations: A maximum of \$500,000 may be spent for the replacement of used equipment within the institutional industries division.

(5) The appropriations in this section are subject to the following conditions and limitations: The department may spend money appropriated in a manner other than as provided in this section only after approval by the director of financial management. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any deviation from the appropriation levels set forth in this section and any deviation from the conditions and limitations enacted in subsections (1) through (4) of this section.

**\*NEW SECTION.** Sec. 202. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

General Fund Appropriation—State . . . . .	\$	2,415,917,000
General Fund Appropriation—Federal . . . . .	\$	1,970,020,000
General Fund Appropriation—Local . . . . .	\$	12,052,000
Institutional Impact Account Appropriation . . . . .	\$	78,000
Public Safety and Education Account Appropriation . . . . .	\$	600,000
Total Appropriation . . . . .	\$	4,398,667,000

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

(1) The appropriations in this section shall be expended for the programs and in the amounts listed in this subsection. However, except as provided in subsection (2) of this section, the department may transfer funds among programs listed in this subsection after approval by the director of financial management. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any deviation from the appropriation levels listed below and any deviation from the conditions and limitations enacted in chapter 7, Laws of 1987 1st ex. sess. as amended by chapter 289, Laws of 1988.

	General Fund—	
	<u>State</u>	<u>Total</u>
Children and family services	193,319,000	255,608,000
Juvenile rehabilitation	74,170,000	75,116,000
Mental health	271,586,000	339,887,000
Developmental disabilities	173,789,000	348,225,000
Long-term care services	347,005,000	699,882,000
Income assistance program	468,058,000	876,369,000
Medical assistance program	556,146,000	1,070,259,000
Public health program	63,160,000	149,690,000
Vocational rehabilitation program	12,529,000	48,319,000
Administration and support program	42,827,000	74,415,000
Community services administration	160,758,000	344,468,000
Revenue collections program	24,980,000	74,689,000
Payments to other agencies	27,590,000	41,740,000
Section totals	2,415,917,000	4,398,667,000

***(2) A maximum of \$78,100,000 of the general fund—state appropriation in this section may be spent for the general assistance—unemployable program. In addition, a maximum of \$1,200,000 may be spent for the general assistance—unemployable program, if such amount or any portion thereof is transferred pursuant to section 203(3) of this act. No other moneys may be transferred into or out of the general assistance—unemployable program.***

**(3) The department of social and health services shall not initiate any services that will require expenditure of state general fund moneys except as expressly authorized in this act, unless the services were previously provided. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act, and an equal amount of appropriated state general fund moneys shall lapse. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on explicitly defined projects or matched on a formula basis by state funds.**

**(4) This act is not intended to affect any vendor rate increases that were implemented prior to the effective date of this act.**

**(5) \$1,117,000 of the general fund—state appropriation and \$778,000 of the general fund—federal appropriation is provided solely to increase community residential services to developmentally disabled and mentally ill persons most in need of assistance as determined by the department.**



(6) \$346,000 of the general fund—state appropriation and \$782,000 of the general fund—federal appropriation are provided solely to comply with the mandatory provisions of P.L. 100-203 as it relates to developmentally disabled and mentally ill persons.

(7) Department staff shall assist general assistance clients in establishing eligibility for social security or supplemental security income benefits. The assistance shall include providing to the client or the appropriate social security office any documentation of the client's disability and, if appropriate, referral to legal counsel with expertise in social security law.

(8) It is the continuing intention of the legislature that payment levels in the aid to families with dependent children, general assistance, and refugee assistance programs contain an energy allowance to offset the high and rising costs of energy and that such allowance be excluded from consideration as income for the purpose of determining eligibility and benefit levels of the food stamp program to the maximum extent such exclusion is authorized under federal law and RCW 74.08.046. To this end, up to \$150,000,000 is so designated for exemptions of the following amounts:

Family Size:	1	2	3	4	5	6	7	8	or more
Exemption:	\$30	\$39	\$46	\$56	\$63	\$72	\$84	\$92	

(9) \$550,000 of the general fund—state appropriation is provided solely to expand the home builders program to provide assistance to families.

(10) \$30,000 of the general fund—state appropriation is provided solely for training services to providers of therapeutic day care.

(11)(a) \$100,000, of which \$55,000 is from the general fund—state appropriation, is provided solely for increased staff to investigate backlogged complaints of fraud in public assistance and food stamp programs and to establish and recover overpayments. The department shall increase the April 1988 level of staff in the verification and overpayment control system by 20 FTE positions. The department shall assign the additional staff with the goals of (i) reducing and ultimately eliminating the complaint backlog and (ii) maximizing overpayment recoveries during the biennium ending June 30, 1991.

(b) Expenditures for the purposes of this subsection shall be charged to a unique identifier in the department's accounting system. The department shall collect necessary data on the backlogged complaints and report to the legislative budget committee on December 1, 1989, and December 1, 1990, regarding the utilization, performance, and cost-effectiveness of the additional funding provided for complaint backlog work by this section and by the 1989-91 appropriations act.

(12) \$172,000 of the general fund—state appropriation is provided solely to expand the supplemental security income referral pilot program established by chapter 177, Laws of 1987 (uncodified).

(13) The amounts appropriated by this section reflect the amounts previously appropriated to the department for the 1987-89 biennium by the sections repealed by this act.

\*Sec. 202 was partially vetoed, see message at end of chapter.

Sec. 203. Section 209, chapter 7, Laws of 1987 1st ex. sess. as amended by section 209, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

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

General Fund Appropriation—State . . . . .	\$	((61,180,000))
		60,923,000
General Fund Appropriation—Federal . . . . .	\$	((16,866,000))
		20,838,000
General Fund Appropriation—Local . . . . .	\$	166,000
Total Appropriation . . . . .	\$	((78,212,000))
		81,927,000

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

- (1) Vendor rate increases shall average 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988.
- (2) \$195,000 of the general fund—state appropriation is provided solely to increase the annual base level of grants for county alcohol and drug abuse treatment services to \$40,000 per county.
- (3) \$23,165,000 of the general fund—state appropriation is provided solely for implementation of the alcohol and drug addiction treatment and support act, except that a maximum of \$1,200,000 of this amount may be transferred to and spent for the general assistance—unemployable program.

NEW SECTION. Sec. 204. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

State Toxics Control Account Appropriation . . . . .	\$	710,000
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The appropriation in this section is subject to the following conditions and limitations:

- (1) \$124,000, or as much thereof as may be necessary, shall be used to test public drinking water supplies for organic chemicals.
- (2) \$313,000, or as much thereof as may be necessary, shall be used to monitor drinking water supplies potentially affected by hazardous waste releases.
- (3) \$273,000, or as much thereof as may be necessary, shall be used for health risk assessments, health monitoring activities, and health information services for communities near a hazardous waste site.

(4) This appropriation shall be reduced by any amounts expended under the appropriations in section 54, chapter 2, Laws of 1987 3rd ex. sess. and section 54, chapter 112, Laws of 1988.

Sec. 205. Section 217, chapter 7, Laws of 1987 1st ex. sess. as amended by section 215, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

General Fund Appropriation—State . . . . .	\$	(( <del>34,357,000</del> ))
		<u>34,869,000</u>
General Fund Appropriation—Federal . . . . .	\$	(( <del>143,389,000</del> ))
		<u>142,312,000</u>
Building Code Council Account Appropriation . . . . .	\$	407,000
Fire Service Training Account Appropriation . . . . .	\$	500,000
Low Income Weatherization Account Appropriation . . . . .	\$	6,000,000
Total Appropriation . . . . .	\$	(( <del>184,653,000</del> ))
		<u>184,088,000</u>

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

(1) \$3,576,000 of the general fund—state appropriation is provided solely for grants to public and private nonprofit organizations to operate food banks, food distribution centers, and emergency shelters.

(2) \$100,000 of the general fund—state appropriation may be used for increased department administrative staff if the department receives federal grants in excess of \$1,000,000 under U.S. House of Representatives Resolution 558. If the department does not receive grants of at least \$1,000,000, the amount provided in this subsection shall lapse.

(3) \$12,136,000 of the general fund—state appropriation is provided solely for early childhood education and assistance programs under Substitute Senate Bill No. 5476 or Engrossed Second Substitute House Bill No. 456. These moneys shall be used to provide services to at least 2,000 children. If neither bill is enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(4) The department shall conduct a state-wide housing needs study. The study, with preliminary recommendations, shall be submitted to the housing committee of the house of representatives and the commerce and labor committee of the senate no later than December 31, 1987, and a final report shall be submitted by December 31, 1988.

(5) \$325,000 of the general fund—state appropriation is provided solely for pilot demonstrations and development of model vocational programs, including a study of a technology demonstration skills center, in Lewis county.

(6) \$708,000 of the general fund—state appropriation is provided solely for grants to public broadcast stations under section 3 of Engrossed Substitute Senate Bill No. 5285. \$42,000 of the general fund—state appropriation is provided solely for grants to public broadcast stations under section 4 of Engrossed Substitute Senate Bill No. 5285. If the bill is not enacted by June 30, 1987, the amounts provided in this subsection shall lapse.

(7) The department shall review the needs of low-income migrant and seasonal workers. To the extent that funds are available, the legislature encourages the department to give special attention to low-income migrant and seasonal workers.

(8) \$360,000 of the general fund—state appropriation is provided solely for grants to three nonprofit agencies and local government agencies for local reemployment centers. In order to provide a breadth of experience and geographic dispersion, one center shall be located in King county, one center shall be located in a southwest Washington county in which the unemployment rate was at least 20 percent above the state average during the preceding calendar year, and one center shall be located in an eastern Washington standard metropolitan statistical area in which the unemployment rate was at least 20 percent above the state average during the preceding calendar year. Each center shall provide direct and referral services to the unemployed. These services may include reemployment assistance, medical services, social services including marital counseling, psychotherapy, mortgage foreclosure and utility problem counseling, drug and alcohol abuse counseling, credit counseling, and other services deemed appropriate. These services are designed to supplement and not supplant the on-going efforts of local job centers administered by the employment security department. Each grant recipient must match state dollars on a one-for-one basis with nonstate dollars.

(9) \$118,000 of the general fund—state appropriation is provided solely for a study to determine the economic contribution of sport and commercial salmon and sturgeon fishing.

(10) \$100,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 430. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(11) \$173,000 of the general fund—state appropriation is provided solely for a study of the uses, structure, and operation of a state-wide video telecommunications network. The department shall submit a report to the house of representatives and senate by January 1, 1989, recommending a plan for using video telecommunications in state government and assessing the potential of a state-wide public affairs satellite/cable television network broadcasting programs on state government to Washington state citizens. The department shall consult with the telecommunications division of the

department of general administration for technical assistance in preparing this report.

(12) \$250,000 of the general fund—state appropriation is provided solely for the border town impact mitigation program.

(13) \$25,000 is provided solely for the purpose of implementing Engrossed Second Substitute Senate Bill No. 5252. If Engrossed Second Substitute Senate Bill No. 5252 is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(14) In addition to the fee imposed under RCW 19.27.085, there is imposed through June 30, 1989, a fee of two dollars on each building permit issued by a county or a city. Quarterly, each county and city shall remit moneys collected under this subsection to the state treasury for deposit in the building code council account. However, no remittance is required until at least fifty dollars has accumulated pursuant to this subsection.

(15) \$212,000 of the general fund—state appropriation is provided solely for technical assistance to Okanogan county for the preparation of plans and permits, including enforcement, relating to winter sports facilities development.

(16) \$58,000 of the general fund—state appropriation is provided solely for the state's share of the cost of the acquisition, installation, and maintenance of a Mt. St. Helen's flood warning system in Cowlitz county.

(17) \$125,000 of the general fund—state appropriation is provided solely for grants to the city of Omak and Okanogan county for enhanced surveillance and investigation needed because of school-related arson incidents. The department shall make grants based on demonstration of impact by the city and county.

(18) \$45,000 of the general fund—state appropriation is provided solely for a study assessing the positive and negative economic impacts of state correctional institutions on communities in which they are located. A report on the findings of the study shall be made to the legislature no later than December 31, 1988.

(19) \$250,000 of the general fund—state appropriation is provided solely for continuing Lewis county pilot demonstrations and model vocational programs under subsection (5) of this section, including such projects as career education and assessment, technology partnership on-site programs, centers for teaching the principles of technology, and a business partnership in medical technology program.

(20) \$30,000 of the general fund—state appropriation is provided solely for gathering, developing, and disseminating informational materials on the impacts of seismic occurrences and ways to protect people and property from them, and for other work to increase the public's awareness of the potential for a seismic event, including but not limited to, audio, visual, and written information, meetings, workshops, and seminars.

(21) \$1,000,000 of the general fund appropriation is provided solely for deposit in the housing trust fund under chapter 43.185 RCW for eligible housing activities to benefit the homeless. This may include the funding of shelters and transitional and permanent housing for homeless families and individuals.

(22) The department shall develop an analysis and report on homelessness and self-sufficiency in the manner specified in Substitute House Bill No. 1564 as passed by the house of representatives.

(23) \$512,000 of the general fund—state appropriation is provided solely to offset the loss of federal funds for local emergency management programs.

NEW SECTION. Sec. 206. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**  
State Toxics Control Account Appropriation . . . . . \$ 384,000

This appropriation shall be reduced by any amounts expended under the appropriations in section 52, chapter 2, Laws of 1987 3rd ex. sess. and section 52, chapter 112, Laws of 1988.

Sec. 207. Section 219, chapter 7, Laws of 1987 1st ex. sess. as amended by section 217, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE HUMAN RIGHTS COMMISSION**  
General Fund Appropriation—State . . . . . \$ ~~(3,258,000)~~  
3,398,000  
General Fund Appropriation—Federal . . . . . \$ 964,000  
Total Appropriation . . . . . \$ ~~((4,222,000))~~  
4,362,000

Sec. 208. Section 223, chapter 7, Laws of 1987 1st ex. sess. as amended by section 218, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**  
General Fund Appropriation . . . . . \$ 8,227,000  
Public Safety and Education Account Approp-  
riation . . . . . \$ 10,866,000  
Accident Fund Appropriation . . . . . \$ 85,159,000  
Electrical License Fund Appropriation . . . . . \$ ~~((9,907,000))~~  
9,994,000  
Farm Labor Revolving Account Appropriation . . . . . \$ 58,000  
Medical Aid Fund Appropriation . . . . . \$ 82,105,000  
Plumbing Certificate Fund Appropriation . . . . . \$ 660,000  
Pressure Systems Safety Fund Appropriation . . . . . \$ 1,148,000  
Worker and Community Right to Know Fund  
Appropriation . . . . . \$ 2,059,000

Total Appropriation . . . . . \$ ((200,190,000))  
200,276,000

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

(1) The department shall study the feasibility of establishing an independent ombudsman office to aid employers and employees, including self-insured employees, in dealing with the workers' compensation system. The study shall include an evaluation of the need for the office, the recommended functions of the office, and the mechanisms for oversight and funding. The department shall submit its findings and recommendations to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(2) The department shall evaluate the effectiveness of the workers' compensation vocational rehabilitation program, including the effectiveness of a worker resource center to provide injured worker adjustment services. The study shall be conducted in consultation with the workers' compensation advisory committee and interested groups representing injured workers, labor, and employers. The department shall submit its findings and recommendations to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(3) The department shall study, in cooperation with the employment security department and the department of social and health services, the potential impact in the state of a state minimum wage based on ninety percent of the federal poverty level. The results of the study shall be submitted to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(4) The department shall prepare a report on workers' compensation caseload information including, but not limited to, the average number of claims by type by adjudicator compared to optimal caseloads used in the private sector and any recommendations concerning improvement of caseloads. The report shall be submitted to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(5) All funds appropriated under this section for lease or lease development office space may be used to lease new office space only if the lease is for a period not exceeding three years and does not extend beyond June 30, 1991.

(6) The department shall establish an office of information and assistance to aid workers, employers, health care providers, and other department clients. The department shall report on the activities of the office to the appropriate committees of the legislature by January 1, 1989.

PART III  
NATURAL RESOURCES

Sec. 301. Section 303, chapter 7, Laws of 1987 1st ex. sess. as amended by section 303, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

General Fund Appropriation—State . . . . .	\$ 51,886,000
General Fund Appropriation—Federal . . . . .	\$ 40,846,000
General Fund Appropriation—Private/Local . . . . .	\$ 398,000
Hazardous Waste Control and Elimination Account Appropriation . . . . .	\$ 2,616,000
Flood Control Account Appropriation . . . . .	\$ 3,999,000
Wood Stove Public Education Account Appropriation . . . . .	\$ ((366,000))
	<u>276,000</u>
Special Grass Seed Burning Research Account Appropriation . . . . .	\$ 40,000
State Toxics Control Account . . . . .	\$ 620,000
Reclamation Revolving Account Appropriation . . . . .	\$ 836,000
Emergency Water Project Revolving Account Appropriation: Appropriated pursuant to chapter 1, Laws of 1977 ex. sess. . . . .	\$ 907,000
Litter Control Account Appropriation . . . . .	\$ 6,395,000
State and Local Improvements Revolving Account—Waste Disposal Facilities: Appropriated pursuant to chapter 127, Laws of 1972 ex. sess. (Referendum 26) . . . . .	\$ 761,000
State and Local Improvements Revolving Account—Waste Disposal Facilities 1980: Appropriated pursuant to chapter 159, Laws of 1980 (Referendum 39) . . . . .	\$ 2,575,000
State and Local Improvements Revolving Account—Water Supply Facilities: Appropriated pursuant to chapter 234, Laws of 1979 ex. sess. (Referendum 38) . . . . .	\$ 1,111,000
Stream Gaging Basic Data Fund Appropriation . . . . .	\$ 139,000
Tire Recycling Account Appropriation . . . . .	\$ 548,000
Water Quality Account Appropriation . . . . .	\$ 2,398,000
Workers and Community Right to Know Fund Appropriation . . . . .	\$ 229,000
Total Appropriation . . . . .	\$ ((116,670,000))
	<u>116,580,000</u>



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

(1) The department shall implement the Nisqually river task force recommendations. \$150,000 of the general fund—state appropriation is provided solely for this purpose.

(2) \$985,000 of the general fund—state appropriation is provided solely for allocation to local air pollution control authorities.

(3) The appropriation from the wood stove public education account is contingent upon the enactment of House Bill No. 16. If the bill is not enacted by June 30, 1987, this appropriation shall lapse.

(4) \$9,250,000 of the general fund—state appropriation is provided solely to carry out the department's responsibilities contained in the Puget Sound water quality plan and perform corresponding state-wide water quality activities.

(5) \$715,000 of the general fund—state appropriation is provided for the purposes of solid waste management.

(6) \$553,000 of the general fund—state appropriation is provided solely for implementing the timber, fish, and wildlife agreement. If Senate Bill No. 5845 is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(7) \$225,000 of the general fund—state appropriation and \$50,000 of the hazardous waste control and elimination account appropriation are provided solely to: (a) Contract with the University of Washington college of ocean and fisheries sciences to develop a damage assessment methodology for determining damages as a result of oil spills, and (b) contract with the department of community development to design a model oil spill contingency plan.

(8) Within the general fund appropriation, the department shall prepare penalty regulations for waste disposal permit violations, including minimum penalties, based upon severity and frequency of violation.

(9) \$302,000 of the general fund—state appropriation is provided solely for operating the Padilla Bay estuarine sanctuary interpretive center.

(10) \$288,000 of the general fund—state appropriation is provided solely to implement Senate Bill No. 5570. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(11) \$392,000 of the emergency water project revolving account appropriation (emergency water supply) is provided solely for the purpose of planning and administering drought relief activities as required by Second Substitute Senate Bill No. 6513. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(12) \$200,000 of the emergency water project revolving account appropriation (emergency water supply) is provided solely for staff support and contract services as required by Engrossed Second Substitute Senate

Bill No. 6724. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(13) \$140,000 of the emergency water project revolving account appropriation (emergency water supply) is provided solely for a comprehensive state water use efficiency study as required by Engrossed Substitute House Bill No. 1594. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(14) \$20,000 of the general fund—state appropriation and \$100,000 of the general fund—federal appropriation are provided solely for a grant to Pend Oreille county for the purpose of controlling milfoil in the Pend Oreille river. In addition to the funds provided in this subsection, the department shall provide up to \$75,000 from other appropriate state fund sources. These amounts, when combined with local matching funds, shall equal a total project cost of at least \$200,000.

(15) \$200,000 of the general fund—state appropriation is provided solely for the completion of phase two of the site closure and perpetual care report required by RCW 43.200.190.

Sec. 302. Section 312, chapter 7, Laws of 1987 1st ex. sess. as amended by section 308, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

General Fund Appropriation—State . . . . .	\$	<del>((42,574,000))</del>
		<u>57,760,000</u>
General Fund Appropriation—Federal . . . . .	\$	<del>((78,000))</del>
		<u>752,000</u>
General Fund Appropriation—Private/Local . . . . .	\$	<del>((20,000))</del>
		<u>50,000</u>
ORV (Off-Road Vehicle) Account Appropria- tion—Federal . . . . .	\$	3,086,000
Geothermal Account Appropriation—Fedral . . . . .	\$	16,000
Forest Development Account Appropriation . . . . .	\$	<del>((21,294,000))</del>
		<u>21,315,000</u>
Survey and Maps Account Appropriation . . . . .	\$	838,000
Aquatic Land Dredged Material Disposal Site Account Appropriation . . . . .	\$	106,000
Landowner Contingency Forest Fire Suppres- sion Account Appropriation . . . . .	\$	<del>((1,636,000))</del>
		<u>3,207,000</u>
Resource Management Cost Account Appropria- tion . . . . .	\$	<del>((55,279,000))</del>
		<u>55,328,000</u>
Total Appropriation . . . . .	\$	<del>((124,927,000))</del>
		<u>142,458,000</u>

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

(1) ~~\$(8,721,000)~~ 23,877,000 of the general fund—state appropriation is provided solely for the emergency fire suppression subprogram.

(2) \$2,649,000 of the general fund—state appropriation is provided solely for implementing the provisions of the timber fish wildlife agreement. This amount is contingent on: (a) The department reorganizing existing staff in the forest practices subprogram so that the majority of the staff positions are dedicated to regulating forest practices and are not responsible for state land management; and (b) the enactment of Senate Bill No. 5845. If the bill is not enacted by June 30, 1987, this amount shall lapse.

(3) \$270,000 of the general fund—state appropriation is provided solely for the department's responsibilities in implementing the recommendations contained in the Puget Sound water quality plan.

(4) From the resource management cost account and general fund—state appropriations in this section, the department shall create an additional one hundred full time equivalent jobs, providing employment opportunities for a total of 200 people, 50 each for a period not to exceed six months, under the provisions of the employment security department's counter-cyclical employment program in section 226 of this act. These jobs shall pay at least eight dollars per hour, excluding benefits. Work performed under this subsection must provide economic benefits to state trust lands.

(5) \$193,000 of the general fund—state and the aquatic land dredged material disposal site account appropriations are provided solely for the purposes of Senate Bill No. 5501. If the bill is not enacted by June 30, 1987, this appropriation shall lapse.

(6) \$439,000 of the general fund—state appropriation is provided solely for spraying to control spruce budworm infestations.

(7) \$75,000 of the resource management cost account appropriation is provided solely for a feasibility study, under the guidance of the office of financial management and the department of information systems, directed at the development of a cost allocation system.

(8) Based on schedules submitted by the director of financial management, the state treasurer shall transfer from the general fund—state or such other funds as the state treasurer deems appropriate to the Clarke McNary fund such amounts as are necessary to meet unbudgeted forest fire fighting expenses. All amounts borrowed under the authority of this section shall be repaid to the appropriate fund, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed.

(9) \$30,000 of the general fund—state appropriation, \$49,000 of the resource management cost account appropriation, and \$21,000 of the forest development account appropriation are provided solely for the purpose of conducting a study of costs and options connected with slash disposal. The

general fund—state amount identified in this subsection may be spent only in an amount equal to private matching funds received and applied by the department of natural resources for the same purpose.

Sec. 303. Section 313, chapter 7, Laws of 1987 1st ex. sess. as amended by section 309, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

General Fund Appropriation—State . . . . .	\$	((16,073,000))
		<u>16,408,000</u>
General Fund Appropriation—Federal . . . . .	\$	601,000
Feed and Fertilizer Account Appropriation . . . . .	\$	22,000
Fertilizer, Agricultural, Mineral and Lime Fund Appropriation . . . . .	\$	455,000
Commercial Feed Fund Appropriation . . . . .	\$	409,000
Seed Fund Appropriation . . . . .	\$	979,000
Nursery Inspection Fund Appropriation . . . . .	\$	1,011,000
Livestock Security Interest Account Appropria- tion . . . . .	\$	34,000
<b>Total Appropriation . . . . .</b>	<b>\$</b>	<b>((19,584,000))</b>
		<u>19,919,000</u>

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

(1) \$48,000 of the general fund—state appropriation is provided solely for carrying out the water quality plan.

(2) \$53,000 of the general fund—state appropriation is provided solely for the control of starlings as a part of the predatory animal control program.

(3) \$20,000 of the general fund—state appropriation is provided solely to purchase poultry disease diagnostic laboratory equipment through a cooperative agreement with Washington State University.

(4) \$120,000 of the general fund—state appropriation is provided solely for the continuation of the brucellosis vaccination program.

(5) \$200,000 of the general fund—state appropriation is provided solely for enhancement of the noxious weed control program.

(6) \$200,000 of the general fund—state appropriation is provided solely to initiate a marketing program for Washington-bred horses.

(7) \$120,000 of the general fund—state appropriation is provided solely for the aquaculture program.

(8) \$12,000 of the general fund—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 6240. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

Sec. 304. Section 316, chapter 7, Laws of 1987 1st ex. sess. as amended by section 313, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON CENTENNIAL COMMISSION**

General Fund Appropriation .....	\$	7,377,000
State Centennial Commission Account Approp- riation .....	\$	((2,540,000))
		<u>2,420,000</u>
Total Appropriation .....	\$	((9,917,000))
		<u>9,797,000</u>

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

(1) State agencies, at the request of the centennial commission, may develop programs or activities related to the Washington state centennial. Agencies that develop programs or activities in conjunction with the centennial commission shall not charge the commission for overhead or administrative costs.

(2) The commission may contract with Pacific Celebration '89 for promotion of Washington state's future trade and economic ties with nations in the Pacific rim. Any contract with Pacific Celebration '89 shall include, but is not limited to, the following conditions:

(a) Pacific Celebration '89 activities shall create increased opportunities for marketing Washington state products and services, include a series of leadership conferences on emerging issues of the Pacific economy, promote Washington state as the focus of trade activity within the Pacific basin, recognize the contributions to the development of Washington state by people of Pacific heritage, and increase knowledge and understanding of Pacific cultures by Washington citizens. Activities shall be staged in communities throughout the state during the centennial year.

(b) Each \$1.00 in state funds provided to Pacific Celebration shall be matched over the course of the biennium by at least \$1.60 in private contributions and event sponsorships. If, at any point during the biennium, the centennial commission determines that private contributions and event sponsorships will, by the end of the biennium, amount to less than \$1.60 for each \$1.00 of state money provided, it shall reduce disbursements proportionally.

(c) Any state money used for contracts with Pacific Celebration shall be repaid, to the greatest extent possible, from net revenue of Pacific Celebration activities. Net revenues from these activities shall be maximized and returned to the general fund according to a financial plan approved by the commission.

(3) The general fund appropriation is intended to be the final state contribution to the funding of centennial commission projects.

(4) If the commission terminates the contracts authorized under subsection (2) of this section prior to the effective date of this 1988 section, the commission shall use all money that had been committed to but will not be expended for these contracts on the following activities: (a) Efforts to increase opportunities for marketing Washington state products and services; (b) a series of leadership conferences on emerging issues of the Pacific economy; (c) promotion of Washington state as the focus of trade activity within the Pacific basin; (d) recognition of the contributions to the development of Washington state by people of Pacific heritage; and (e) efforts to increase knowledge and understanding of Pacific cultures by Washington citizens.

~~((5) \$50,000 of the general fund appropriation is provided solely for staff and administrative services by the department of community development for a 20:20 commission. The 20:20 commission shall develop a plan to prepare the state to respond positively to the economic, social, and environmental changes which will face its citizens as they enter the next century.))~~

Sec. 305. Section 12, chapter 8, Laws of 1987 1st ex. sess. as amended by section 312, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

~~\$(11,956,000))~~ 13,784,000 or so much thereof as may be necessary, is appropriated from the state convention and trade center operations account to the state convention and trade center corporation, for the fiscal biennium ending June 30, 1989, for the purposes of operation and promotion of the center. The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,540,000 is provided solely for marketing the facilities and services of the convention center, for promoting the locale as a convention and visitor destination, and for related activities. ~~((Unless a bill increasing the special excise tax under RCW 67.40.090 to six percent in the city of Seattle and two and four-tenths percent in King county outside the city of Seattle is enacted by June 30, 1988, the amount provided in the previous sentence shall lapse.))~~

(2) Not more than \$9,500,000 of the moneys appropriated in this section may be expended from moneys transferred from the state general fund to the state convention and trade center operations account pursuant to RCW 67.40.055.

(3) \$50,000 is provided solely for installation of a donated bronze Japanese temple bell.

NEW SECTION. Sec. 306. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

State Toxics Control Account Appropriation . . . . . \$ 13,761,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$9,080,000, or as much thereof as may be necessary, shall be expended for the purposes of administering and conducting remedial action.

(2) \$4,030,000, or as much thereof as may be necessary, shall be expended for the ongoing implementation of the hazardous waste regulatory program authorized by chapter 70.105 RCW including, but not limited to, activities to permit and inspect hazardous waste facilities.

(3) \$340,000, or as much thereof as may be necessary, shall be used to provide technical assistance to local governments in accordance with RCW 70.105.170 and 70.105.255, and for local planning grants as provided in RCW 70.105.220 and 70.105.235(1)(a), (b), and (c).

(4) \$311,000, or as much thereof as may be necessary, shall be used for solid waste management activities including, but not limited to: (a) State and local solid waste enforcement; (b) development and dissemination of technical assistance information for local governments regarding proper management and disposal of solid waste in accordance with RCW 70.95.100 and 70.95.263(2); and (c) local planning grants as provided in RCW 70.95.130.

(5) The appropriation in this section shall be reduced by any amounts expended under the appropriations in section 50, chapter 2, Laws of 1987 3rd ex. sess. and section 50, chapter 112, Laws of 1988.

NEW SECTION. Sec. 307. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**  
State Toxics Control Account Appropriation . . . . . \$ 150,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation shall be used for the business assistance program. The appropriation in this section shall be reduced by any amounts expended under the appropriations in section 57, chapter 2, Laws of 1987 3rd ex. sess. and section 57, chapter 112, Laws of 1988.

NEW SECTION. Sec. 308. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**  
Local Toxics Control Account Appropriation . . . . . \$ 16,185,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$936,000, or as much thereof as may be necessary, shall be expended for local solid waste enforcement grants.

(2) \$15,249,000, or as much thereof as may be necessary, shall be used for grants pursuant to section 7(3), chapter 2, Laws of 1989.

(3) This appropriation shall be reduced by any amounts expended under the appropriations in Initiative 97, section 55, chapter 2, Laws of 1987 3rd ex. sess. and section 55, chapter 112, Laws of 1988.

**NEW SECTION.** Sec. 309. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Water Quality Permit Account Appropriation . . . . . \$ 3,600,000

The appropriation in this section shall be reduced by any amount expended under the appropriation in section 58, chapter 2, Laws of 1987 3rd ex. sess. and section 58, chapter 112, Laws of 1988.

**NEW SECTION.** Sec. 310. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

State Toxics Control Account Appropriation . . . . . \$ 234,000

The appropriation in this section shall be reduced by any amounts expended under the appropriations in section 51, chapter 2, Laws of 1987 3rd ex. sess. and section 51, chapter 112, Laws of 1988.

**PART IV  
TRANSPORTATION**

Sec. 401. Section 402, chapter 7, Laws of 1987 1st ex. sess. as amended by section 402, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

General Fund Appropriation . . . . .	\$	<del>((15,704,000))</del>
		<u>15,846,000</u>
Architects' License Account Appropriation . . . . .	\$	765,000
Health Professions Account Appropriation . . . . .	\$	9,709,000
Medical Disciplinary Account Appropriation . . . . .	\$	1,195,000
Professional Engineers' Account Appropriation . . . . .	\$	1,207,000
Real Estate Commission Account Appropria-		
tion . . . . .	\$	4,936,000
Total Appropriation . . . . .	\$	<del>((33,516,000))</del>
		<u>33,658,000</u>

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

- (1) A maximum of \$426,000 from the health professions account appropriation may be used to contract with the board of pharmacy for drug-related investigations regarding licensed health care professionals.
- (2) \$750,000 of the general fund appropriation is provided solely for expansion of the master license system.



(3) \$42,000 of the general fund appropriation is provided solely for implementation of Engrossed House Bill No. 713. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(4) \$64,000 of the general fund appropriation is provided solely for enhanced regulation and scrutiny of debenture companies under the provisions of Substitute House Bill No. 1525. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(5) \$28,000 of the general fund appropriation is provided solely for recording federal liens under Engrossed Senate Bill No. 6563. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse. The amount spent under this subsection shall not exceed the amount of additional fee revenue generated under the bill.

(6) \$83,000 of the health professions account appropriation is provided solely for certifying and registering nursing assistants under Engrossed Substitute House Bill No. 1530. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(7) \$25,000 of the health professions account appropriation is provided solely for adopting rules governing the use of sedation and anesthesia for dental practice under Engrossed House Bill No. 668. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(8) \$104,000 of the general fund appropriation is provided solely for regulation of camping clubs under Substitute House Bill No. 791. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(9) \$142,000 of the general fund appropriation is provided solely for costs associated with AIDS training of licensed health care professionals mandated by chapter 206, Laws of 1988. Amounts expended under this subsection shall be repaid by the licensed professions receiving training.

PART V  
EDUCATION

Sec. 501. Section 502, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS

General Fund Appropriation . . . . . \$ ~~(9,966,000)~~  
9,967,000

The appropriation in this section is subject to the following conditions and limitations: The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.21.088 (3) and (4).

Sec. 502. Section 503, chapter 7, Laws of 1987 1st ex. sess. as last amended by section 502, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT (BASIC EDUCATION)

General Fund Appropriation .....	\$( <del>3,834,946,000</del> )
	<u>3,837,883,000</u>
Revenue Accrual Account Appropriation .....	\$ 55,100,000
Total Appropriation .....	\$( <del>3,890,046,000</del> )
	<u>3,892,983,000</u>

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

(1) \$367,323,000 is provided solely for the remaining months of the 1986–87 school year.

(2) Allocations for certificated staff salaries for the 1987–88 and 1988–89 school years shall be determined by multiplying each district's average basic education certificated instructional and administrative salaries as determined under section 504, chapter 7, Laws of 1987 1st ex. sess., as amended, by the districts' formula-generated staff units as follows:

(a) On the basis of average annual full time equivalent enrollments, excluding handicapped full time equivalent enrollment as recognized for funding purposes under section 507, chapter 7, Laws of 1987 1st ex. sess., and excluding full time equivalent enrollment otherwise recognized for certificated staff unit allocations under (d) through (i) of this subsection:

(i) Forty–six certificated instructional staff units for each one thousand full time equivalent kindergarten through twelfth grade students.

(ii) Four certificated administrative staff units for each one thousand full time equivalent kindergarten through twelfth grade students.

(b)(i) For the 1987–88 school year, an additional two certificated instructional staff units for each one thousand average annual full time equivalent students in kindergarten through third grade.

(ii) For the 1988–89 school year, an additional three certificated instructional staff units for each one thousand average annual full time equivalent students in kindergarten through third grade.

(c)(i) For school districts with a minimum enrollment of 250 full time equivalent students, whose full time equivalent student enrollment count in a given month exceeds the first of the month full time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full time equivalent students been included in the normal enrollment count for that particular month.

(ii) For school districts that are located in a special economic distress impact area as defined in this subsection, and that experienced a decline in average annual full time equivalent enrollment between the 1987–88 and 1988–89 school years of at least two hundred full time equivalent students or four percent, whichever is less, additional staff unit allocations for the

1988-89 school year equivalent to the number of staff units generated under (a) of this subsection by half of the enrollment difference between the two school years. "Special economic distress impact area" shall mean a county that had an average unemployment rate for fiscal year 1988 which exceeded the average state unemployment rate for the same period by fifteen percent, and which is located in whole or in part within a fifty mile radius of a nuclear reactor scheduled to be placed in inoperative standby status.

(d) 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each seventeen and one-half full time equivalent students enrolled in a vocational education program approved by the superintendent of public instruction. However, for skill center programs, the ratio shall be 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each annual average 16.67 full time equivalent students enrolled in an approved vocational education program.

(e) For districts enrolling not more than twenty-five average annual full time equivalent students in kindergarten through grade eight, and for small school plants within any school district which enroll not more than twenty-five average annual full time equivalent kindergarten through eighth grade students and have been judged to be remote and necessary by the state board of education:

(i) For those enrolling no students in grades seven or eight, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in either grades seven or eight, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled.

(f) For districts enrolling more than twenty-five but not more than one hundred average annual full time equivalent students in kindergarten through grade eight, and for small school plants within any school district which enroll more than twenty-five average annual full time equivalent kindergarten through eighth grade students and have been judged to be remote and necessary by the state board of education, in the following cases:

(i) For districts and small school plants with enrollments of up to sixty annual average full time equivalent students in kindergarten through grade six, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units;

(ii) For districts and small school plants with enrollments of up to twenty annual average full time equivalent students in grades seven and eight, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units.

(g) For each nonhigh school district having an enrollment of more than seventy annual average full time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit.

(h) For each nonhigh school district having an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(i) For districts that operate no more than two high schools with enrollments of not more than three hundred average annual full time equivalent students, for enrollments in each such high school, excluding handicapped and vocational full time equivalent enrollments for the 1987-88 school year only:

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

(ii) Additional certificated staff units based upon a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per forty-three and one-half average annual full time equivalent students; and

(iii) For the 1988-89 school year, excluding certificated staff units at the rate of 46 certificated instructional staff units and 4 certificated administrative staff units per 1,000 vocational and handicapped full time equivalent students.

(3) Allocations for classified salaries for the 1987-88 and 1988-89 school years shall be calculated by multiplying each district's average basic education classified salary allocation as determined under section 504(2), chapter 7, Laws of 1987 1st ex. sess., as amended, by the district's formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsections (2) (e) through (i) of this section, one classified staff unit per each three certificated staff units allocated under such subsections.

(b) For all other enrollment in grades kindergarten through twelve, including vocational but excluding handicapped full time equivalent enrollments, one classified staff unit for each sixty average annual full time equivalent students.

(c) For each nonhigh school district with an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 19.41 percent in the 1987-88 school year and ~~((19.53))~~ 19.59 percent in the 1988-89 school year of certificated salary allocations provided under subsection (2) of this section, and a rate of 17.00 percent in the 1987-88 school

year and ~~((17.12))~~ 17.18 percent in the 1988-89 school year of classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations for the 1987-88 and 1988-89 school years shall be calculated at a rate of \$167 per month for the number of certificated staff units determined in subsection (2) of this section and for the number of classified staff units determined in subsection (3) of this section multiplied by 1.152.

(6)(a) For nonemployee related costs with each certificated staff unit allocated under subsections (2) (a), (b), (c), and (e) through (i) of this section, there shall be provided a maximum of \$5,973 per certificated staff unit in the 1987-88 school year and a maximum of \$6,188 per certificated staff unit in the 1988-89 school year.

(b) For nonemployee related costs with each certificated staff unit allocated under subsection (2)(d) of this section, there shall be provided a maximum of \$11,382 per certificated staff unit in the 1987-88 school year and a maximum of \$11,792 per certificated staff unit in the 1988-89 school year.

(7) Allocations for costs of substitutes for classroom teachers shall be distributed at a maximum rate of \$275 per full time equivalent basic education classroom teacher during the 1987-88 and 1988-89 school years.

(8) The superintendent may distribute a maximum of ~~((3,209,000))~~ \$3,191,000 outside the basic education formula during fiscal years 1988 and 1989 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of ~~((342,000))~~ \$324,000 may be expended in fiscal year 1988 and a maximum of \$342,000 in fiscal year 1989.

(b) For summer vocational programs at skills centers, a maximum of \$1,099,000 may be expended in fiscal year 1988 and a maximum of \$1,135,000 may be expended in fiscal year 1989.

(c) A maximum of \$472,000 may be expended for school district emergencies.

(9) Formula enhancements are provided under this section which are not attributable to enrollment or workload changes, compensation increases, or inflationary adjustments. For the purposes of RCW 84.52.0531, the following allocations shall be recognized as levy reduction funds:

(a) For the 1987-88 school year, for certificated instructional staff units generated under subsection (2)(b)(i) of this section, all allocations for nonemployee-related costs and one-half of all allocations for certificated salaries and benefits.

(b) For the 1988-89 school year, for certificated instructional staff units generated under subsection (2)(b)(ii) of this section, one-third of all allocations including nonemployee-related costs and certificated staff salaries and benefits.

(10) For the purposes of section 101, chapter 2, Laws of 1987 1st ex. sess., the increase per full time equivalent student in the state basic education appropriation provided under this section and section 514 of this 1988 act is 2.75 percent between the 1986-87 and 1987-88 school years, and 4.93 percent between the 1987-88 and 1988-89 school years.

(11) The revenue accrual account appropriation is provided solely for allocations for employer contributions to the teachers' retirement system included under subsection (4) of this section.

(12) A maximum of \$372,000 may be distributed to enhance funding provided in subsections (1) through (8) of this section for remote and necessary school plants on islands without scheduled public transportation which are the sole school plants serving students in elementary grades on these islands. To be eligible in any school year for an allocation under this subsection, a school district must demonstrate that, either on an aggregate or per pupil basis, the percentage growth from the prior year in the district's expenditures for programs for students enrolled in the remote school plant is not less than the percentage growth from the prior school year in the district's operating expenditures district-wide. The superintendent of public instruction shall ensure compliance with this subsection, including appropriate distribution of school district overhead costs. The superintendent shall study and, in a report submitted to the legislature prior to December 1, 1988, make recommendations on adequate but not excessive funding formulas for remote and necessary school plants serving less than twenty-five students.

(13) The appropriations in this section include \$119,343,000 allocated for compensation increases for basic education staff, as provided pursuant to section 504, chapter 7, Laws of 1987 1st ex. sess., as amended.

Sec. 503. Section 504, chapter 7, Laws of 1987 1st ex. sess. as last amended by section 503, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION**

For the purposes of section 503, chapter 7, Laws of 1987 1st ex. sess., as amended, and this section, the following conditions and limitations apply:

(1) (a) Districts shall certify to the superintendent of public instruction such information as may be necessary regarding the years of service and educational experience of basic education certificated instructional employees for the purposes of calculating certificated instructional staff salary allocations pursuant to this section. Any change in information previously certified, on the basis of additional years of experience or educational credits, shall be reported and certified to the superintendent of public instruction at the time such change takes place.

(b) For the purposes of this section, "basic education certificated instructional staff" is defined as provided in RCW 28A.41.110.

(c) "LEAP Document 1" means the computerized tabulation establishing staff mix factors for basic education certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on August 18, 1987, at 13:26 hours.

(d) "LEAP Document 10" means the computerized tabulation of 1986-87 average salary allocations for basic education certificated administrative staff and basic education classified staff, as developed by the legislative evaluation and accountability program committee on May 11, 1987, at 11:06 hours.

(e) "LEAP Document 11" means the computerized tabulation of 1986-87 derived base salaries for basic education certificated instructional staff, as developed by the legislative evaluation and accountability program committee on August 19, 1987, at 10:29 hours.

(f) "Derived base salary" means a school district's average salary for basic education certificated instructional staff, divided by the district's average staff mix factor for such staff computed using LEAP Document 1.

(2)(a)(i) For the 1987-88 school year, average salary allocations for basic education certificated administrative staff under section 503, chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's 1986-87 certificated administrative average salary shown on LEAP Document 10, increased by 2.1 percent of the 1986-87 LEAP Document 10 state-wide average salary for certificated administrative staff.

(ii) For the 1988-89 school year, average salary allocations for basic education certificated administrative staff under section 503, chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's certificated administrative average salary allocation for the 1987-88 school year provided under this section, further increased by 2.14 percent of the 1986-87 LEAP Document 10 state-wide average salary.

(b)(i) For the 1987-88 school year, average salary allocations for basic education classified staff under section 503, chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's 1986-87 classified average salary shown on LEAP Document 10, increased by 2.7 percent of the 1986-87 LEAP Document 10 state-wide average salary for classified staff.

(ii) For the 1988-89 school year, average salary allocations for basic education classified staff under section 503, chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's classified average salary allocation for the 1987-88 school year provided under this section, further increased by 2.77 percent of the 1986-87 LEAP Document 10 state-wide average classified salary.

(c) Allocations for certificated instructional salaries in the 1987-88 school year under section 503(2), chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the greater of:

(i) The district's average salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff for that school year on the 1987-88 state-wide salary allocation schedule established in subsection (3)(a) of this section; or

(ii) The district's actual average annual basic education certificated instructional staff salary for the 1986-87 school year, as reported to the superintendent of public instruction prior to June 1, 1987, improved by 2.1 percent; or

(iii) The district's 1986-87 derived base salary for basic education certificated instructional staff as shown on LEAP Document 11, multiplied by the district's average staff mix factor determined using LEAP Document 1 for 1987-88 basic education certificated instructional staff, and further increased by 2.1 percent.

(d) Allocations for certificated instructional salaries in the 1988-89 school year under section 503(2), chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the greater of:

(i) The district's average salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff for that school year on the 1988-89 state-wide salary allocation schedule established in subsection (3)(b) of this section; or

(ii) For districts which received salary allocations for the 1987-88 school year under subsection (2)(c)(ii) or (iii) of this section, the district's actual 1987-88 derived base salary for basic education certificated instructional staff computed as of January 9, 1989, by the superintendent of public instruction using LEAP Document 1, multiplied by the district's average staff mix factor determined using LEAP Document 1 for 1988-89 basic education certificated instructional staff, and further increased by 2.1 percent. In no case shall the actual 1987-88 derived base salary recognized in this subsection exceed the average salary used for state allocations in the 1987-88 school year for basic education certificated instructional staff under section 502 of this 1988 act, including the increases provided under this section and section 504(4) of this 1988 act, divided by the district's average staff mix factor for 1987-88 basic education certificated instructional staff.

(3) Pursuant to RCW 28A.41.112, the following state-wide salary allocation schedules for certificated instructional staff, for allocation purposes only, are established:



(a) 1987-88 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	17,050	17,510	17,988	18,465
1	17,681	18,158	18,653	19,164
2	18,329	18,823	19,335	19,897
3	19,011	19,522	20,051	20,648
4	19,710	20,255	20,801	21,432
5	20,443	21,006	21,568	22,250
6	21,210	21,773	22,370	23,103
7	21,995	22,574	23,188	23,972
8	22,796	23,410	24,041	24,893
9		24,279	24,944	25,831
10			25,865	26,820
11				27,843
12				
13				
14 or more				

1987-88 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	20,000	20,989	20,000	21,210	22,250
1	20,750	21,756	20,750	21,995	23,069
2	21,517	22,557	21,517	22,813	23,921
3	22,301	23,393	22,301	23,648	24,808
4	23,137	24,262	23,137	24,518	25,728
5	23,989	25,166	23,989	25,439	26,666
6	24,876	26,087	24,876	26,376	27,655
7	25,797	27,058	25,797	27,348	28,678
8	26,751	28,064	26,751	28,354	29,752
9	27,740	29,104	27,740	29,411	30,843
10	28,763	30,179	28,763	30,502	31,986
11	29,838	31,287	29,838	31,628	33,162
12	30,946	32,446	30,946	32,804	34,390
13	32,088	33,640	32,088	34,015	35,669
14 or more		34,884	33,265	35,276	36,981

(b) 1988-89 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	17,600	18,075	18,568	19,061
1	18,251	18,744	19,254	19,782
2	18,920	19,430	19,958	20,539
3	19,624	20,152	20,698	21,314
4	20,346	20,909	21,472	22,123
5	21,102	21,683	22,264	22,968
6	21,894	22,475	23,091	23,848
7	22,704	23,302	23,935	24,746
8	23,531	24,165	24,816	25,696
9		25,062	25,749	26,664
10			26,699	27,685
11				28,741
12				
13				
14 or more				

1988-89 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	20,645	21,666	20,645	21,894	22,968
1	21,419	22,458	21,419	22,704	23,813
2	22,211	23,285	22,211	23,549	24,693
3	23,021	24,147	23,021	24,411	25,608
4	23,883	25,045	23,883	25,309	26,558
5	24,763	25,978	24,763	26,259	27,526
6	25,678	26,928	25,678	27,227	28,547
7	26,629	27,931	26,629	28,230	29,603
8	27,614	28,970	27,614	29,269	30,712
9	28,635	30,043	28,635	30,360	31,838
10	29,691	31,152	29,691	31,486	33,018
11	30,800	32,296	30,800	32,648	34,232
12	31,944	33,493	31,944	33,862	35,499
13	33,123	34,725	33,123	35,112	36,819
14 or more		36,010	34,338	36,414	38,174

(c) As used in this subsection:

(i) "BA" means a baccalaureate degree;

(ii) "MA" means a masters degree;

(iii) "PHD" means a doctorate degree;

(iv) "+(N)" means the number of college quarter hour credits and in-service credits earned since the highest degree. Inservice hours shall be converted to equivalent college quarter hour credits in accordance with RCW 28A.71.110.

(4) (a) Prior to August 31st of each school year, each school district shall report to the superintendent of public instruction the following information for each certificated instructional employee employed by the district as of October 1st of that school year:

(i) The full time equivalency of the employee by duty code and program assignment;

(ii) The number of days in the employee's base contract;

(iii) The finalized salary amount provided for the employee's base contract;

(iv) The amount contributed by the school district for the employee's fringe benefits as defined in RCW 28A.58.0951(3)(b); and

(v) The finalized amount paid to the employee for any supplemental contracts under RCW 28A.58.0951(4).

Districts shall also confirm this data and submit any necessary revisions prior to December 1st of the subsequent school year.

(b) Prior to August 31st of each school year, each school district shall submit to the superintendent of public instruction copies of the district's finalized salary schedules used for compensation of certificated instructional employees.

(c) The superintendent of public instruction shall make available to school districts, the legislature, and the governor the information submitted by the school districts under this subsection (4), including calculation of average amounts provided by each school district for base salary contracts, supplemental contracts, and fringe benefits of basic education certificated instructional staff and of other certificated instructional staff.

Sec. 504. Section 505, chapter 7, Laws of 1987 1st ex. sess. as last amended by section 504, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR MINIMUM SALARIES AND CATEGORICAL PROGRAM SALARY INCREASES**

General Fund Appropriation ..... \$ ~~((23,264,000))~~  
23,684,000

The appropriation in this section is subject to the following conditions and limitations:

(1) "Incremental fringe benefits" means 18.77 percent in the 1987-88 school year and (~~(18.89)~~) 18.95 percent in the 1988-89 school year for certificated staff, and 13.47 percent in the 1987-88 school year and (~~(13.59)~~) 13.65 percent in the 1988-89 school year for classified staff, which percentages shall be the fringe benefit rates applied to the respective salary adjustments provided in subsections (3) and (4) of this section.

(2) A maximum of (~~(\$8,185,000)~~) \$8,252,000 is provided to implement salary increases for each school year for state-supported school employees in the following categorical programs: Transitional bilingual instruction, learning assistance, education of highly capable students, vocational technical institutes, and pupil transportation. Moneys provided by this subsection include costs of incremental fringe benefits and shall be distributed by increasing allocation rates for each school year by the amounts specified:

(a) Transitional bilingual instruction: The rates specified in section 509, chapter 7, Laws of 1987 1st ex. sess. shall be increased by \$10.51 per pupil for the 1987-88 school year and by (~~(\$21.68)~~) \$21.69 per pupil for the 1988-89 school year.

(b) Learning assistance: The rates specified in section 510, chapter 7, Laws of 1987 1st ex. sess. shall be increased by \$9.15 per pupil for the 1987-88 school year and by \$16.72 per pupil for the 1988-89 school year.

(c) Education of highly capable students: The rates specified in section 511, chapter 7, Laws of 1987 1st ex. sess. shall be increased by \$6.23 per pupil for the 1987-88 school year and by \$12.84 per pupil for the 1988-89 school year.

(d) Vocational technical institutes: The rates for vocational programs specified in section 513, chapter 7, Laws of 1987 1st ex. sess. shall be increased by \$57.15 per full time equivalent student for the 1987-88 school year, and by (~~(\$114.91)~~) \$114.97 per full time equivalent student for the 1988-89 school year.

(e) Pupil transportation: The rates provided under section 516, chapter 7, Laws of 1987 1st ex. sess. shall be increased by \$0.47 per weighted pupil-mile for the 1987-88 school year, and by \$0.86 per weighted pupil-mile for the 1988-89 school year.

(3) A maximum of (~~(\$14,979,000)~~) \$15,332,000 is provided for salary increases and incremental fringe benefits for state-supported staff unit allocations in the handicapped program, section 507, and for state-supported staff in institutional education programs, section 508, and in educational service districts, section 502. The superintendent of public instruction shall distribute salary increases for these programs not to exceed the percentage salary increases provided for basic education staff under section 504, chapter 7, Laws of 1987 1st ex. sess.

(4) A maximum of \$100,000 is provided solely to implement minimum salaries, distributed as follows:

(a) For any certificated instructional employee in the 1987-88 school year, the superintendent of public instruction may allocate additional salary moneys equal to:

(i) The minimum salary required for the employee under RCW 28A.58.0951(2); minus

(ii) The salary that the school district would have paid to such an employee in the 1986-87 school year at the employee's 1987-88 level of experience and education, increased by the average percentage increase provided in the district's derived base salary for basic education certificated instructional staff under section 2 of this 1987 act between the 1986-87 and 1987-88 school years. For the purposes of this section, no salary which an employee would have been paid in the 1986-87 school year shall be considered to be less than \$16,500 on a full time equivalent basis if the district had received funds under section 502(3)(f) of chapter 7, Laws of 1987, to establish a minimum certificated salary of \$16,500.

(b) For any certificated instructional employee in the 1988-89 school year, the superintendent of public instruction may allocate additional salary moneys equal to:

(i) The minimum salary required for the employee under RCW 28A.58.0951(2); minus

(ii) The salary that the school district would have paid to such an employee during the 1987-88 school year at the employee's 1988-89 level of experience and education, increased by the average percentage increase provided in the district's derived base salary for basic education certificated instructional staff under section 2 of this 1987 act between the 1987-88 and 1988-89 school years.

(c) The superintendent of public instruction shall allocate incremental fringe benefits as defined in subsection (1) of this section for additional salary moneys allocated under (a) and (b) of this subsection.

Sec. 505. Section 507, chapter 7, Laws of 1987 1st ex. sess. as amended by section 506, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR HANDICAPPED EDUCATION PROGRAMS**

General Fund Appropriation—State .....	\$	<del>((423,035,000))</del>
		<u>431,188,000</u>
General Fund Appropriation—Federal .....	\$	45,318,000
Total Appropriation .....	\$	<del>((468,353,000))</del>
		<u>476,506,000</u>

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

(1) (~~(\$41,570,000)~~) \$41,568,000 of the general fund—state appropriation is provided solely for the remaining months of the 1986–87 school year.

(2) The superintendent of public instruction shall distribute state funds for the 1987–88 and 1988–89 school years in accordance with districts' actual handicapped enrollments and the allocation model established in LEAP Document 9 as developed by the legislative evaluation and accountability program committee on April 27, 1987, at 14:43 hours.

(3) A maximum of \$411,000 may be expended from the general fund—state appropriation to fund 4.66 full time equivalent teachers and one aide at Children's Orthopedic Hospital and Medical Center. This amount is in lieu of money provided through the home and hospital allocation and the handicapped program.

(4) From state or federal funds appropriated under this section, the superintendent of public instruction shall allocate a total of \$130,000 for the early childhood home instruction program for hearing impaired infants and their families.

Sec. 506. Section 508, chapter 7, Laws of 1987 1st ex. sess. as amended by section 507, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund Appropriation—State . . . . .	\$	( <del>21,445,000</del> )
		<u>21,449,000</u>
General Fund Appropriation—Federal . . . . .	\$	7,034,000
Total Appropriation . . . . .	\$	( <del>28,479,000</del> )
		<u>28,483,000</u>

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

(1) \$3,462,000 of the general fund—state appropriation is provided solely for the remaining months of the 1986–87 school year.

(2) \$10,908,000 of the general fund—state appropriation is provided solely for the 1987–88 school year, distributed as follows:

(a) \$4,128,000 is provided solely for programs in state institutions for the handicapped or emotionally disturbed. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of \$10,294 per full time equivalent student.

(b) \$3,368,000 is provided solely for programs in state institutions for delinquent youth. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of \$6,112 per full time equivalent student.

(c) \$390,000 is provided solely for programs in state group homes for delinquent youth. These moneys may be distributed for that school year at a

maximum rate averaged over all of these programs of \$3,678 per full time equivalent student.

(d) \$733,000 is provided solely for juvenile parole learning center programs. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of \$1,815 per full time equivalent student, and are in addition to moneys allocated for these students through the basic education formula established in section 503 of this act.

(e) \$2,289,000 is provided solely for programs in county detention centers. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of \$4,471 per full time equivalent student.

(3) Distribution of state funding for the 1988-89 school year shall be based upon the following overall limitations for that school year including expenditures anticipated for July and August of 1989:

(a) State funding for programs in state institutions for the handicapped or emotionally disturbed may be distributed at a maximum rate averaged over all of these programs of \$10,296 per full time equivalent student and a total allocation of no more than (~~(\$3,735,000)~~) \$3,736,000 for that school year.

(b) State funding for programs in state institutions for delinquent youth may be distributed at a maximum rate averaged over all of these programs of (~~(\$6,116)~~) \$6,119 per full time equivalent student and a total allocation of no more than (~~(\$3,272,000)~~) \$3,274,000 for that school year.

(c) State funding for programs in state group homes for delinquent youth may be distributed in that school year at a maximum rate averaged over all of these programs of (~~(\$3,688)~~) \$3,690 per full time equivalent student and a total allocation of no more than \$391,000 for that school year.

(d) State funding for juvenile parole learning center programs may be distributed at a maximum rate averaged over all of these programs of (~~(\$1,808)~~) \$1,810 per full time equivalent student and a total allocation of no more than (~~(\$730,000)~~) \$731,000 for that school year, excluding funds provided through the basic education formula established in section 503 of this act.

(e) State funding for programs in county detention centers may be distributed at a maximum rate averaged over all of these programs of (~~(\$4,482)~~) \$4,484 per full time equivalent student and a total allocation of no more than (~~(\$2,295,000)~~) \$2,296,000 for that school year.

(4) The superintendent of public instruction may distribute a maximum of \$33,000 from the general fund—state appropriation to supplement moneys provided under subsections (1) through (3) of this section, for the purpose of addressing enrollment variations or other program needs, including increases in summer school programs.

(5) \$100,000 of the general fund—state appropriation is provided solely for grants for the establishment of job search skills, preemployment training, and job placement programs at state institutions for delinquent youth. Grants provided under this subsection shall not exceed twenty-five thousand dollars for any individual institution.

(6) \$120,000 of the general fund—state appropriation is provided solely to increase the teacher/student ratio for programs at mentally ill offender units within the state institutions for delinquent youth.

(7) Notwithstanding any other provision of this section, the superintendent of public instruction may transfer funds between the categories of institutions identified in subsections (2) and (3) of this section, so long as the maximum expenditures per full time equivalent student for each category of institution are not thereby exceeded.

Sec. 507. Section 509, chapter 7, Laws of 1987 1st ex. sess. as amended by section 508, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS

General Fund Appropriation . . . . .	\$	((12,175,000))
		<u>12,791,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,111,000 is provided solely for the remaining months of the 1986–87 school year.

(2) The superintendent shall distribute funds for the 1987–88 and 1988–89 school years at a rate for each year of \$420 per eligible student.

Sec. 508. Section 510, chapter 7, Laws of 1987 1st ex. sess. as amended by section 509, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM

General Fund Appropriation . . . . .	\$	((48,886,000))
		<u>48,640,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) \$3,929,000 is provided solely for the remaining months of the 1986–87 school year.

(2) Funding for school district learning assistance programs serving kindergarten through grade nine shall be distributed during the 1987–88 ~~((and 1988–89 school years))~~ school year at a maximum rate of \$356 per unit, and during the 1988–89 school year at a maximum rate of \$357 per unit, as calculated pursuant to this subsection. The number of units for each school district in each school year shall be the sum of: (a) The number of



full time equivalent students enrolled in kindergarten through grade six in the district multiplied by the percentage of the district's students taking the fourth grade basic skills test who scored in the lowest quartile as compared to national norms, and then reduced by the number of students ages eleven and below in the district who are identified as specific learning disabled and are served through programs established pursuant to chapter 28A.13 RCW; and (b) the number of full time equivalent students enrolled in grades seven through nine in the district multiplied by the percentage of the district's students taking the eighth grade basic skills test who scored in the lowest quartile as compared to national norms, and then reduced by the number of students ages twelve through fourteen in the district who are identified as specific learning disabled and are served through programs established pursuant to chapter 28A.13 RCW. For the purposes of allocating funds for the 1987-88 school year, the superintendent shall use the most recent prior five-year average scores on the fourth grade test and the most recent prior three-year average scores on the eighth grade test. For the purposes of allocating funds for the 1988-89 school year, the superintendent shall use the most recent prior five-year average scores on the fourth grade test and the most recent prior four-year average scores on the eighth grade test.

Sec. 509. Section 511, chapter 7, Laws of 1987 1st ex. sess. as amended by section 510, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS  
General Fund Appropriation . . . . . \$ ((5,275,000))  
5,287,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$458,000 is provided solely for distribution to school districts for the remaining months of the 1986-87 school year.
- (2) ((~~\$2,458,000~~)) \$2,464,000 is provided solely for allocations for school district programs for highly capable students during the 1987-88 school year, distributed at a maximum rate of \$338 per student for up to one percent of each district's 1987-88 full time equivalent enrollment.
- (3) Allocations for school district programs for highly capable students in the 1988-89 school year are to be calculated at a maximum rate for that school year of \$341 per student for up to one percent of each district's 1988-89 full time equivalent enrollment.
- (4) A maximum of \$340,000 is provided to contract for gifted programs to be conducted at Fort Worden state park.

Sec. 510. Section 513, chapter 7, Laws of 1987 1st ex. sess. as amended by section 511, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR VOCATIONAL-TECHNICAL INSTITUTES AND ADULT EDUCATION AT VOCATIONAL-TECHNICAL INSTITUTES**

General Fund Appropriation . . . . .	\$ ((75,023,000))
	<u>75,031,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) Funding for vocational programs during the 1987-88 school year shall be distributed at a rate of \$2,888 per student for a maximum of 12,050 full time equivalent students.

(2) Funding for vocational programs during the 1988-89 school year shall be distributed at a rate of (~~(\$2,930)~~) \$2,931 per student for a maximum of 12,050 full time equivalent students.

(3) Funding for adult basic education programs during the 1987-88 school year shall be distributed at a rate of \$1.40 per hour of student service for a maximum of 288,690 hours.

(4) Funding for adult basic education programs during the 1988-89 school year shall be distributed at a rate of \$1.41 per hour of student service for a maximum of 288,690 hours.

(5) \$2,000,000 is provided solely for purchase and replacement of equipment to be used in vocational courses.

(6) \$2,700,000 is provided solely for the establishment and operation of the Washington institute of applied technology within the Seattle area. This program shall be administered under a cooperative agreement between the Seattle school district, Seattle community college district No. 6, and the Seattle private business community. If Engrossed Senate Bill No. 5996 is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(7) \$185,000 is provided solely to increase the funding rate for vocational programs, effective May 1, 1989, by \$147 per full time equivalent student. The increase is provided to assist vocational-technical institutes in replacing out-of-date or worn-out equipment used for vocational training.

Sec. 511. Section 514, chapter 7, Laws of 1987 1st ex. sess. as amended by section 512, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL AND PILOT PROGRAMS**

General Fund Appropriation—State . . . . .	\$ ((13,808,000))
	<u>14,468,000</u>
General Fund Appropriation—Federal . . . . .	4,000,000
Total Appropriation . . . . .	((17,808,000))
	<u>18,468,000</u>

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

(1) \$855,000 of the general fund—state appropriation is provided solely for a contract with the Pacific Science Center for travelling van programs and other educational services for public schools. The Pacific Science Center shall work towards an equitable distribution of program activities state-wide. The center shall also determine the extent to which the state-wide need for science enrichment for K-12 students and teachers is being met by the outreach programs partially funded by this appropriation. The Pacific Science Center shall examine the geographical and demographic distribution of the populations served by these activities and recommend methods for efficiently reaching underserved student and teacher populations. These findings and recommendations shall be reported to the legislature by July 1, 1988.

(2) \$84,000 of the general fund—state appropriation is provided solely for a contract with the Cispus learning center for environmental education programs.

(3) \$4,000,000 of the general fund—federal appropriation is provided solely for the implementation of the substance abuse prevention programs.

(4) \$5,500,000 of the general fund—state appropriation is provided solely for the implementation of the drop-out prevention and retrieval provisions of RCW 28A.120.060 through 28A.120.072.

(5) \$((~~2,020,000~~)) 2,680,000 of the general fund—state appropriation is provided solely for the implementation of the schools for the twenty-first century pilot programs established by RCW 28A.100.030 through 28A.100.068.

(6) \$2,900,000 of the general fund—state appropriation is provided solely for the beginning teachers assistance program established under RCW 28A.67.240. For fiscal year 1989, moneys shall be distributed under this subsection at a maximum rate of \$1,700 per mentor/beginning teacher team.

(7) \$225,000 of the general fund—state appropriation is provided solely for child abuse education provisions of RCW 28A.03.512 through 28A.03.514.

(8) \$1,600,000 of the general fund—state appropriation is provided solely for grants to public or private nonprofit organizations for scholarships or support services, including but not limited to child care or transportation, for parents of children in headstart or early childhood education and assistance programs who are enrolled in adult literacy classes or tutoring programs under RCW 28A.130.010 through 28A.130.020.

(9) \$250,000 of the general fund—state appropriation is provided solely for the implementation of the student teaching pilot project established by RCW 28A.100.030 through 28A.100.068.

(10) \$314,000 of the general fund—state appropriation is provided solely for in-service training and other costs associated with the development of a comprehensive K-12 health education curriculum, including an integral component relating to acquired immunodeficiency syndrome.

(11) \$60,000 of the general fund—state appropriation is provided solely to establish and operate a toll free telephone number at the Lifeline Institute to assist school districts in youth suicide prevention.

Sec. 512. Section 515, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL CLINICS

General Fund Appropriation . . . . .	\$	3,400,000
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The appropriation in this section is subject to the following conditions and limitations:

~~((+))~~ Not more than \$1,688,000 of this appropriation shall be expended during fiscal year 1988.

Sec. 513. Section 516, chapter 7, Laws of 1987 1st ex. sess. as amended by section 513, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION

General Fund Appropriation . . . . .	\$	<del>((221,840,000))</del>
		<u>223,315,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) \$20,422,000 is provided solely for distribution to school districts for the remaining months of the 1986-87 school year.

(2) A maximum of \$97,507,000 may be distributed for pupil transportation operating costs in the 1987-88 school year.

(3) A maximum of \$800,000 may be expended for regional transportation coordinators.

(4) A maximum of \$60,000 may be expended for bus driver training.

(5) A maximum of ~~((152,000))~~ \$189,000 may be expended for the state school for the deaf and the state school for the blind to contract for transportation of day students enrolled in those schools. Transportation services funded under this subsection are not eligible for additional state reimbursement provided through the allocation formulas for school district or educational service district pupil transportation programs, but shall, to the maximum extent feasible, be reimbursed on the same basis.

Sec. 514. Section 521, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE STATE SCHOOL FOR THE DEAF

General Fund Appropriation—State . . . . .	\$	((9,613,000))
		<u>9,673,000</u>
General Fund Appropriation—Federal . . . . .	\$	((148,000))
		<u>58,000</u>
Total Appropriation . . . . .	\$	((9,761,000))
		<u>9,731,000</u>

Sec. 515. Section 522, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE STATE SCHOOL FOR THE BLIND**

General Fund Appropriation . . . . .	\$	((5,201,000))
		<u>5,218,000</u>

Sec. 516. Section 514, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE INSURANCE BENEFIT INCREASES**

General Fund Appropriation . . . . .	\$	((31,878,000))
		<u>32,030,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) Effective October 1, 1988, allocations for insurance benefits for school district and education service district employees are increased to a rate of \$224.75 per month for each full time equivalent certificated employee, and \$224.75 per month for each full time equivalent classified employee as calculated pursuant to this subsection. For the purposes of allocations of insurance benefits, full time equivalent classified employees shall be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full time equivalent.

(2) The appropriation in this section is provided solely to increase insurance benefit allocations for state-funded certificated and classified staff units in the 1988-89 school year, distributed as follows:

(a) A maximum of ((~~\$25,717,000~~)) \$25,780,000 may be expended to increase insurance benefit allocations for basic education staff units under section 502(5) of this act by \$57.75 per month.

(b) A maximum of ((~~\$3,303,000~~)) \$3,416,000 may be expended to increase insurance benefit allocations for handicapped program staff units as calculated under section 506 of this act by \$57.75 per month.

(c) A maximum of \$174,000 may be expended to increase insurance benefit allocations for state-funded staff in educational service districts and institutional education programs by \$57.75 per month.

(d) A maximum of (~~(\$2,684,000)~~) \$2,660,000 may be expended to fund insurance benefit increases in the following categorical programs by increasing state funding rates for the 1988-89 school year as follows:

- (i) For pupil transportation, an increase of \$0.48 per weighted pupil mile;
- (ii) For learning assistance, an increase of \$13.23 per pupil;
- (iii) For education of highly capable students, an increase of \$4.54 per pupil;
- (iv) For transitional bilingual education, an increase of \$8.59 per pupil;
- (v) For vocational-technical institutes, an increase of \$35.22 per full time equivalent pupil.

**PART VI  
HIGHER EDUCATION**

Sec. 601. Section 601, chapter 7, Laws of 1987 1st ex. sess. as amended by section 601, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

The appropriations in sections 602 through 608 of this act are subject to the following conditions and limitations:

(1) For the purposes of this section and sections 602 through 608 of this act, "institutions of higher education" means the institutions receiving appropriations pursuant to sections 602 through 608 of this act.

(2) Student Quality Standard: During the 1987-89 fiscal biennium, each institution of higher education shall not expend less than the average biennial amount listed in this subsection per full time equivalent student. The amounts include total appropriated operating expenses for the institution, less expenditures for plant maintenance and operations, with the exception of Washington State University, where cooperative extension and agriculture research are also excluded from the per student expenditures. This expenditure per student requirement may vary by two percent if the director of financial management certifies that the failure to meet the minimum expenditures per student is attributable to circumstances beyond the control of the institution.

University of Washington .....	\$	7,763
Washington State University .....	\$	6,549
Central Washington University, Eastern Washington University, The Evergreen State College, and Western Washington University:		
The first 3000 FTE Students .....	\$	5,974
Each Student over 3000 FTE .....	\$	3,895
State Board for Community College Education .....	\$	2,793

(3) Each institution of higher education and the state board for community college education shall report to the 1989 regular session of the legislature the following information:

(a) The number of minority students attending the institution or the community college system and the measures taken by such institution or system during the 1987-89 fiscal biennium to increase the number of minority students and reduce the drop-out rates for minority and other students;

(b) The number of women employed by the institution or system and the actions taken by the institution or system to increase the number of women in managerial and senior-level positions;

(c) Actions taken by the institution or community college system to improve the quality of undergraduate and graduate education programs;

(d) Actions taken by the institution or system to expand or improve educational services off the campus and the process for evaluating the need for educational services in locations away from the campus;

(e) The process for evaluating and accepting students for admission into the institution or the system;

(f) Any process developed by the institution or the system for evaluating student performance;

(g) Actions taken by the institution or system to operate programs jointly with another public or private institution;

(h) How the faculty and exempt salary increase funds were distributed among the faculty and staff at each institution and the results of the increased salary levels on faculty and staff recruitment and retention;

(i) The annual faculty turnover rates experienced by the institution or the system; and

(j) The amount spent on instructional equipment, the type of equipment purchased, and the instructional enhancements that resulted from the additional equipment.

The state board for community college education shall collect and report the information required of the community college system under this subsection.

(4) The state board for community college education shall, jointly with the superintendent of public instruction, develop an integrated state plan for all state and federally funded vocational education services. The superintendent of public instruction and the state board for community college education shall also jointly develop a consistent and reliable data base on public vocational education, including enrollments, costs, program activities, and job placement. Such data shall be made available to the office of the governor and the legislature.

(5) Central Washington University, Eastern Washington University, and Western Washington University shall each collect summer term tuition

fees at the same rates established for the regular academic quarter and shall transfer the fees to the state treasury in accordance with RCW 28B.15.031.

(6) The appropriations in sections 602 through 608 of this act provide the following amounts to identify and recruit minority students from junior high and high schools in the state, to foster minority student interest in a college education, to provide support services such as counseling and tutorial assistance, and to improve the retention of such students in higher education through and beyond the baccalaureate level. At least \$147,000 of the amount appropriated to the University of Washington shall go to increase the efforts of the math, engineering, and science achievement program.

University of Washington . . . . .	\$	522,000
Washington State University . . . . .	\$	225,000
Central Washington University . . . . .	\$	113,000
Eastern Washington University . . . . .	\$	150,000
The Evergreen State College . . . . .	\$	75,000
Western Washington University . . . . .	\$	150,000

(7) The following are the maximum amounts that may be expended at each institution of higher education from the appropriations in sections 602 through 608 of this act for continuing the salary increases authorized by section 604, chapter 7, Laws of 1987 (ESSB 5351) from July 1, 1987, through February 29, 1988:

University of Washington . . . . .	\$	3,893,000
Washington State University . . . . .	\$	2,083,000
Central Washington University . . . . .	\$	405,000
Eastern Washington University . . . . .	\$	489,000
The Evergreen State College . . . . .	\$	212,000
Western Washington University . . . . .	\$	575,000
State Board for Community College Education . . . . .	\$	3,196,000

Expenditures under this subsection shall be consistent with all terms and conditions contained in section 604, chapter 7, Laws of 1987 (ESSB 5351), which are hereby incorporated by reference.

(8) The following are maximum amounts which each institution may spend from the appropriations in sections 602 through 608 of this act for faculty and exempt staff salary increases and are subject to all the limitations contained in this section. For the purpose of allocating these funds, "faculty" includes all instructional and research faculty, academic deans, department chairpersons, and community college librarians and counselors who are not part of the state classified service system. "Exempt staff" includes presidents, chancellors, vice-presidents, administrative deans and professional personnel, and four-year institution librarians and counselors who are exempt from the classified service system.

University of Washington . . . . .	\$	19,058,000
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Washington State University . . . . .	\$	((9,330,000))
		<u>9,367,000</u>
Central Washington University . . . . .	\$	2,152,000
Eastern Washington University . . . . .	\$	2,441,000
The Evergreen State College . . . . .	\$	1,060,000
Western Washington University . . . . .	\$	2,851,000
State Board for Community College Education . . . . .	\$	14,667,000
Higher Education Coordinating Board . . . . .	\$	55,000

These amounts are intended to provide full time faculty and teaching and research assistants, and medical residents at each four-year institution and the community college system as a whole the average percentage increase, including increments, enumerated below on the effective dates indicated:

	March 1, 1988	January 1, 1989
University of Washington	8.5%	8.4%
Washington State University	8.2%	8.1%
Central Washington University	7.6%	7.6%
Eastern Washington University	7.6%	7.6%
The Evergreen State College	7.6%	7.6%
Western Washington University	7.6%	7.6%
State Board for Community College Education	6.3%	6.0%

Exempt staff and part time faculty at each four-year institution, the community college system as a whole, and the higher education coordinating board are entitled to receive the average salary increases enumerated below on the effective dates indicated:

	March 1, 1988	January 1, 1989
University of Washington	5%	3%
Washington State University	5%	3%
Central Washington University	4.5%	3%
Eastern Washington University	4.5%	3%
The Evergreen State College	4.5%	3%
Western Washington University	4.5%	3%
State Board for Community College Education	4.0%	3%
Higher Education Coordinating Board	3%	3%

However, exempt librarians and counselors may be given the same percentage salary increase as the faculty at their institution if the total amount paid out for faculty and exempt salary increases is within the amounts provided in this subsection.

The salary increase authorized under this subsection may be granted to state employees at Washington State University who are supported in full or in part by federal land grant formula funds.

(9) In addition to the 6.3 and 6.0 percent salary increases provided to community college faculty in subsection (8) of this section, \$1,129,000 is provided solely to reduce the disparity in full time faculty salaries among community colleges. No funds in this subsection may be expended on administrative staff salaries. The state board for community college education shall allocate one third of these funds in fiscal year 1988 and two thirds in fiscal year 1989 as follows:

Lower Columbia College . . . . .	\$	124,000
Shoreline Community College . . . . .	\$	242,000
Community College of Spokane . . . . .	\$	533,000
Skagit Valley College . . . . .	\$	115,000
Whatcom Community College . . . . .	\$	18,000
Community College District 12 . . . . .	\$	52,000
Walla Walla Community College . . . . .	\$	18,000
Highline Community College . . . . .	\$	27,000

(10) From the appropriations in sections 602 through 609 of this act, the following amounts for each institution are provided solely for higher education personnel board classified employees to provide a 2.65 percent or \$50 per month, whichever is greater, salary increase effective January 1, 1988, and an additional 3.0 percent salary increase effective January 1, 1989. These increases shall be implemented in compliance and conformity with all requirements of the comparable worth agreement ratified by 1986 Senate Concurrent Resolution No. 126.

University of Washington . . . . .	\$	3,501,000
Washington State University . . . . .	\$	2,365,000
Central Washington University . . . . .	\$	478,000
Eastern Washington University . . . . .	\$	583,000
The Evergreen State College . . . . .	\$	337,000
Western Washington University . . . . .	\$	652,000
State Board for Community College Education . . . . .	\$	3,350,000
Higher Education Coordinating Board . . . . .	\$	23,000

No salary increase may be paid under this subsection to any person whose salary has been Y-rated pursuant to rules adopted by the higher education personnel board.

(11) Any institution that grants an average salary increase in excess of the amounts authorized in subsection (8) of this section is ineligible to receive any funds appropriated for salary increases in sections 603 through 608 of this act. Any community college district that grants an average salary increase in excess of the amounts authorized in subsections (8) and (9) of

this section is ineligible to receive any funds appropriated for salary increases in section 602 of this act. The office of financial management shall adjust an institution's allotment as necessary to enforce the restrictions imposed by this section.

Sec. 602. Section 603, chapter 7, Laws of 1987 1st ex. sess. as amended by section 603, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

General Fund Appropriation . . . . .	\$	<del>((516,089,000))</del>
		<u>521,489,000</u>
Medical Aid Fund Appropriation . . . . .	\$	2,553,000
Accident Fund Appropriation . . . . .	\$	2,553,000
Death Investigations Account Appropriation . . . . .	\$	594,000
Total Appropriation . . . . .	\$	<del>((521,789,000))</del>
		<u>527,189,000</u>

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

(1) \$10,500,000 of the general fund appropriation is provided solely for equipment.

(2) A maximum of \$75,000 may be spent to identify suitable spaces in the vicinity of the University of Washington for use as child day care centers for the children of university civil service employees and for start-up costs of the day care centers.

(3) \$400,000 is provided solely to conduct a study of the potential environmental and economic impacts of oil and mineral exploration off the coast of Washington.

(4) At least \$75,000 of the appropriations in this section shall be spent for research on the health and safety hazards of video display terminals in the workplace.

(5) \$200,000 of the general fund appropriation is provided solely for rental costs on a building to house clinical and laboratory space for the treatment of patients with AIDS and the training of health care professionals in such treatment.

(6) The University of Washington shall take whatever actions are necessary to maximize refunds from the social security administration during the 1987-89 biennium and shall transfer to the general fund the refund received from the social security administration for graduate teaching and research assistants paid from the state general fund from January 1, 1980, through June 30, 1987.

(7) At least \$10,000 shall be spent for a study on the predation of sockeye smolt in Lake Washington.

(8) \$300,000 of the general fund—state appropriation is provided solely to conduct an assessment, in consultation with local community organizations in the Puget Sound area, of higher education needs and programs to be offered at branch campuses in accordance with the higher education coordinating board master plan.

(9) \$5,400,000 of the general fund appropriation is provided solely for additional support for Harborview medical center operations.

Sec. 603. Section 604, chapter 7, Laws of 1987 1st ex. sess. as amended by section 604, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

FOR WASHINGTON STATE UNIVERSITY

General Fund Appropriation . . . . . \$ ((287,152,000))  
287,189,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$4,717,000 is provided solely for equipment.

(2) Funds are provided to Washington State University to continue the Yakima nursing training program.

(3) \$500,000 of the appropriation is provided solely to initiate upper division programs and expand graduate programs at the Southwest Washington joint center for education.

(4) \$165,000 of the appropriation is provided solely for additional training of education professionals at the Southwest Washington joint center for education.

(5) \$427,000 is provided solely for start-up and operation of the health research and education center in Spokane.

(6) \$750,000 is provided solely to enhance and operate the Washington higher education telecommunications system (WHETS) for the purpose of allowing the delivery of university courses directly to Spokane, Vancouver, Seattle, and the Tri-Cities.

(7) \$37,000 of the appropriation is provided solely for the salary increases for the intercollegiate center for nursing education faculty.

(8) \$119,000 of the appropriation is provided solely for health insurance benefits for agricultural research employees.

PART VII  
SPECIAL APPROPRIATIONS

Sec. 701. Section 712, chapter 7, Laws of 1987 1st ex. sess. as amended by section 705, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—TRANSFERS

General Fund Appropriation: For transfer to  
the Institutional Impact Account . . . . . \$ 316,600

General Fund Appropriation: For transfer to the Landowner Contingency Forest Fire Suppression Account . . . . .	\$	285,000
General Government Special Revenue Fund—State Treasurer's Service Account Appropriation: For transfer to the general fund on or before July 20, 1989, an amount up to \$5,000,000 in excess of the cash requirements in the State Treasurer's Service Account for fiscal year 1990, for credit to the fiscal year in which earned . . . . .	\$	5,000,000
Charitable, Educational, Penal and Reformatory Institutions Account Appropriations: For transfer to the Resource Management Cost Account to the extent that funds are available as determined by the department of natural resources. The department shall provide the state treasurer with a schedule of such transfers . . . . .	\$	3,000,000
General Fund Appropriation: For transfer to the Natural Resources Fund—Water Quality Account . . . . .	\$	7,913,300
General Fund Appropriation: For transfer to the Miscellaneous Fund—Tort Claims Revolving Fund . . . . .	\$	<del>((5,978,000))</del>
		<u>11,327,000</u>
Liquor Revolving Fund Appropriation: For Transfer to the Miscellaneous Fund—Tort Claims Revolving Fund . . . . .	\$	573,000
Employment Security Fund—Deferred Compensation Revolving Fund: For transfer to the Motor Vehicle Fund . . . . .	\$	861,000
Ferry System Fund: For transfer to the Tort Claims Revolving Fund for claims paid on behalf of the department of transportation, Washington state ferry system during the period July 1, 1987, through June 30, 1989. . . . .	\$	884,100
Puget Sound Ferry Operations Account: For transfer to the Tort Claims Revolving Fund for claims paid on behalf of the department of transportation, Washington state ferry system during the period July 1, 1987, through June 30, 1989. . . . .	\$	378,900

Motor Vehicle Fund: For transfer to the Tort Claims Revolving Fund for claims paid on behalf of the department of transportation and the state patrol during the period July 1, 1987 through June 30, 1989 . . . . . \$ 14,200,000

State Employees Insurance Principal Account:  
For transfer to the General Fund . . . . . \$ 2,700,000

Sec. 702. Section 714, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

**FOR BELATED CLAIMS**

(1) There is appropriated to the office of financial management for payment of supplies and services furnished in previous biennia, from the General Fund . . . . . \$ ~~((1,125,000))~~  
1,258,016

(2) 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 from the effective date of this act to June 30, 1989, except as otherwise noted.

To reimburse the general fund for expenditures from belated claims appropriations to be disbursed on vouchers approved by the office of financial management:

Medical Disciplinary Account . . . . .	\$	4,655
Institutional Impact Account . . . . .	\$	36,816
Architects' License Account . . . . .	\$	1,062
Cemetery Account . . . . .	\$	45
Hazardous Waste Control and Elimination Account . . . . .	\$	6
Public Safety and Education Account . . . . .	\$	31,011
Health Professions Account . . . . .	\$	13,465
Professional Engineers' Account . . . . .	\$	81
Real Estate Commission Account . . . . .	\$	623
Reclamation Revolving Account . . . . .	\$	14
State Investment Board Expense Account . . . . .	\$	134
Capitol Building Construction Account . . . . .	\$	55,831
Motor Transport Account . . . . .	\$	9,665
State Capitol Historical Association Museum Account . . . . .	\$	76
Resource Management Cost Account . . . . .	\$	7,684
Capitol Purchase and Development Account . . . . .	\$	16,603
Litter Control Account . . . . .	\$	358
State and Local Improvements Revolving Account (Waste Disposal Facilities) . . . . .	\$	12
State Building Construction Account . . . . .	\$	67,372
Outdoor Recreation Account . . . . .	\$	268

State Social and Health Services Construction	
Account .....	\$ 1,142
Grade Crossing Protective Fund .....	\$ 79,466
State Patrol Highway Account .....	\$ 45,879
Motorcycle Safety Education Fund .....	\$ 7,725
Nursery Inspection Fund .....	\$ 38
Seed Fund .....	\$ 347
Electrical License Fund .....	\$ 1,727
State Game Fund .....	\$ 64,064
Highway Safety Fund .....	\$ 6,297
Motor Vehicle Fund .....	\$ 24,572
Public Service Revolving Fund .....	\$ 5,418
State Treasurer's Service Fund .....	\$ 1,561
Legal Services Revolving Fund .....	\$ 9,650
Municipal Revolving Fund .....	\$ 4,146
General Administration Facilities and Services	
Revolving Fund .....	\$ 6,140
Department of Personnel Service Fund .....	\$ 366
Higher Education Personnel Board Service	
Fund .....	\$ 331
State Employees' Insurance Fund .....	\$ 499
State Auditing Services Revolving Fund .....	\$ 3,028
Liquor Revolving Fund .....	\$ 4,629
Department of Retirement Systems Expense	
Fund .....	\$ 10,264
Accident Fund .....	\$ 29,386
Medical Aid Fund .....	\$ 29,232
Western Library Network Computer System	
Revolving Fund .....	\$ 30,443
Pressure Systems Safety Fund .....	\$ 196

Sec. 703. Section 715, chapter 7, Laws of 1987 1st ex. sess. as amended by section 706, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**

General Fund Appropriation for fire insurance premiums tax distribution .....	\$ ((6,225,000))
	<u>4,599,000</u>
General Fund Appropriation for public utility district excise tax distribution .....	\$ ((21,138,000))
	<u>20,879,000</u>
General Fund Appropriation for prosecuting attorneys' salaries .....	\$ 1,950,000

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General Fund Appropriation for motor vehicle excise tax distribution .....	\$	((59,751,000))
		<u>58,239,000</u>
General Fund Appropriation for local mass transit assistance.....	\$	((185,535,000))
		<u>183,800,000</u>
General Fund Appropriation for camper and travel trailer excise tax distribution .....	\$	((2,152,000))
		<u>2,164,000</u>
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution .....	\$	60,000
Liquor Excise Tax Fund Appropriation for liquor excise tax distribution .....	\$	((18,233,000))
		<u>18,266,000</u>
Motor Vehicle Fund Appropriation for motor vehicle fuel tax and overload penalties distribution .....	\$	((268,082,000))
		<u>278,124,000</u>
Liquor Revolving Fund Appropriation for liquor profits distribution .....	\$	((42,740,000))
		<u>42,620,000</u>
Timber Tax Distribution Account Appropriation for distribution to "Timber" counties .....	\$	((44,291,000))
		<u>46,397,000</u>
Municipal Sales and Use Tax Equalization Account Appropriation .....	\$	((32,174,000))
		<u>31,359,000</u>
County Sales and Use Tax Equalization Account Appropriation .....	\$	((11,062,000))
		<u>10,788,000</u>
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies .....	\$	((688,000))
		<u>713,000</u>
Total Appropriation .....	\$	((694,081,000))
		<u>699,958,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$96,000 is provided from the death investigations account appropriation for the purpose of reimbursing counties up to the maximum level authorized by RCW 68.08.104 for expenses incurred in the 1985-87 biennium.



Sec. 704. Section 716, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—FEDERAL REVENUES FOR DISTRIBUTION**

Forest Reserve Fund Appropriation for federal forest reserve fund distribution .....	\$	((58,414,601))
		<u>75,915,000</u>
General Fund Appropriation for federal flood control funds distribution .....	\$	((24,000))
		<u>74,000</u>
General Fund Appropriation for federal grazing fees distribution .....	\$	50,000
Geothermal Account Appropriation—Federal .....	\$	((60,000))
		<u>10,000</u>
General Fund Appropriation for distribution of federal funds to counties in conformance with Public Law 97-99 .....	\$	((300,000))
		<u>400,000</u>
<b>Total Appropriation .....</b>	<b>\$</b>	<b>((58,848,601))</b>
		<u><b>76,449,000</b></u>

Sec. 705. Section 717, chapter 7, Laws of 1987 1st ex. sess. as amended by section 707, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, INCLUDING ONGOING BOND REGISTRATION AND TRANSFER CHARGES**

<del>((Fisheries Bond Redemption Fund 1977 Appropriation .....</del>	<del>\$</del>	<del>1,280,467</del>
<del>Salmon Enhancement Bond Redemption Fund 1977 Appropriation .....</del>	<del>\$</del>	<del>5,479,684</del>
<del>Higher Education Refunding Bond Redemption Fund 1977 Appropriation .....</del>	<del>\$</del>	<del>8,773,875</del>
<del>Fire Service Training Center Bond Retirement Fund 1977 Appropriation .....</del>	<del>\$</del>	<del>1,619,731</del>
<del>Highway Bond Retirement Fund Appropriation .....</del>	<del>\$</del>	<del>171,910,324</del>
<del>Indian Cultural Center Construction Bond Redemption Fund 1976 Appropriation .....</del>	<del>\$</del>	<del>233,575</del>
<del>Higher Education Bond Redemption Fund 1977 Appropriation .....</del>	<del>\$</del>	<del>19,528,417</del>
<del>Ferry Bond Retirement Fund 1977 Appropriation .....</del>	<del>\$</del>	<del>25,627,988</del>

Emergency Water Projects Bond Retirement Fund 1977 Appropriation .....	\$	2,604,490
Public School Building Bond Redemption Fund 1965 Appropriation .....	\$	1,238,790
Higher Education Bond Retirement Fund 1979 Appropriation .....	\$	10,736,990
State General Obligation Bond Retirement Fund 1979 Appropriation .....	\$	307,961,175
Fisheries Bond Redemption Fund 1976 Approp- riation .....	\$	764,034
State Building Bond Redemption Fund 1967 Appropriation .....	\$	656,800
Community College Capital Construction Bond Redemption Fund 1975, 1976, 1977 Ap- propriation .....	\$	11,423,031
Common School Building Bond Redemption Fund 1967 Appropriation .....	\$	6,890,745
Outdoor Recreation Bond Redemption Fund 1967 Appropriation .....	\$	6,292,542
Water Pollution Control Facilities Bond Re- demption Fund 1967 Appropriation .....	\$	4,067,765
State Building and Higher Education Construc- tion Bond Redemption Fund 1967 Approp- riation .....	\$	10,349,392
State Building and Parking Bond Redemption Fund 1969 Appropriation .....	\$	2,448,830
Waste Disposal Facilities Bond Redemption Fund Appropriation .....	\$	57,944,960
Water Supply Facilities Bond Redemption Fund Appropriation .....	\$	11,952,815
Social and Health Services Facilities 1972 Bond Redemption Fund Appropriation .....	\$	3,705,605
Recreation Improvements Bond Redemption Fund Appropriation .....	\$	5,986,813
Community College Capital Improvement Bond Redemption Fund 1972 Appropriation .....	\$	7,499,389
State Building Authority Bond Redemption Fund Appropriation .....	\$	9,452,680
Office Laboratory Facilities Bond Redemption Fund Appropriation .....	\$	270,900
University of Washington Hospital Bond Re- tirement Fund 1975 Appropriation .....	\$	1,163,924
Washington State University Bond Redemption Fund 1977 Appropriation .....	\$	559,915

<del>Higher Education Bond Redemption Fund 1975</del>	
<del>Appropriation .....</del>	<del>\$ 2,165,785</del>
<del>State Building Bond Redemption Fund 1973</del>	
<del>Appropriation .....</del>	<del>\$ 3,794,144</del>
<del>State Building Bond Retirement Fund 1975</del>	
<del>Appropriation .....</del>	<del>\$ 424,780</del>
<del>State Higher Education Bond Redemption</del>	
<del>Fund 1973 Appropriation .....</del>	<del>\$ 4,367,163</del>
<del>Social and Health Services Bond Redemption</del>	
<del>Fund 1976 Appropriation .....</del>	<del>\$ 9,475,867</del>
<del>State Building (Expo 74) Bond Redemption</del>	
<del>Fund 1973A Appropriation .....</del>	<del>\$ 372,820</del>
<del>Community College Refunding Bond Retirement Fund 1974 Appropriation .....</del>	
<del>.....</del>	<del>\$ 9,436,996</del>
<del>State Higher Education Bond Redemption</del>	
<del>Fund 1974 Appropriation .....</del>	<del>\$ 1,190,700</del>
<del>-----</del>	<del>-----</del>
<del>Total Appropriation .....</del>	<del>\$ 729,653,901))</del>

(1) FOR GENERAL OBLIGATION DEBT SUBJECT TO THE STATUTORY DEBT LIMIT

<u>Fisheries Bond Redemption Fund 1977 Appropriation .....</u>	
<u>.....</u>	<u>\$ 1,360,800</u>
<u>Water Pollution Control Facilities Bond Redemption Fund 1967 Appropriation .....</u>	
<u>.....</u>	<u>\$ 4,067,800</u>
<u>State Building and Higher Education Construction Bond Redemption Fund 1967 Appropriation .....</u>	
<u>.....</u>	<u>\$ 10,349,400</u>
<u>Public School Building Bond Redemption Fund 1965 Appropriation .....</u>	
<u>.....</u>	<u>\$ 1,238,800</u>
<u>State Building (Expo 74) Bond Redemption Fund 1973A Appropriation .....</u>	
<u>.....</u>	<u>\$ 372,900</u>
<u>State Building Bond Redemption Fund 1973 Appropriation .....</u>	
<u>.....</u>	<u>\$ 3,794,200</u>
<u>State Higher Education Bond Redemption Fund 1973 Appropriation .....</u>	
<u>.....</u>	<u>\$ 4,367,200</u>
<u>State Building Authority Bond Redemption Fund Appropriation .....</u>	
<u>.....</u>	<u>\$ 9,452,700</u>
<u>Community College Capital Improvement Bond Redemption Fund 1972 Appropriation .....</u>	
<u>.....</u>	<u>\$ 7,499,400</u>
<u>State Higher Education Bond Redemption Fund 1974 Appropriation .....</u>	
<u>.....</u>	<u>\$ 1,190,800</u>
<u>Waste Disposal Facilities Bond Redemption Fund Appropriation .....</u>	
<u>.....</u>	<u>\$ 50,221,900</u>

<u>Water Supply Facilities Bond Redemption</u>	
Fund Appropriation .....	\$ 11,750,900
<u>Recreation Improvements Bond Redemption</u>	
Fund Appropriation .....	\$ 5,986,900
<u>Social and Health Services Facilities 1972 Bond</u>	
Redemption Fund Appropriation .....	\$ 3,705,700
<u>Outdoor Recreation Bond Redemption Fund</u>	
1967 Appropriation .....	\$ 6,292,600
<u>Indian Cultural Center Construction Bond Re-</u>	
demption Fund 1976 Appropriation .....	\$ 207,100
<u>Fisheries Bond Redemption Fund 1976 Appro-</u>	
riation .....	\$ 764,100
<u>Higher Education Bond Redemption Fund 1975</u>	
Appropriation .....	\$ 2,165,800
<u>State Building Bond Retirement Fund 1975</u>	
Appropriation .....	\$ 424,800
<u>Social and Health Services Bond Redemption</u>	
Fund 1976 Appropriation .....	\$ 9,475,900
<u>Emergency Water Projects Bond Retirement</u>	
Fund 1977 Appropriation .....	\$ 2,603,500
<u>Higher Education Bond Redemption Fund 1977</u>	
Appropriation .....	\$ 16,435,200
<u>Salmon Enhancement Bond Redemption Fund</u>	
1977 Appropriation .....	\$ 4,327,100
<u>Fire Service Training Center Bond Retirement</u>	
Fund 1977 Appropriation .....	\$ 1,329,300
<u>State General Obligation Bond Retirement</u>	
Bond 1979 Appropriation .....	\$ 265,044,100
Total Appropriation this Subsection .....	\$ 424,428,900
<b>(2) FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED BY</b>	
<b>ENTERPRISE ACTIVITIES</b>	
<hr/>	
<u>University of Washington Hospital Bond Re-</u>	
retirement Fund 1975 Appropriation .....	\$ 1,164,000
<u>Office-Laboratory Facilities Bond Redemption</u>	
Fund Appropriation .....	\$ 271,000
<u>Higher Education Bond Retirement Fund 1979</u>	
Appropriation .....	\$ 3,078,900
<u>State General Obligation Bond Retirement</u>	
Bond 1979 Appropriation .....	\$ 8,474,100
Total Appropriation this Subsection .....	\$ 12,988,000
<b>(3) FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS</b>	
<b>PRESCRIBED BY STATUTE</b>	

<u>Community College Refunding Bond Retirement Fund 1974 Appropriation</u> . . . . .	\$	9,437,000
<u>Community College Capital Construction Bond Redemption Fund 1975, 1976, 1977 Appropriation</u> . . . . .	\$	10,758,100
<u>Higher Education Bond Retirement Fund 1979 Appropriation</u> . . . . .	\$	7,279,200
<u>Washington State University Bond Redemption Fund 1977 Appropriation</u> . . . . .	\$	532,500
<u>Higher Education Refunding Bond Redemption Fund 1977 Appropriation</u> . . . . .	\$	8,773,900
<u>State General Obligation Bond Retirement Bond 1979 Appropriation</u> . . . . .	\$	23,569,300
<u>Total Appropriation this Subsection</u> . . . . .	\$	60,350,000

**(4) FOR DEBT TO BE PAID BY MOTOR VEHICLE REVENUE**

<u>Highway Bond Retirement Fund Appropriation</u> . . . . .	\$	160,379,000
<u>Ferry Bond Retirement Fund 1977 Appropriation</u> . . . . .	\$	24,683,800
<u>Total Appropriation this Subsection</u> . . . . .	\$	185,062,800

**(5) FOR DEBT TO BE PAID BY STATUTORILY SET REVENUE**

<u>Common School Building Bond Redemption Fund 1967 Appropriation</u> . . . . .	\$	6,890,800
<u>State Building Bond Redemption Fund 1967 Appropriation</u> . . . . .	\$	656,900
<u>State Building and Parking Bond Redemption Fund 1969 Appropriation</u> . . . . .	\$	2,448,900
<u>Total Appropriation this Subsection</u> . . . . .	\$	9,996,400
<u>Total</u> . . . . .	\$	692,826,100

Sec. 706. Section 708, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**BOND RETIREMENT—STATE TRADE AND CONVENTION CENTER**

The following is appropriated from the state trade and convention center account for reimbursement to the general fund for the transfer to the state general obligation bond retirement fund for disbursement of bond retirement and interest, including ongoing bond registration and transfer charges:

<u>State Convention and Trade Center Account Appropriation</u> . . . . .	\$	((19,746,278))
		<u>21,135,000</u>

Sec. 707. Section 709, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**BOND RETIREMENT—SPOKANE RIVER TOLL BRIDGE**

The following is appropriated from the Spokane River toll bridge revolving account to the Spokane River toll bridge account for disbursement of bond retirement and interest, including ongoing bond registration and transfer charges:

**Spokane River Toll Bridge Revolving Account**

Appropriation .....	\$	((889,088))
		<u>889,100</u>

NEW SECTION. Sec. 708. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

**FOR SUNDRY CLAIMS**

General Fund Appropriation .....	\$	10,000,000
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This appropriation is for payment of the state's portion of a comprehensive settlement in IN RE WASHINGTON PUBLIC POWER SUPPLY SYSTEM SECURITIES LITIGATION (U.S. Dist. Ct. Ariz. MDL 551) which settlement includes a relinquishment of all claims by the bondholder class of WPPSS projects numbers 4 and 5 against the state of Washington.

**PART VIII  
MISCELLANEOUS**

NEW SECTION. Sec. 801. The appropriations contained in this act are maximum expenditure authorizations. Pursuant to RCW 43.88.037, moneys disbursed from the treasury on the basis of a formalized loan agreement with another governmental entity shall be treated as a loan and are to be recorded as loans receivable and not as expenditures for accounting purposes. To the extent that moneys are disbursed on a loan basis, the corresponding appropriation shall be reduced by the amount of loan moneys disbursed from the treasury during the 1987-89 biennium.

NEW SECTION. Sec. 802. In addition to the amounts appropriated in this act for revenue for distribution, bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under any proper bond covenant made in accordance with law.

NEW SECTION. Sec. 803. In addition to such other appropriations as are made by this act, there is hereby appropriated to the state finance committee from legally available bond proceeds in the respective construction or building funds and accounts such amounts as are necessary to pay the expenses incurred in the issuance and sale of the subject bonds.

**NEW SECTION.** Sec. 804. The following acts or parts of acts are each repealed:

(1) Section 202, chapter 7, Laws of 1987 1st ex. sess., section 202, chapter 289, Laws of 1988 (uncodified);

(2) Section 203, chapter 7, Laws of 1987 1st ex. sess., section 203, chapter 289, Laws of 1988 (uncodified);

(3) Section 204, chapter 7, Laws of 1987 1st ex. sess., section 204, chapter 289, Laws of 1988 (uncodified);

(4) Section 205, chapter 7, Laws of 1987 1st ex. sess., section 205, chapter 289, Laws of 1988 (uncodified);

(5) Section 206, chapter 7, Laws of 1987 1st ex. sess., section 206, chapter 289, Laws of 1988 (uncodified);

(6) Section 207, chapter 7, Laws of 1987 1st ex. sess., section 207, chapter 289, Laws of 1988 (uncodified);

(7) Section 208, chapter 7, Laws of 1987 1st ex. sess., section 208, chapter 289, Laws of 1988 (uncodified);

(8) Section 210, chapter 7, Laws of 1987 1st ex. sess., section 210, chapter 289, Laws of 1988 (uncodified);

(9) Section 211, chapter 7, Laws of 1987 1st ex. sess., section 211, chapter 289, Laws of 1988 (uncodified);

(10) Section 212, chapter 7, Laws of 1987 1st ex. sess., section 212, chapter 289, Laws of 1988 (uncodified);

(11) Section 213, chapter 7, Laws of 1987 1st ex. sess., section 213, chapter 289, Laws of 1988 (uncodified);

(12) Section 214, chapter 7, Laws of 1987 1st ex. sess., section 214, chapter 289, Laws of 1988 (uncodified);

(13) Section 215, chapter 7, Laws of 1987 1st ex. sess. (uncodified);

(14) Section 216, chapter 7, Laws of 1987 1st ex. sess. (uncodified);

and

(15) Section 56, chapter 112, Laws of 1988 (uncodified).

**NEW SECTION.** Sec. 805. 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. 806. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House May 7, 1989.

Passed the Senate May 5, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to section 202(2), Substitute House Bill No. 1479 entitled:

"AN ACT Relating to the budget."

My reason for vetoing this portion of the 1987-89 supplemental budget is as follows:

Section 202(2) restricts the amount that the Department of Social and Health Services may transfer into the General Assistance-Unemployable (GA-U) program. The GA-U caseload will experience significant growth in the last two months of the current biennium because of the Thurston County Superior Court's April 24, 1989 ruling directing that clients who are terminated from ADATSA shelter receive GA-U until they are assessed for GA-U eligibility. The Department of Social and Health Services has estimated the cost of this caseload growth will be \$1.7 million. The proviso in section 202(2) restricts the transfer to the estimated amount. The estimate is not precise, however.

The ADATSA shelter program has experienced volatile and unpredictable caseload growth, and it is difficult to predict the cost of shifting that population to GA-U. If the actual cost exceeds the estimate by any amount, the Department would have to impose a ratable reduction to remain within appropriated funds. It is not possible for the Department to implement a ratable reduction this late in the biennium. Furthermore, the other clients on GA-U, with physical and mental disabilities, would be faced with a sudden and unanticipated reduction in their living allowances. The Department must have unrestricted transfer authority in order to fund the actual cost of the GA-U caseload at the close of the biennium.

With the exception of section 202(2), Substitute House Bill No. 1479 is approved."

CHAPTER 4

[Substitute House Bill No. 1788]

PUYALLUP TRIBAL CLAIMS SETTLEMENT

AN ACT Relating to the Puyallup tribe of Indians claims settlement; adding a new section to chapter 35.43 RCW; adding a new section to chapter 36.32 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The governor is empowered to execute the appropriate documents to relinquish the state's claims to title of the current riverbed of the Puyallup river within the 1873 survey area to the United States in trust for the tribe subject to the provisions on existing rights of way, discharges, easements, flood control, and fishing rights as set forth in the settlement agreement.

NEW SECTION. Sec. 2. A new section is added to chapter 35.43 RCW to read as follows:

(1) The settlement of Indian land and other claims against public and private property owners is declared to be in the interest of public health and safety, orderly government, environmental protection, economic development, and the social well-being of the citizens of this state, and to specifically benefit the properties released from those claims.



It is the purpose of this act to encourage the settlement of such Indian land and other claims lawsuits by permitting the establishment and use of local improvement districts to finance all or a portion of the settlement costs of such lawsuits.

(2) A local improvement district may be established by a local government legislative authority to finance all or part of the settlement costs in an Indian land and other claims settlement related to public and private property located within the local government. The settlement of an Indian land claim lawsuit shall be deemed to be an improvement that may be financed in whole or in part through use of a local improvement district.

Except as expressly provided in this section, all matters relating to the establishment and operation of such a local improvement district, the levying and collection of special assessments, the issuance of local improvement district bonds and other obligations, and all related matters, shall be subject to the provisions of chapters 35.43 through 35.54 RCW. The resolution or petition initiating the creation of a local improvement district used to finance all or a portion of an Indian land and other claims settlement shall describe the general nature of the Indian land and other claims and the proposed settlement. The value of a contribution by any person, municipal corporation, political subdivision, or the state of money, real property, or personal property to the settlement of Indian land and other claims shall be credited to any assessment for a local improvement district under this section.

NEW SECTION. Sec. 3. A new section is added to chapter 36.32 RCW to read as follows:

(1) The settlement of Indian land and other claims against public and private property owners is declared to be in the interest of public health and safety, orderly government, environmental protection, economic development, and the social well-being of the citizens of this state, and to specifically benefit the properties released from those claims.

It is the purpose of this act to encourage the settlement of such Indian land and other claims lawsuits by permitting the establishment and use of local improvement districts to finance all or a portion of the settlement costs of such lawsuits.

(2) A local improvement district may be established by a county legislative authority to finance all or part of the settlement costs in an Indian land and other claims settlement related to public and private property located within the incorporated or unincorporated areas of the county. The settlement of an Indian land and other claims lawsuit shall be deemed to be an improvement that may be financed in whole or in part through use of a local improvement district.

(3) Except as expressly provided in this section, all matters relating to the establishment and operation of such a local improvement district, the

levying and collection of special assessments, the issuance of local improvement district bonds and other obligations, and all related matters, shall be subject to the provisions of chapter 36.94 RCW concerning the use of local improvement districts to finance sewer or water facilities. The requirements of chapter 36.94 RCW concerning the preparation of a general plan and formation of a review committee shall not apply to a local improvement district used to finance all or a portion of Indian land and other claims settlements. The resolution or petition that initiates the creation of a local improvement district used to finance all or a portion of an Indian land and other claims settlement shall describe the general nature of the Indian land and other claims and the proposed settlement. The value of a contribution by any person, municipal corporation, political subdivision, or the state of money, real property, or personal property to the settlement of Indian land and other claims shall be credited to any assessment for a local improvement district under this section.

**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 May 8, 1989.

Passed the Senate May 7, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 5

[Substitute House Bill No. 1737]

### VICTIMS OF CRIMES—COMPENSATION

AN ACT Relating to crime victims' compensation; amending RCW 7.68.030, 7.68.070, 7.68.080, 82.08.020, 82.08.010, and 82.12.020; amending section 223, chapter 7, Laws of 1987 1st ex. sess. as amended by section 218, chapter 289, Laws of 1988 (uncodified); adding new sections to chapter 7.68 RCW; adding a new section to chapter 82.32 RCW; creating new sections; repealing RCW 7.68.010; providing an effective date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The department of labor and industries shall operate the crime victims' compensation program within the appropriations and the conditions and limitations on the appropriations provided for this program.

Sec. 2. Section 3, chapter 122, Laws of 1973 1st ex. sess. as amended by section 12, chapter 443, Laws of 1985 and RCW 7.68.030 are each amended to read as follows:

It shall be the duty of the director to establish and administer a program of benefits to innocent victims of criminal acts within the terms and limitations of this chapter. In so doing, the director shall, in accordance

with chapter (~~(34.04)~~) 34.05 RCW, adopt rules and regulations necessary to the administration of this chapter, and the provisions contained in chapter 51.04 RCW, including but not limited to RCW 51.04.020, 51.04.030, 51.04.040, 51.04.050 and 51.04.100 as now or hereafter amended, shall apply where appropriate in keeping with the intent of this chapter. The director may apply for and, subject to appropriation, expend federal funds under Public Law 98-473 and any other federal program providing financial assistance to state crime victim compensation programs. The federal funds shall be deposited in the public safety and education account in the general fund and may be expended only for purposes authorized by applicable federal law.

NEW SECTION. Sec. 3. The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per victim. The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services.

NEW SECTION. Sec. 4. The cap on medical benefits established by section 3 of this act shall apply equally to current and future recipients of crime victims' compensation benefits. The director shall prepare individual transition plans for individuals who exceed the medical benefit cap on the effective date of this section. The transition plans must be completed within ninety days of the effective date of this section.

Sec. 5. Section 7, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 12, Laws of 1989 and RCW 7.68.070 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW as now or hereafter amended except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or hereafter amended are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or (~~(his or her)~~) the victim's family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, (~~(and)~~) subject to the limitations under section 1 of this 1989 act. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 as now or hereafter amended are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 as now or hereafter amended are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

- (a) The result of consent, provocation, or incitement by the victim;
- (b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or
- (c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 as now or hereafter amended shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter: PROVIDED, That benefits for burial expenses shall not exceed the maximum cost used by the department of social and health services for the funeral and burial of a deceased indigent person under chapter 74.08 RCW in any claim: PROVIDED FURTHER, That if the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived (~~(him or her)~~) the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such

children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits may be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 as now or hereafter amended for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018 as now or hereafter amended:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 as now or hereafter amended for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 as now or hereafter amended for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: **PROVIDED**, That no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 as now or hereafter amended for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: **PROVIDED**, That benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 as now or hereafter amended apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 as now or hereafter amended are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Except for medical benefits authorized under RCW 7.68.080, no more than fifteen thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed twenty thousand dollars.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to ten thousand dollars.

(15) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

(16) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services.

Sec. 6. Section 8, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 98, Laws of 1986 and RCW 7.68.080 are each amended to read as follows:

The provisions of chapter 51.36 RCW as now or hereafter amended govern the provision of medical aid under this chapter to victims injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, except that:

(1) The provisions contained in RCW 51.36.030, 51.36.040, and 51.36.080 as now or hereafter amended do not apply to this chapter;

(2) The specific provisions of RCW 51.36.020 as now or hereafter amended relating to supplying emergency transportation do not apply: PROVIDED, That when the injury to any victim is so serious as to require ((his)) the victim's being taken from the place of injury to a place of treatment, reasonable transportation costs to the nearest place of proper treatment shall be reimbursed from the fund established pursuant to RCW 7.68.090. Hospital, clinic, and medical charges along with all related fees under this chapter shall conform to regulations promulgated by the director. The director shall set these service levels and fees at a level no lower than those established by the department of social and health services under Title 74 RCW. In establishing fees for medical and other health care services, the director shall consider the director's duty to purchase health care in a prudent, cost-effective manner. The director shall establish rules adopted in accordance with chapter 34.05 RCW. Nothing in this chapter may be construed to require the payment of interest on any billing, fee, or charge.

Sec. 7. Section 223, chapter 7, Laws of 1987 1st ex. sess. as amended by section 218, chapter 289, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund Appropriation . . . . .	\$ 8,227,000
Public Safety and Education Account Appropriation . . . . .	\$ ((10,866,000))
	<u>17,457,000</u>
Accident Fund Appropriation . . . . .	\$ 85,159,000
Electrical License Fund Appropriation . . . . .	\$ 9,907,000
Farm Labor Revolving Account Appropriation . . . . .	\$ 58,000
Medical Aid Fund Appropriation . . . . .	\$ 82,105,000
Plumbing Certificate Fund Appropriation . . . . .	\$ 660,000
Pressure Systems Safety Fund Appropriation . . . . .	\$ 1,148,000
Worker and Community Right to Know Fund Appropriation . . . . .	\$ 2,059,000

Total Appropriation . . . . .	\$	((200,190,000))
		<u>206,781,000</u>

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

(1) The department shall study the feasibility of establishing an independent ombudsman office to aid employers and employees, including self-insured employees, in dealing with the workers' compensation system. The study shall include an evaluation of the need for the office, the recommended functions of the office, and the mechanisms for oversight and funding. The department shall submit its findings and recommendations to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(2) The department shall evaluate the effectiveness of the workers' compensation vocational rehabilitation program, including the effectiveness of a worker resource center to provide injured worker adjustment services. The study shall be conducted in consultation with the workers' compensation advisory committee and interested groups representing injured workers, labor, and employers. The department shall submit its findings and recommendations to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(3) The department shall study, in cooperation with the employment security department and the department of social and health services, the potential impact in the state of a state minimum wage based on ninety percent of the federal poverty level. The results of the study shall be submitted to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(4) The department shall prepare a report on workers' compensation caseload information including, but not limited to, the average number of claims by type by adjudicator compared to optimal caseloads used in the private sector and any recommendations concerning improvement of caseloads. The report shall be submitted to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(5) All funds appropriated under this section for lease or lease development office space may be used to lease new office space only if the lease is for a period not exceeding three years and does not extend beyond June 30, 1991.

(6) The department shall establish an office of information and assistance to aid workers, employers, health care providers, and other department clients. The department shall report on the activities of the office to the appropriate committees of the legislature by January 1, 1989.

***\*NEW SECTION. Sec. 8. The office of financial management, in consultation with crime victim advocates, prosecuting attorneys, and representatives of state agencies funded in part or in whole by the public safety and***



education account, shall conduct a study of the public safety and education account and the agencies and programs funded through the account with special emphasis on the crime victims' compensation program. The study shall review claims experience by category and magnitude. The study shall also identify the impact of recent changes in populations eligible for crime victims' compensation and shall develop recommendations regarding the future of the crime victims' compensation program. A report to the legislature shall be issued by December 1, 1989.

\*Sec. 8 was vetoed, see message at end of chapter.

\*Sec. 9. Section 1, chapter 32, Laws of 1985 and RCW 82.08.020 are each amended to read as follows:

(1) There is levied and there shall be collected a tax on each retail sale in this state equal to six and five-tenths percent of the selling price.

(2) There is levied and there shall be collected a tax on each retail sale of adult entertainment materials equal to eleven and five-tenths percent of the selling price and a tax on the retail sale of adult entertainment services equal to eighteen percent of the selling price. The tax imposed under this subsection on adult entertainment materials is in addition to the tax imposed in subsection (1) of this section.

(3) The taxes imposed under this chapter shall apply to successive retail sales of the same property.

~~((3))~~ (4) The rates provided in this section ~~((applies))~~ apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

\*Sec. 9 was vetoed, see message at end of chapter.

\*Sec. 10. Section 82.08.010, chapter 15, Laws of 1961 as last amended by section 3, chapter 38, Laws of 1985 and RCW 82.08.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Selling price" means the consideration, whether money, credits, rights, or other property except trade-in property of like kind, expressed in the terms of money paid or delivered by a buyer to a seller without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes other than taxes imposed under this chapter if the seller advertises the price as including the tax or that the seller is paying the tax, or any other expenses whatsoever paid or accrued and without any deduction on account of losses; but shall not include the amount of cash discount actually taken by a buyer; and shall be subject to modification to the extent modification is provided for in RCW 82.08.080.

When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" shall be determined as nearly as possible according to the value of such use at the places of use

*of similar products of like quality and character under such rules as the department of revenue may prescribe(;;).*

**(2) "Seller" means every person, including the state and its departments and institutions, making sales at retail or retail sales to a buyer or consumer, whether as agent, broker, or principal, except "seller" does not mean the state and its departments and institutions when making sales to the state and its departments and institutions(;;).**

**(3) "Buyer" and "consumer" include, without limiting the scope hereof, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, municipal corporation, quasi municipal corporation, and also the state, its departments and institutions and all political subdivisions thereof, irrespective of the nature of the activities engaged in or functions performed, and also the United States or any instrumentality thereof(;;).**

**(4) "Adult entertainment materials" means any book, magazine, tabloid, film, motion picture, videotape or videodisc, computer program, or other material that contains or includes any image, illustration, picture, or photograph depicting sexually explicit conduct for the purpose of the sexual stimulation of the viewer.**

**(5) "Adult entertainment services" means the exhibition of any film, motion picture, or cable television program, that contains or includes any image, illustration, picture, or photograph depicting sexually explicit conduct for the purpose of the sexual stimulation of the viewer. "Adult entertainment services" does not include the exhibition of any film, motion picture, or cable television program that does not contain any explicit sex of the type that would be rated "X" using the standards existing on January 1, 1989, of the Motion Picture Association of America, Inc.**

**(6) "Sexually explicit conduct" has the meaning given in RCW 9.68A.011(3) except that RCW 9.68A.011(3)(e) shall apply to any person, including a minor.**

**(7) The meaning attributed in chapter 82.04 RCW to the terms "tax year," "taxable year," "person," "company," "sale," "sale at retail," "retail sale," "sale at wholesale," "wholesale," "business," "engaging in business," "cash discount," "successor," "consumer," "in this state" and "within this state" shall apply equally to the provisions of this chapter.**

\*Sec. 10 was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 11. A new section is added to chapter 82.32 RCW to read as follows:**

**All revenues collected on sales and use of adult entertainment materials and services under RCW 82.08.020(2) and 82.12.020(3) shall be deposited in the public safety and education account under RCW 43.08.250 and shall only be used for the purposes of crime victims' compensation, with an emphasis**

*towards providing services, support, or therapy to those children who are victims of sexual abuse.*

\*Sec. 11 was vetoed, see message at end of chapter.

\*Sec. 12. Section 82.12.020, chapter 15, Laws of 1961 as last amended by section 7, chapter 7, Laws of 1983 and RCW 82.12.020 are each amended to read as follows:

**(1)** There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any article of tangible personal property purchased at retail, or acquired by lease, gift, repossession, or bailment, or extracted or produced or manufactured by the person so using the same, or otherwise furnished to a person engaged in any business taxable under RCW 82.04.280, subsections (2) or (7). This tax will not apply with respect to the use of any article of tangible personal property purchased, extracted, produced or manufactured outside this state until the transportation of such article has finally ended or until such article has become commingled with the general mass of property in this state. This tax shall apply to the use of every article of tangible personal property, including property acquired at a casual or isolated sale, and including byproducts used by the manufacturer thereof, except as hereinafter provided, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state. Except as provided in RCW 82.12.0252, payment by one purchaser or user of tangible personal property of the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect of exempting any other purchaser or user of the same property from the taxes imposed by such chapters.

**(2)** The tax shall be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the retail sales tax under RCW ~~((82.08.020, as now or hereafter amended;))~~ 82.08.020(1) in the county in which the article is used.

**(3)** In addition to the tax imposed under subsection (2) of this section, there shall be levied and collected a tax on adult entertainment materials in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the retail sales tax on adult entertainment materials under RCW 82.08.020(2).

\*Sec. 12 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 13. Sections 1 and 3 of this act are each added to chapter 7.68 RCW.

NEW SECTION. Sec. 14. Section 1, chapter 122, Laws of 1973 1st ex. sess., section 1, chapter 302, Laws of 1977 ex. sess. and RCW 7.68.010 are each repealed.

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. Except as provided in section 4 of this act, sections 1 through 8 of this act shall apply to all claims filed on or after July 1, 1989.

**NEW SECTION.** Sec. 17. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and sections 3 and 7 of this act shall take effect immediately. The remaining sections shall take effect July 1, 1989.

Passed the House May 8, 1989.

Passed the Senate May 7, 1989.

Approved by the Governor May 14, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1989.

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

"I am returning herewith, without my approval as to sections 8, 9, 10, 11 and 12, Engrossed Substitute House Bill No. 1737 entitled:

"AN ACT Relating to crime victims compensation."

There are areas where government should act with restraint. These areas are delineated by the constitutions of the United States and the State of Washington. Both unequivocally protect freedom of speech and artistic expression as set forth in a long line of state and federal court cases defining First Amendment rights.

The provisions in sections 9, 10, 11 and 12 of this bill are unacceptable intrusions of these rights. These sections impose excise taxes on adult entertainment materials and services significantly higher than the tax already imposed on other similar retail materials, i.e. eighteen percent higher. While I can understand citizens' feelings about pornographic material, there are several major difficulties associated with this revenue source. The first is the intrusion into freedom of speech, which is manifested by these sections. This is dubious public policy, and would almost certainly be challenged in court. Such a challenge must be considered as having a high likelihood of success, if not a certainty, and would entail significant litigation expenses for the state. I believe the Legislature publicly acknowledged these concerns when it decided not to use this tax as a funding source on Engrossed Second Substitute House Bill No. 1793.

Second, administration of this tax would be extremely difficult. Potentially, the Department of Revenue would be required to specifically list all services, magazines, video tapes, etc., which are subject to this tax. Closely related to this will be a taxpayer compliance problem. Given the nature of the materials being taxed, it is reasonable to assume that compliance will be at a much lower level than with other types of retail sales. Additionally, mail order sources may be substituted for in-state sales. In either case, audit expenses associated with this tax are likely to be very high. Given these difficulties plus the high probability of incurring litigation expenses in a defense of these new taxes, I must veto sections 9 through 12.

Section 8 of this bill would require the Office of Financial Management to conduct a study of the Public Safety and Education Account by December 1, 1989. The bill specifies a number of items that are to be included in the study and would require a comprehensive look at a complex area of state government. The bill, however, does not provide an appropriation for the study.

The type of study that is anticipated by this section cannot be conducted within available resources. The Office of Financial Management, along with the Department of Labor and Industries, has been studying this issue on a more limited basis as resources permit, and will continue to do so. For this reason, I have vetoed section 8.

With the exception of sections 8, 9, 10, 11 and 12, Engrossed Substitute House Bill No. 1737 is approved."

CHAPTER 6

[Substitute Senate Bill No. 5373]  
TRANSPORTATION BUDGET

AN ACT Relating to transportation appropriations; amending RCW 46.68.110 and 46.68.120; amending section 2, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 18, chapter 10, Laws of 1987 1st ex. sess. as amended by section 5, chapter 283, Laws of 1988 (uncodified); amending section 20, chapter 10, Laws of 1987 1st ex. sess. as amended by section 7, chapter 283, Laws of 1988 (uncodified); amending section 26, chapter 10, Laws of 1987 1st ex. sess. as amended by section 12, chapter 283, Laws of 1988 (uncodified); amending section 27, chapter 10, Laws of 1987 1st ex. sess. as amended by section 13, chapter 283, Laws of 1988 (uncodified); and amending section 30, chapter 10, Laws of 1987 1st ex. sess. as amended by section 16, chapter 283, Laws of 1988 (uncodified); adding a new section to chapter 44.40 RCW; creating new sections; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The transportation budget of the state is hereby adopted and, subject to the provisions hereinafter set forth, the several amounts hereinafter specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds hereinafter named to the designated state agencies and offices for salaries, wages, and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 1991. The appropriations contained in sections 69 through 74 of this act are for the period ending June 30, 1989.

**NEW SECTION.** Sec. 2. FOR THE TRAFFIC SAFETY COMMISSION

General Fund—Public Safety and Education

Account Appropriation .....	\$	1,200,000
Highway Safety Fund Appropriation—State .....	\$	351,750
Highway Safety Fund Appropriation—Federal .....	\$	4,532,200
Total Appropriation .....	\$	6,083,950

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

- (1) \$1,200,000 of the general fund—public safety and education account appropriation is provided solely for continuation of the DWI community task force program.

(2) It is the intent of the legislature that no state dollars be appropriated for continuation of the DWI community task force program beyond the 1989-91 biennium.

**NEW SECTION. Sec. 3. FOR THE BOARD OF PILOTAGE COMMISSIONERS**

General Fund—Pilotage Account Appropria- tion .....	\$ 174,956
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The appropriation in this section is subject to the following conditions and limitations: No more than \$66,000 may be expended for attorney general fees.

**NEW SECTION. Sec. 4. FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Motor Vehicle Fund—Rural Arterial Trust	
Account Appropriation .....	\$ 24,155,072
Motor Vehicle Fund Appropriation .....	\$ 999,551
Total Appropriation .....	\$ 25,154,623

**NEW SECTION. Sec. 5. FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Motor Vehicle Fund—Urban Arterial Trust	
Account Appropriation .....	\$ 50,976,600

The urban arterial trust account appropriation includes \$28,000,000 from the proceeds of the sale of Series III Urban Arterial bonds provided for by RCW 47.26.420 through 47.26.427.

**\*NEW SECTION. Sec. 6. FOR THE STATE PATROL—FIELD OPERATIONS BUREAU**

General Fund Appropriation .....	\$ 300,000
Motor Vehicle Fund—State Patrol Highway	
Account Appropriation—State .....	\$ 110,690,369
Motor Vehicle Fund—State Patrol Highway	
Account Appropriation—Federal .....	\$ 2,965,228
Motor Vehicle Fund Appropriation .....	\$ 392,989
Total Appropriation .....	\$ 114,348,586

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

(1) The motor vehicle fund—state patrol highway account—state appropriation in this section includes \$1,969,889 for twenty-eight additional traffic troopers. The twenty-eight officers shall begin training on February 1, 1990.

(2) \$297,973 is appropriated from the state patrol highway account—state solely for the replacement of trooper weapons. The weapons being replaced will be disposed of at fair market value in accordance with department of general administration's surplus property procedures and in

compliance with office of financial management regulations. Officers may purchase their service revolvers at the fair market value.

**(3) \$464,300 is appropriated from the state patrol highway account—state solely for aircraft repair. Any user of Washington state patrol aircraft shall pay its pro rata share of all operating and maintenance costs including capitalization.**

(4) \$300,000 from the state patrol highway account—state appropriation and \$300,000 from the general fund appropriation is appropriated solely for the investigation of vehicle license fraud. The Washington state patrol, department of revenue, and the office of financial management shall report semiannually beginning December 15, 1989, to the legislative transportation committee on the number of fraud cases investigated and their outcome.

(5) The motor vehicle fund—state patrol highway account—state appropriation in this section includes \$1,571,000 for the safety education program.

(6) The motor vehicle fund—state patrol highway account—state appropriation in this section includes \$591,630 for five tow truck inspectors.

(7) The motor vehicle fund—state patrol highway account—state appropriation includes \$591,120 for the Vehicle Identification Number Program and \$1,303,700 for 15 additional commercial vehicle officers.

\*Sec. 6 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 7. FOR THE STATE PATROL—SUP-  
PORT SERVICES BUREAU**

Motor Vehicle Fund—State Patrol Highway

Account Appropriation .....	\$	48,210,204
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The appropriation in this section is subject to the following conditions and limitations:

(1) \$2,205,285 is provided solely for development of the third and final phase of the patrol information collection system. Authority to expend these funds is conditioned upon compliance with the requirements set forth in section 63 of this act.

(2) \$2,463,000 is provided solely for the purchase of mobile radios for troopers' vehicles.

**NEW SECTION. Sec. 8. FOR THE GOVERNOR—COMPEN-  
SATION—SALARY AND INSURANCE BENEFITS**

Special Fund Salary and Insurance Contribu-

tion Increase Revolving Fund Appropria- tion .....	\$	2,345,453
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The appropriation in this section is provided for a 3.0 percent salary increase effective January 1, 1990, and an additional 3.0 percent salary increase effective January 1, 1991, for commissioned officers of the

Washington state patrol. The increase provided for in this section is in addition to any salary increases provided for in Senate Bill No. 5352 or any other omnibus appropriations act for the 1989-91 biennium enacted by the 1989 legislature.

**\*NEW SECTION. Sec. 9. FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES**

Motor Vehicle Fund Appropriation . . . . .	\$	32,607,339
General Fund—Wildlife Account Appropria-		
tion . . . . .	\$	421,186
Total Appropriation . . . . .	\$	33,028,525

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

(1) \$1,538,900 of the motor vehicle fund appropriation is provided solely for the completion of the county auditor automation project. Authority to expend these funds is conditioned upon compliance with the requirements set forth in section 63 of this act.

(2) The department shall create an advisory committee to examine the current processes and costs for issuing vehicle titles, registrations, and other vehicle documentation. Membership on the committee shall include the director as chairperson and appropriate departmental personnel and representatives of county auditors, subagents, county executives, and county council members/commissioners. By June 30, 1990, the advisory committee shall report to the legislative transportation committee as follows: (a) An analysis of the costs and benefits accruing annually to county auditors and subagents as a result of vehicle licensing activities; (b) analysis and recommendations of an appropriate allocation of on-going operating and maintenance county auditor automation project costs among the department, county auditors, and subagents; (c) the committee, in consultation with the information systems division of the department, the office of financial management, and the department of information services shall address the issue of future system requirements and how the costs associated with such requirements should be shared between the department, county auditors, and subagents; and (d) an analysis of the costs and benefits associated with the alternative of having all vehicle licensing activities conducted solely within the department, and an analysis of other alternatives recommended by the advisory committee.

**(3) \$100,000 of this appropriation is provided solely for a budget/policy analyst for the vehicle services division.**

(4) \$374,656 of the motor vehicle fund appropriation is provided solely for the front license tab program.

(5) \$46,609 of the motor vehicle fund appropriation is provided solely for the implementation of Engrossed House Bill No. 1645, regulating the relationship between motor vehicle dealers and manufacturers.

\*Sec. 9 was partially vetoed, see message at end of chapter.



**\*NEW SECTION. Sec. 10. FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES**

General Fund—Public Safety and Education

Account Appropriation . . . . .	\$	3,412,942
Highway Safety Fund Appropriation . . . . .	\$	35,321,479
Highway Safety Fund—Motorcycle Safety		
Education Account Appropriation . . . . .	\$	1,037,499
Total Appropriation . . . . .	\$	39,771,920

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

(1) \$557,870 of the highway safety fund appropriation is provided for establishing two new driver license examining offices.

(2) \$207,000 of the highway safety fund—motorcycle safety education account appropriation is provided solely for implementing the motorcycle public awareness program provided for in Engrossed Senate Bill No. 6076.

**(3) \$432,888, or as much thereof as may be necessary, is provided solely for: (a) Providing a budget/policy analyst for the driver services division; and (b) establishing additional security procedures related to driver's license issuance.**

**(4) Moneys accruing to the public safety and education account in excess of the 1989-91 appropriation authority in this act, in Senate Bill No. 5352 or any other omnibus appropriation act, or in any other act enacted by the 1989 legislature, shall be transferred to the highway safety fund appropriation to reimburse the fund for the appropriation in this section.**

\*Sec. 10 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 11. FOR THE DEPARTMENT OF LICENSING—MANAGEMENT OPERATIONS**

General Fund—Wildlife Account Appropria-

tion . . . . .	\$	7,238
Highway Safety Fund Appropriation . . . . .	\$	7,027,608
Motor Vehicle Fund Appropriation . . . . .	\$	3,378,999
General Fund—Public Safety and Education		
Account Appropriation . . . . .	\$	611,678
Total Appropriation . . . . .	\$	11,025,523

**\*NEW SECTION. Sec. 12. FOR THE DEPARTMENT OF LICENSING—INFORMATION SYSTEMS**

General Fund—Wildlife Account Appropria-

tion . . . . .	\$	4,041
Highway Safety Fund Appropriation . . . . .	\$	4,815,059
Motor Vehicle Fund Appropriation . . . . .	\$	15,191,175
General Fund—Public Safety and Education		
Account Appropriation . . . . .	\$	390,162

Total Appropriation . . . . . \$ 20,400,437

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

*(1) \$200,000, of which \$100,000 is from the motor vehicle fund appropriation and \$100,000 is from the highway safety fund appropriation, is provided solely for the development of a project management plan exclusively for integration of driver and motor vehicle systems. The plan shall be submitted to the legislative transportation committee by December 15, 1989. Authority to expend these moneys is conditioned upon compliance with the requirements set forth in section 63 of this act.*

*(2) \$275,136 is provided solely for additional data processing storage capacity and for preparing to implement the federal odometer act.*

\*Sec. 12 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 13. FOR THE LEGISLATIVE TRANSPORTATION COMMITTEE**

Motor Vehicle Fund Appropriation . . . . .	\$	2,525,000
Motor Vehicle Fund—State Patrol Highway		
Account Appropriation . . . . .	\$	100,000
Total Appropriation . . . . .	\$	2,625,000

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

(1) \$50,000 of the motor vehicle fund appropriation, or as much thereof as is needed, is provided for a study of gasoline pricing and supply practices to be conducted in conjunction with the Washington state energy office.

(2) \$75,000 of the motor vehicle fund appropriation is provided solely for the study mandated in section 14 of this act.

(3) The motor vehicle fund—state patrol highway account appropriation provided for in this section is for a survey of local law enforcement compensation.

**NEW SECTION. Sec. 14. A new section is added to chapter 44.40 RCW to read as follows:**

(1) The legislative transportation committee shall undertake a study and develop recommendations for legislative and executive consideration that will:

(a) Increase the efficiency and effectiveness of state transportation programs and reduce costs;

(b) Enhance the accountability and organizational soundness of all transportation modes;

(c) Encourage better communication between local jurisdictions and the department of transportation in developing engineering plans and subsequent construction projects;

(d) Encourage private sector support and financial participation in project development and construction of transportation projects;

(e) Develop long-range goals that reflect changing technology and state-of-the-art advancements in transportation;

(f) Explore alternatives for the establishment of an integrated and balanced multimodal state-wide transportation system to meet the needs of the 21st century; and

(g) Explore ways to reduce the demand on the transportation system and more effectively use the existing system.

The committee may study other transportation needs and problems and make further recommendations.

(2) The office of financial management and the department of transportation shall provide staff support as required by the legislative transportation committee in developing the recommendations. To the extent permitted by law, all agencies of the state shall cooperate fully with the legislative transportation committee in carrying out its duties under this section.

(3) The legislative transportation committee may receive and expend gifts, grants, and endowments from private sector sources to carry out the purpose of this section.

(4) By December 1991 the legislative transportation committee shall submit its preliminary findings and recommendations to the governor, transportation commission, and legislature. A final report shall be submitted by December 1993.

**NEW SECTION.** Sec. 15. FOR THE MARINE EMPLOYEES COMMISSION

Motor Vehicle Fund—Puget Sound Ferry

Operations Account Appropriation . . . . .	\$	306,997
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The appropriation in this section is subject to the following conditions and limitations: \$20,000 of this appropriation is provided solely to fund an expanded salary survey, as provided for in House Bill No. 1520. If House Bill No. 1520 is not enacted by June 30, 1989, the Puget Sound Ferry Operations Account appropriation shall be reduced by \$20,000.

**NEW SECTION.** Sec. 16. FOR THE TRANSPORTATION COMMISSION

General Fund—Aeronautics Account Ap-

propriation . . . . .	\$	1,184
General Fund Appropriation . . . . .	\$	2,269
Motor Vehicle Fund—Puget Sound Capital		
Construction Account Appropriation . . . . .	\$	31,349
Motor Vehicle Fund—Puget Sound Ferry		
Operations Account Appropriation . . . . .	\$	53,160
Motor Vehicle Fund Appropriation . . . . .	\$	425,024

Total Appropriation . . . . . \$ 512,986

**NEW SECTION. Sec. 17. FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM A**

Motor Vehicle Fund Appropriation—State . . . . .	\$	124,000,000
Motor Vehicle Fund Appropriation—Federal . . . . .	\$	80,000,000
Motor Vehicle Fund Appropriation—Local . . . . .	\$	2,000,000
Total Appropriation . . . . .	\$	206,000,000

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

(1) The appropriations in this section are provided for the location, design, right of way, and construction of state highway projects designated as category "A" under RCW 47.05.030.

(2) \$80,000 of this appropriation is provided solely for studies to identify means of mitigating the environmental effects of SR 520 on neighboring communities.

(3) Any study of east-west corridors across or in the vicinity of Lake Washington shall be conducted in a manner consistent with the regional high occupancy vehicle strategic plan.

(4) \$300,000 of this appropriation is provided solely for safety improvements to the first avenue south bridge.

**NEW SECTION. Sec. 18. FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM B**

Motor Vehicle Fund Appropriation—State . . . . .	\$	52,000,000
Motor Vehicle Fund Appropriation—Federal . . . . .	\$	473,000,000
Motor Vehicle Fund Appropriation—Local . . . . .	\$	5,000,000
Total Appropriation . . . . .	\$	530,000,000

The appropriations in this section are provided for the location, design, right of way, and construction of state highway projects on the interstate system designated as category "B" under RCW 47.05.030. The appropriations in this section are subject to the following conditions and limitations:

(1) \$46,000,000 of the motor vehicle fund—state appropriation includes a maximum of \$20,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.790, for state matching funds for the construction of SR 90 from SR 5 to SR 405, and the balance in proceeds from the sale of bonds as authorized by RCW 47.10.801: PROVIDED, That the transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) If federal discretionary funds are made available to the state, the motor vehicle fund—state appropriation is increased proportionally to provide matching state funds from the sale of bonds authorized by RCW

47.10.801 and 47.10.790 not to exceed \$10,000,000 and it is understood that the department shall seek authority to expend unanticipated receipts for the federal portion.

(3) It is further recognized that the department may make use of federal cash flow obligations on interstate construction contracts in order to complete the interstate highway system as expeditiously as possible.

**NEW SECTION. Sec. 19. FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM C**

Motor Vehicle Fund Appropriation—State . . . . .	\$	34,750,000
Motor Vehicle Fund Appropriation—Local . . . . .	\$	1,000,000
Total Appropriation . . . . .	\$	35,750,000

(1) \$35,000,000 of the appropriations in this section are provided solely for the completion of category C projects currently under construction.

(2) The motor vehicle fund—state appropriation includes up to \$1,000,000 of bond proceeds carried forward from the 1987–89 biennium and \$33,000,000 of bond proceeds authorized in RCW 47.10.801: PROVIDED, That the transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(3) The department of transportation shall, by December 31, 1989, provide the legislative transportation committee with a report identifying the impact of the reduced category C funding contained in this act on all other departmental 1989–91 appropriations by program. The report shall contain, but not be limited to, personnel reductions actually implemented as of the date of this report and also projected reductions for the 1989–91 and 1991–93 biennia.

(4) Up to \$750,000 of this appropriation is provided to the department of transportation solely to fund the state's fifty percent share of the cost of a study, led by the city of Seattle, including a conceptual layout plan through the design report processes on Seattle's first avenue south bridge. The department of transportation shall report the findings of the current study underway by the city of Seattle, King county, and the port of Seattle, and the findings of the draft environmental impact study, to the legislative transportation committee before proceeding with design work for the first avenue south bridge other than that necessary for the environmental impact statement.

(5) Nothing in this section precludes the department from completing engineering on projects when such engineering costs are being provided by local government or private sources.

**NEW SECTION. Sec. 20. FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MANAGEMENT AND FACILITIES—PROGRAM D**

Motor Vehicle Fund Appropriation . . . . .	\$	58,608,867
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**Motor Vehicle Fund—Transportation Capital**

Facilities Account Appropriation .....	\$	1,000,000
Total Appropriation .....	\$	59,608,867

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

(1) \$200,000 of the motor vehicle fund appropriation is provided solely for a capital facilities management system.

(2) If House Bill No. 1467 is not enacted by June 30, 1989, the motor vehicle fund—transportation capital facilities account appropriation shall lapse, and the motor vehicle fund appropriation shall increase by \$1,000,000.

**NEW SECTION. Sec. 21. FOR THE DEPARTMENT OF TRANSPORTATION—AERONAUTICS—PROGRAM F**

General Fund—Aeronautics Account Appropriation—State .....	\$	3,030,407
General Fund—Aeronautics Account Appropriation—Local .....	\$	75,000
General Fund—Aeronautics Account Appropriation—Federal .....	\$	661,451
Total Appropriation .....	\$	3,766,858

The appropriations in this section are provided for management and support of the aeronautics division, state fund grants to local airports, development and maintenance of a state-wide airport system plan, maintenance of state-owned emergency airports, federal inspections, and the search and rescue program.

(1) The general fund—aeronautics account—state appropriation contains \$100,000 for transfer to the motor vehicle fund as partial repayment of the \$407,430 advanced to pay the tort settlement in the case of *Osibov vs. the state of Washington*, Spokane county superior court, Cause No. 239168.

(2) \$75,000 of the general fund—aeronautics account—local appropriation, or as much as is necessary, is provided for design of a study of the state-wide economic, environmental and social effects of alternatives for providing passenger and cargo capacity that may be required due to increases in commercial air carrier operations. This appropriation is contingent upon receipt of funds for this purpose from private sources, deposited in the state treasury under RCW 47.68.160.

**NEW SECTION. Sec. 22. FOR THE DEPARTMENT OF TRANSPORTATION—SEARCH AND RESCUE—PROGRAM F**

General Fund—Search and Rescue Account Appropriation .....	\$	116,633
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The appropriation in this section is provided for directing and conducting searches for missing, downed, overdue, or presumed downed general aviation aircraft; for safety and education activities necessary to insure safety of persons operating or using aircraft; and for the Washington wing civil air patrol in accordance with RCW 47.68.370.

**NEW SECTION. Sec. 23. FOR THE DEPARTMENT OF TRANSPORTATION—COMMUNITY ECONOMIC REVITALIZATION—PROGRAM G**

Motor Vehicle Fund—Economic Development Account Appropriation . . . . . \$ 7,000,000

The appropriation in this section is funded with the proceeds from the sale of bonds authorized by RCW 47.10.801 and is provided for improvements to the state highway system necessitated by planned economic development.

**NEW SECTION. Sec. 24. FOR THE DEPARTMENT OF TRANSPORTATION—NONINTERSTATE BRIDGES—PROGRAM H**

Motor Vehicle Fund Appropriation—State . . . . . \$ 26,000,000  
Motor Vehicle Fund Appropriation—Federal . . . . . \$ 33,000,000  
Motor Vehicle Fund Appropriation—Local . . . . . \$ 1,000,000  
Total Appropriation . . . . . \$ 60,000,000

The appropriations in this section are provided to preserve the structural and operating integrity of existing bridges. The appropriations in this section are subject to the following conditions and limitations: \$220,000 of the appropriation provided for in this section shall be used exclusively for the first avenue south bridge.

**NEW SECTION. Sec. 25. FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE AND OPERATIONS—PROGRAM M**

Motor Vehicle Fund Appropriation—State . . . . . \$ 191,946,680  
Motor Vehicle Fund Appropriation—Local . . . . . \$ 69,161  
Total Appropriation . . . . . \$ 192,015,841

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

- (1) \$1,500,000 of the motor vehicle fund—state appropriation is provided solely for snow and ice removal activities in excess of \$33,800,000. The excess moneys are to be matched with reprioritized maintenance funds of twenty-five percent of the total needed over \$33,800,000 until the \$1,500,000 is matched. The legislative transportation committee must be notified if the resulting total of \$35,800,000 is exceeded.
- (2) If actual and projected expenditures for public damage repair exceed amounts presumed in the maintenance work plan as submitted in the

budget request to the house of representatives and senate transportation committees, supplemental relief will be sought.

(3) If Engrossed House Bill No. 1502, adjusting vehicle permit fees, is enacted by June 30, 1989, the motor vehicle fund—state appropriation is reduced by \$164,000.

**NEW SECTION. Sec. 26. FOR THE DEPARTMENT OF TRANSPORTATION—SALES AND SERVICES TO OTHERS—PROGRAM R**

Motor Vehicle Fund Appropriation—State . . . . .	\$	2,273,000
Motor Vehicle Fund Appropriation—Federal . . . . .	\$	68,000,000
Motor Vehicle Fund Appropriation—Local . . . . .	\$	6,869,000
Total Appropriation . . . . .	\$	77,142,000

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

(1) The appropriations contain \$350,000 of state funds for expenditure in accordance with RCW 47.56.720 (Puget Island–Westport Ferry—Payments for operation and maintenance to Wahkiakum county).

(2) The appropriations contain \$900,000 of state funds for the guarantee, pursuant to RCW 47.56.712, of the payment of principal and interest on the Spokane River toll bridge revenue refunding bonds as the bonds become due, but only to the extent that net revenues from the operation of the bridge are insufficient.

(3) The appropriations contain \$400,000 of local funds to guarantee bond payments on the Astoria–Megler bridge pursuant to RCW 47.56.646.

**NEW SECTION. Sec. 27. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S**

General Fund—Aeronautics Account Appropriation . . . . .	\$	14,391
General Fund Appropriation . . . . .	\$	26,152
Motor Vehicle Fund—Puget Sound Capital Construction Account Appropriation . . . . .	\$	383,510
Motor Vehicle Fund—Puget Sound Ferry Operations Account Appropriation . . . . .	\$	784,107
Motor Vehicle Fund Appropriation . . . . .	\$	30,044,558
Total Appropriation . . . . .	\$	31,252,718

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

(1) \$2,300,000 of the motor vehicle fund appropriation is provided solely for the acquisition or development of a financial management system. Authority to expend these funds is conditioned upon compliance with the requirements set forth in section 63 of this act.



(2) \$802,700 of the motor vehicle fund appropriation is provided solely for the transportation executive information system.

**\*NEW SECTION. Sec. 28. FOR THE DEPARTMENT OF TRANSPORTATION—PLANNING, RESEARCH, AND PUBLIC TRANSPORTATION—PROGRAM T**

For public transportation and rail programs:

General Fund Appropriation—State . . . . .	\$	629,800
General Fund Appropriation—		
Federal/Local . . . . .	\$	5,466,819
High Capacity Transportation Account Approp- riation . . . . .	\$	8,561,139
For planning and research:		
Motor Vehicle Fund Appropriation—State . . . . .	\$	8,637,774
Motor Vehicle Fund Appropriation—Federe- al . . . . .	\$	10,463,549
Total Appropriation . . . . .	\$	33,759,081

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

(1) The motor vehicle fund—state appropriation may be increased by up to \$1,500,000 in the event federal funds are not available to fully fund the motor vehicle fund—federal appropriation in this section, subject to legislative transportation committee notification. If additional federal funds become available to more than fully fund the motor vehicle fund—federal appropriation in this section, the department may transfer up to \$600,000 from the motor vehicle fund—state appropriation to the motor vehicle fund—federal appropriation.

(2) \$892,852 of the motor vehicle fund—state appropriation is provided for interstate 4-R and route planning studies.

(3) \$115,126 of the motor vehicle fund—state appropriation is provided for traffic analysis studies.

(4) \$50,000 of the motor vehicle fund—state appropriation and \$50,000 of the general fund—state appropriation is provided solely for one additional full-time employee to implement the requirements set forth in Engrossed House Bill No. 1438.

(5) The high capacity transportation account appropriation is subject to the following conditions and limitations:

(a) \$6,801,793 or as much thereof as may be necessary may be expended to provide up to eighty percent matching assistance for regional passenger rail planning efforts;

(b) \$500,000 or as much thereof as may be necessary may be expended to determine ways of improving Amtrak service including coordination and planning efforts within the state;

(c) \$833,346 or as much thereof as may be necessary may be expended for passenger rail program administration and for independent review of passenger rail plans; and

(d) \$426,000 or as much thereof as may be necessary may be expended for freight rail program administration.

***(6) If Substitute House Bill No. 1825 is not enacted by June 30, 1989, the high capacity transportation account appropriation shall be eliminated.***

\*Sec. 23 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 29. FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM OTHER AGENCIES—PROGRAM U**

Motor Vehicle Fund Appropriation . . . . .	\$	10,607,946
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The appropriation in this section is to provide for costs billed to the department for the services of other state agencies as follows:

- (1) Archives and records management, \$216,000;
- (2) Attorney general tort claims support, \$5,141,946;
- (3) Office of the state auditor audit services, \$731,000;
- (4) Department of general administration facilities and services charges, \$1,946,000; and
- (5) Department of personnel services, \$2,573,000.

**NEW SECTION. Sec. 30. FOR THE DEPARTMENT OF TRANSPORTATION—MARINE CONSTRUCTION—PROGRAM W**

Motor Vehicle Fund—Puget Sound Capital Construction Account Appropriation—		
State . . . . .	\$	98,930,400
Motor Vehicle Fund—Puget Sound Capital Construction Account Appropriation—		
Federal . . . . .	\$	14,200,000
Total Appropriation . . . . .	\$	113,130,400

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements. The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are provided to carry out only the projects presented to the governor and the house of representatives and senate transportation committees in the department of transportation's 1989-91 biennial budget request dated March, 1989. The department of transportation shall revise these projects to reconcile them with the 1987-89 actual expenditures within sixty days of the beginning of the biennium.

(2) The Puget Sound capital construction account—state appropriation in this section contains \$15,000,000 of state funds transferred as a loan from the Puget Sound ferry operations account. Repayment to the Puget

Sound ferry operations account from the Puget Sound capital construction account shall begin in the 1993-95 biennium.

(3) The Puget Sound capital construction account—state appropriation of \$100,300,000 includes \$20,000,000 in proceeds from the sale of bonds authorized by RCW 47.60.560: PROVIDED, That the department of transportation may use current revenues available to the Puget Sound capital construction account in lieu of bond proceeds for any part of the state appropriation.

(4) The Puget Sound capital construction account—state appropriation contains up to \$100,000 which shall be used in conjunction with funds provided by the legislative transportation committee to study and recommend a means for financing the future purchases of any required auto ferry vessel(s): PROVIDED, That the results of this joint study shall be presented to the governor and the house of representatives and senate transportation committees prior to December 31, 1989.

(5) The department of transportation shall provide the legislative transportation committee with a monthly report concerning the status of the capital program authorized in this section.

**NEW SECTION. Sec. 31. FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X**

Ferry System Fund Appropriation . . . . . \$ 167,808,589

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is based on the budgeted expenditure of \$19,643,704 for vessel operating fuel in the 1989-91 biennium. If the actual cost of fuel is less than this budgeted amount, the excess amount shall not be expended. If the actual cost exceeds this amount, the department shall request a supplemental appropriation.

(2) In the event that revenues available to the ferry system fund are not sufficient to support the expenditures necessary for the operation and maintenance of the state ferry system as authorized in this section, the department may transfer funds from the Puget Sound ferry operations account to the ferry system fund.

(3) The appropriation contained in this section provides for the compensation of ferry employees, including increases. The expenditures for compensation paid to ferry employees during the 1989-91 biennium shall not exceed \$110,842,958 plus a dollar amount, as prescribed by the office of financial management, which is equal to any insurance benefit increase granted general government employees in excess of \$224.75 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for the respective fiscal year, a dollar amount as prescribed by the office of financial management for salary increases during the

1989-91 biennium, and a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges and cost of living allowances. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "B" (7.2.6.2). Of the \$110,842,958 provided for compensation, plus the prescribed insurance benefit, pension, and salary increase dollar amount:

(a) The maximum dollar amount which shall be allocated from the governor's compensation salary appropriation is in addition to the appropriation contained in this section and may be used to increase compensation costs, effective January 1, 1990;

(b) The prescribed insurance benefit increase dollar amount which shall be allocated from the governor's compensation insurance benefits appropriation is in addition to the appropriation contained in this section and may be used to increase compensation costs, effective July 1, 1989;

(c) The maximum dollar amount which shall be allocated from the governor's compensation salary appropriation is in addition to the appropriation contained in this section and shall be used to maintain any 1989-90 compensation increase and may be used to increase compensation costs, effective January 1, 1991.

In no event may the June 30, 1990, hourly salary rate increase exceed any average hourly salary rate increase granted during the 1989-90 fiscal year.

In no event may the June 30, 1991, hourly salary rate increase exceed any salary rate increase granted during the 1990-91 fiscal year.

(4) The department of transportation shall provide the legislative transportation committee with a monthly report concerning the status of the operating program authorized in this section.

(5) The appropriation in this section contains \$1,000,000 which shall be expended only to complete the marine division payroll/personnel integration project.

(6) The transportation commission shall propose to the legislative transportation committee a reporting structure that reflects the respective operating expenditures and revenues supporting each of the vessel routes by December 31, 1989. The proposed reporting structure should be tied to existing accounting data and should provide the legislature adequate information to examine the tax subsidy required to support the operation of the various routes.

NEW SECTION. Sec. 32. FOR THE DEPARTMENT OF TRANSPORTATION—STATE AID—PROGRAM Z  
Motor Vehicle Fund Appropriation—State . . . . . \$ 6,456,591

Motor Vehicle Fund Appropriation—Federal	\$	106,615,693
Motor Vehicle Fund Appropriation—Local	\$	18,557,000
Total Appropriation	\$	131,629,284

(1) The appropriations in this section include \$7,000,000 from the motor vehicle fund—federal for transportation expenditures related to the United States navy home port in Everett.

(2) The appropriations contain \$309,000 of state funds from the proceeds of bonds for Columbia Basin county roads authorized in chapter 121, Laws of 1951; chapter 311, Laws of 1955; and chapter 121, Laws of 1965 for reimbursable expenditures on cooperative projects authorized by state or federal laws.

(3) \$3,000,000 of the motor vehicle fund—state appropriation, or as much thereof as may be required, is provided for studies that are mutually beneficial to cities, counties and the state department of transportation, including the continuation of the road jurisdiction study and the project cost evaluation methodology study.

**NEW SECTION. Sec. 33. FOR THE DEPARTMENT OF TRANSPORTATION—SUPPORTIVE SERVICES—PROGRAM 090**

General Fund Appropriation—Federal	\$	400,000
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The appropriation in this section is provided for supportive services to on-the-job training programs for minority construction workers and for minority contractors' training programs.

**NEW SECTION. Sec. 34. SPECIAL APPROPRIATIONS TO THE GOVERNOR**

Motor Vehicle Fund Appropriation	\$	9,858,000
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(1) The appropriation in this section includes \$3,200,000 for transportation projects relating to the Everett homeport.

(2) The appropriation in this section includes \$6,658,000 for expenditures relating to transportation improvements on the Blair waterway as negotiated in the Puyallup Tribal Claim settlement.

**NEW SECTION. Sec. 35. FOR THE DEPARTMENT OF TRANSPORTATION**

Motor Vehicle Fund—RV Account Appropriation Transfer:		
For transfer to the Motor Vehicle Fund	\$	400,000

The appropriation transfer in this section is provided for the construction and maintenance of recreation vehicle sanitary disposal systems at rest areas on the state highway system.

**NEW SECTION. Sec. 36. FOR THE DEPARTMENT OF TRANSPORTATION—FOR PAYMENT OF BELATED CLAIMS**

Motor Vehicle Fund Appropriation	\$	5,000,000
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Puget Sound Ferry Operations Account Appropriation .....	\$	100,000
Total Appropriation .....	\$	5,100,000

**NEW SECTION.** Sec. 37. FOR THE LEGISLATIVE TRANSPORTATION COMMITTEE—FOR PAYMENT OF BELATED CLAIMS  
 Motor Vehicle Fund Appropriation ..... \$ 100,000

**\*NEW SECTION.** Sec. 38. *It is the intent of the legislature that the amounts assumed in this act for all revolving funds for services provided to the Washington state patrol and department of licensing by other agencies, including the department of personnel service fund for personnel services, the legal services revolving fund for tort claim administration costs and other legal costs, the audit services revolving fund for audits, and the archives and records management account for archiving, storage, and records management services, shall not be exceeded without prior approval of the legislative transportation committee.*

\*Sec. 38 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 39. No moneys from the motor vehicle fund or highway safety fund may be expended under this act for major relocation of the Washington state patrol or the department of licensing.

**NEW SECTION.** Sec. 40. The department of transportation and the county road administration board shall, by December 31, 1989, jointly provide the legislative transportation committee a report describing the current financial status of county-operated ferry systems. The report shall include but not be limited to recommendations regarding the appropriate level of state support for these transportation services and whether there is sufficient justification to consider transferring responsibilities for operating these systems to the Washington state department of transportation.

Sec. 41. Section 46.68.110, chapter 12, Laws of 1961 as last amended by section 37, chapter 10, Laws of 1987 1st ex. sess. and RCW 46.68.110 are each amended to read as follows:

Funds credited to the incorporated cities and towns of the state as set forth in subdivision (1) of RCW 46.68.100 shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such sums shall be deducted monthly as such sums are credited and set aside for the use of the department of transportation for the supervision of work and expenditures of such incorporated cities and towns on the city and town streets thereof, including the supervision and administration of federal-aid programs for which the department of transportation has responsibility: PROVIDED, That any moneys so retained and not expended shall be credited in the succeeding biennium to the incorporated cities and towns in proportion to deductions herein made;

~~(2) ((From July 1, 1985, through June 30, 1987, twenty-four one-hundredths of one percent of such funds shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation for the purpose of funding the cities' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the cities in proportion to the deductions made;~~

~~(3)) From July 1, 1987, through June 30, 1989, thirty-three one-hundredths of one percent of such funds shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation for the purpose of funding the cities' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the cities in proportion to the deductions made;~~

(3) From July 1, 1989, through June 30, 1991, thirty-three one-hundredths of one percent of such funds shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation for the purpose of funding the cities' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the cities in proportion to the deductions made;

(4) The balance remaining to the credit of incorporated cities and towns after such deduction shall be apportioned monthly as such funds accrue among the several cities and towns within the state ratably on the basis of the population last determined by the office of financial management.

Sec. 42. Section 46.68.120, chapter 12, Laws of 1961 as last amended by section 38, chapter 10, Laws of 1988 1st ex. sess. and RCW 46.68.120 are each amended to read as follows:

Funds to be paid to the counties of the state shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such funds shall be deducted monthly as such funds accrue and set aside for the use of the department of transportation and the county road administration board for the supervision of work and expenditures of such counties on the county roads thereof, including the supervision and administration of federal-aid programs for which the department of transportation has responsibility: PROVIDED, That any funds so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to deductions herein made;

(2) All sums required to be repaid to counties composed entirely of islands shall be deducted;

~~(3) ((From July 1, 1985, through June 30, 1987, twenty-four one-hundredths of one percent of such funds shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation~~

~~for the purpose of funding the counties' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to the deductions made;~~

~~(4)) From July 1, 1987, through June 30, 1989, thirty-three one-hundredths of one percent of such funds shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation for the purpose of funding the counties' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to the deductions made;~~

(4) From July 1, 1989, through June 30, 1991, thirty-three one-hundredths of one percent of such funds shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation for the purpose of funding the counties' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to the deductions made;

(5) The balance of such funds remaining to the credit of counties after such deductions shall be paid to the several counties monthly, as such funds accrue, in accordance with RCW 46.68.122 and 46.68.124.

NEW SECTION. Sec. 43. The motor vehicle fund revenues are received at a relatively even flow throughout the year. Expenditures exceed the revenue during the accelerated summer and fall highway construction season, creating a negative cash balance during the heavy construction season. Negative cash balances also may result from the use of state funds to finance federal advance construction projects prior to conversion to federal funding. The legislature recognizes that the department of transportation may require interfund loans or other short-term financing to meet temporary seasonal cash requirements and additional cash requirements to fund federal advance construction projects.

NEW SECTION. Sec. 44. The legislature recognizes the economic importance to the state of attracting new industrial development, and that the availability of transportation services is a significant factor in attracting such industries. The transportation commission and the department of transportation may consider these unique circumstances in determining priorities for capital expenditures.

NEW SECTION. Sec. 45. In addition to such other appropriations as are made by this act, there is hereby appropriated to the department of transportation from legally available bond proceeds in the respective construction or building accounts such amounts as are necessary to pay the expenses incurred by the state finance committee in the issuance and sale of the subject bonds.



NEW SECTION. Sec. 46. As used in this act, "St Patrol Hiwy Acct" means the State Patrol Highway Account.

NEW SECTION. Sec. 47. FOR THE WASHINGTON STATE PATROL

Spokane district headquarters (88-2-009)

	Reappropriation	Appropriation
St Patrol Hiwy Acct	100,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/89	Thereafter	
2,291,000		2,391,000

NEW SECTION. Sec. 48. FOR THE WASHINGTON STATE PATROL

Construct detachment office: Mount Vernon (88-1-018)

	Reappropriation	Appropriation
St Patrol Hiwy Acct	100,000	
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/89	Thereafter	
539,000		639,000

NEW SECTION. Sec. 49. FOR THE WASHINGTON STATE PATROL

Asbestos abatement: Academy (90-1-001)

	Reappropriation	Appropriation
St Patrol Hiwy Acct		256,800
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/89	Thereafter	
3,000		259,800

NEW SECTION. Sec. 50. FOR THE WASHINGTON STATE PATROL

Construct communications tower: Bremerton (90-2-002)

Reappropriation	Appropriation
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St Patrol Hiwy Acct		241,900
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/89	Thereafter	
		241,900

NEW SECTION. Sec. 51. FOR THE WASHINGTON STATE  
PATROL

Small repairs and improvements: State-wide (90-2-004)

	Reappropriation	Appropriation
St Patrol Hiwy Acct		140,600
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/89	Thereafter	
		140,600

NEW SECTION. Sec. 52. FOR THE WASHINGTON STATE  
PATROL

Minor works: State-wide (90-2-006)

	Reappropriation	Appropriation
St Patrol Hiwy Acct		1,600,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/89	Thereafter	
		1,600,000

NEW SECTION. Sec. 53. FOR THE WASHINGTON STATE  
PATROL

Communications center expansion: Vancouver (90-2-007)

	Reappropriation	Appropriation
St Patrol Hiwy Acct		239,700
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/89	Thereafter	
4,000		243,700

NEW SECTION. Sec. 54. FOR THE WASHINGTON STATE PATROL

Property acquisition district headquarters: Tacoma (90-2-013)

	Reappropriation	Appropriation
St Patrol Hiwy Acct		750,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/89	Thereafter	
53,000		803,000

NEW SECTION. Sec. 55. FOR THE WASHINGTON STATE PATROL

Construct district headquarters: Everett (90-2-018)

	Reappropriation	Appropriation
St Patrol Hiwy Acct		3,500,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/89	Thereafter	
53,000		3,553,000

NEW SECTION. Sec. 56. FOR THE WASHINGTON STATE PATROL

Program through design development: Washington State Patrol headquarters (90-2-040)

	Reappropriation	Appropriation
St Patrol Hiway Acct		100,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/91 and	Costs
6/30/89	Thereafter	
	24,000,000	24,000,000

NEW SECTION. Sec. 57. FOR THE WASHINGTON STATE PATROL

Emergency vehicle operation course: Phase II (91-3-011)

	Reappropriation	Appropriation
Public Safety and Education Acct	500,000	

Project Costs Through 6/30/89	Estimated Costs 7/1/91 and Thereafter	Estimated Total Costs
607,000		1,107,000

**NEW SECTION. Sec. 58. FOR THE STATE TREASURER—TRANSFER**

Motor Vehicle Fund Appropriation ..... \$ 38,000,000

The appropriation in this section is for transfer to the Puget Sound ferry operations account on August 1, 1989: PROVIDED, That the amount appropriated for transfer shall not exceed the amount of the unexpended balance in the Puget Sound ferry operations account on June 30, 1989, which is subject to transfer from the account pursuant to RCW 47.60.540(2). The amount transferred shall be reported to the legislative transportation committee.

**NEW SECTION. Sec. 59. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSFER**

Motor Vehicle Fund—Highway Construction  
Stabilization Account Transfer: For transfer to the Motor Vehicle Fund ..... \$ 120,000,000

The appropriation transfer in this section is provided for expenditures pursuant to RCW 46.68.200.

**NEW SECTION. Sec. 60.** To the extent that the employer contributions for retirement, industrial insurance, and medical aid granted to state general government employees through enactment of the omnibus state appropriations act are less than amounts assumed in the operating programs in this appropriations act, such portion of the appropriations shall be withheld and assigned to a reserve status pursuant to RCW 43.88.110(2). Specific amounts shall be assigned to a reserve status with the concurrence of the office of financial management and the legislative transportation committee.

**NEW SECTION. Sec. 61.** The department of transportation is authorized to undertake federal advance construction projects under the provisions of 23 U.S.C. Sec. 115 in order to maintain progress in meeting approved highway construction and preservation objectives. The legislature recognizes that the use of state funds may be required to temporarily fund expenditures of the federal appropriations for the highway construction and preservation programs for federal advance construction projects prior to conversion to federal funding.

**NEW SECTION.** Sec. 62. To maximize the use of motor vehicle fund revenues, it is the intent of the legislature to encourage sharing of technology, information, and systems where appropriate between transportation agencies.

To facilitate this exchange, the Washington state department of transportation assistant secretary for finance and budget management; Washington state department of transportation chief, management information systems; the Washington state patrol support services bureau deputy chief; Washington state patrol manager of the computer services division; the department of licensing deputy director and department of licensing assistant director for information systems will meet quarterly to share plans, discuss progress of key projects and to coordinate activities for the common good. Minutes of these meetings will be distributed to the respective agency heads and the legislative transportation committee. Washington state department of transportation will provide staff support and meeting coordination.

**NEW SECTION.** Sec. 63. Agencies shall comply with the following requirements regarding information systems projects when directed to do so by specific appropriation proviso.

(1) The agency shall produce a feasibility study for each information systems project in accordance with published department of information services instructions. In addition to department of information services requirements such studies shall examine and evaluate the costs and benefits of maintaining status quo.

(2) The agency shall produce a project management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. These plans shall include, but not be limited to, the following elements: A description of the problem or opportunity which the information systems project is intended to address; a statement of project objectives and assumptions; definition of phases, tasks, and activities to be accomplished and the estimated cost of each phase; a description of how the agency will facilitate responsibilities of oversight agencies; a description of key decision points in the project life cycle; a description of variance control measures; a definitive schedule that shows the elapsed time estimated to complete the project and when each task is to be started and completed; and a description of resource requirements to accomplish the activities within specified time, cost, and functionality constraints.

(3) A copy of each feasibility study and project management plan shall be provided to the department of information services, the office of financial management, and the legislative transportation committee. Authority to expend any funds for individual information systems projects shall be conditioned upon approval of the relevant feasibility study and project management plan by the department of information services and the office

of financial management or the legislative transportation committee as appropriate.

(4) A project status report shall be submitted to the department of information services, the office of financial management, and the legislative transportation committee for each project prior to reaching key decision points identified in the relevant project management plan. Project status reports shall examine and evaluate project management, accomplishments, budget, action to address variances, risk management, cost and benefits analysis, and other aspects critical to completion of a project.

Work shall not commence on any task in a subsequent phase of a project until the status report for the preceding key decision point has been approved by the department of information services, the office of financial management, and the legislative transportation committee as appropriate.

(5) In those instances when a project review is requested in accordance with department of information services policies, the reviews shall examine and evaluate: System requirements specifications; scope; system architecture; change controls; documentation; user involvement; training; availability and capability of resources; programming languages and techniques; system inputs and outputs; plans for testing, conversion, implementation, and post-implementation; and other aspects critical to successful construction, integration, and implementation of automated systems. Copies of project review written reports shall be forwarded to the office of financial management and the legislative transportation committee by the agency.

(6) A written post-implementation review report shall be prepared by the agency for each information systems project in accordance with published department of information services instructions. In addition to the information requested pursuant to the department of information services instructions, post-implementation reports shall evaluate the degree to which a project accomplished its major objectives including, but not limited to, a comparison of original cost and benefit estimates to actual costs and benefits achieved. Copies of post-implementation review reports shall be provided to the department of information services, the office of financial management, and the legislative transportation committee.

**NEW SECTION.** Sec. 64. By July 1, 1990 the department of transportation shall take actions necessary to ensure that the safety requirements for work places in the state ferry system, whether within the navigable waters subject to the jurisdiction of the state of Washington or the United States, conform, at a minimum, with the employee safety and health regulations adopted by the department of labor and industries pursuant to chapter 49.17 RCW.

**NEW SECTION.** Sec. 65. Counties with a population of 50,000 or more and cities with a population of 8,000 or more receiving moneys provided in this act shall have adopted a local comprehensive plan prior to the receipt of such funds. The plan shall include a coordinated system of growth

planning and strategies and shall take into consideration any state and regional planning efforts, including but not limited to, the rail development commission report, road jurisdiction study, department of transportation policy plan, and the Washington state economic development board. Cities and towns must adopt a comprehensive plan under chapter 35.63 or 35A.63 RCW or under the authority of its charter where applicable. Counties must adopt a comprehensive plan under chapter 35.63 or 36.70 RCW or under the authority of its own charter where applicable. The plans adopted by cities, towns, and counties shall be submitted, upon adoption, to the office of financial management and the department of transportation.

**NEW SECTION.** Sec. 66. In addition to the appropriation authority contained in section 31 of this act for program X, the marine division may expend up to \$500,000 from the Puget Sound ferry operations account for unprogrammed expenditures with prior approval of the legislative transportation committee.

**\*NEW SECTION. Sec. 67.** *The attorney general shall prepare annually a report to the legislative transportation committee comprising a comprehensive summary of all cases involving tort claims against the department of transportation involving highways which were concluded and closed in the previous calendar year. The report shall include for each case closed:*

- (1) A summary of the factual background of the case;*
- (2) Identification of the attorneys representing the state and the opposing parties;*
- (3) A synopsis of the legal theories asserted and the defenses presented;*
- (4) Whether the case was tried, settled, or dismissed, and in whose favor;*
- (5) The amount of any settlement or verdict reached, and the terms for payment;*
- (6) A summary of all settlement offers made by the parties where a verdict was returned against the state;*
- (7) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and*
- (8) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims.*

*\*Sec. 67 was vetoed, see message at end of chapter.*

**NEW SECTION.** Sec. 68. The attorney general shall, by July 1, 1989, begin an investigation into the causes behind the substantial increase in the price of gasoline and other petroleum products since March 24, 1989, to determine whether any state laws have been violated by manufacturers, distributors, or sellers of gasoline or other petroleum products. The attorney general shall consult with the utilities and transportation commission, the

state energy office, and other state agencies for any technical assistance the attorney general may need.

The attorney general shall have concurrent authority and power with the prosecuting attorneys to conduct such investigation and to initiate and conduct on behalf of the citizens of the state of Washington the prosecution of any offense relating to the price of gasoline or other petroleum products.

The attorney general shall report by December 1, 1989, to the senate and house of representatives energy and utilities committees and the legislative transportation committee on the findings of the investigation and the status of any prosecutions.

Sec. 69. Section 2, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

**FOR THE TRAFFIC SAFETY COMMISSION**

Highway Safety Fund Appropriation—State . . . . .	\$	((310,449))
		<u>410,449</u>
Highway Safety Fund Appropriation—Federal . . . . .	\$	((4,190,574))
		<u>4,440,574</u>
Total Appropriation . . . . .	\$	((4,501,023))
		<u>4,851,023</u>

The appropriations in this section are subject to the following conditions and limitations: \$100,000 of the highway safety fund—state appropriation is provided solely for the relocation, repair, and replacement costs resulting from the traffic safety commission office fire.

Sec. 70. Section 18, chapter 10, Laws of 1987 1st ex. sess. as amended by section 5, chapter 283, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM C**

Motor Vehicle Fund Appropriation—State . . . . .	\$	93,455,000
Motor Vehicle Fund Appropriation—Local . . . . .	\$	2,000,000
Total Appropriation . . . . .	\$	95,455,000

The appropriations in this section are provided for the location, design, right of way, and construction of state highway projects designated as category "C" under RCW 47.05.030. ~~((If Senate Bill No. 6464 is enacted, the motor vehicle fund—state appropriation shall be increased by \$13,000,000.))~~

(1) The motor vehicle fund—state appropriation will be funded with the proceeds from the sale of bonds authorized in RCW 47.10.801 in the amount of \$93,455,000: PROVIDED, That the transportation commission in consultation with the legislative transportation committee may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.



The transportation commission shall adjust its list of category "C" projects to include only those projects that can be accomplished within the moneys provided in this appropriation.

It is the intent of the legislature that no moneys shall be expended on projects that are not included on the transportation commission's priority list for the 1987-89 biennium. It is further the intent of the legislature that the category "A" and "H" programs take precedence over category "C" projects and that the category "A" and "H" programs be fully funded in the 1989-91 biennium to the exclusion of category "C" projects as required under chapter 47.05 RCW.

~~((It is the intent of the legislature that the department's category C preliminary engineering and right of way expenditures for unfunded list 4 projects shall not exceed \$12,000,000:))~~

It is the intent of the legislature that the maximum amount of state motor vehicle funds not required for other purposes be made available for category "C" program expenditures. If additional moneys become available, deferred funded list 4 category "C" project contracts shall not be awarded by the department without prior consultation with the legislative transportation committee.

~~((No moneys may be expended on list 5 category "C" projects in the 1987-89 biennium:))~~

(2) Notwithstanding subsection (1) of this section and to the extent that the motor vehicle fund—state receives additional revenues from the sale of department of transportation parcel number 32704447, \$455,000 of the motor vehicle fund appropriation—state is provided solely for the construction of a loop ramp as described under program item number 351216A in the transportation commission category "C" program file.

Sec. 71. Section 20, chapter 10, Laws of 1987 1st ex. sess. as amended by section 7, chapter 283, Laws of 1988 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—AERONAUTICS—PROGRAM F**

General Fund—Aeronautics Account Approp- riation—State . . . . .	\$ 2,377,803
General Fund—Aeronautics Account Approp- riation—Federal . . . . .	\$ 902,460
Total Appropriation . . . . .	\$ 3,280,263

The appropriations in this section are provided for management and support of the aeronautics division, state fund grants to local airports, development and maintenance of a state-wide airport system plan, maintenance of state-owned emergency airports, federal inspections, and the search and rescue program. ~~((The aeronautics account—state appropriation contains \$100,000 for transfer to the motor vehicle fund as the second~~

of four installments in repayment of the \$407,430 advanced to pay the tort settlement in the case of Osibov vs. the state of Washington, Spokane county superior court, Cause No. 239168:))

If aeronautics account—state revenue is insufficient to fund the appropriation authority, the aeronautics account may receive an interfund loan from the motor vehicle fund. Any interfund loan received shall be repaid in the 1989–91 biennium.

Sec. 72. Section 26, chapter 10, Laws of 1987 1st ex. sess. as amended by section 12, chapter 283, Laws of 1988 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—COUNTY-CITY PROGRAM—PROGRAM R

Motor Vehicle Fund Appropriation—State . . . . .	\$	((1,450,000))
		<u>1,539,000</u>
Motor Vehicle Fund Appropriation—Federal . . . . .	\$	151,612,528
Motor Vehicle Fund Appropriation—Local . . . . .	\$	19,977,219
Total Appropriation . . . . .	\$	((173,039,747))
		<u>173,128,747</u>

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

(1) The appropriations contain \$((241,000)) 330,000 of state funds for expenditure in accordance with RCW 47.56.720 (Puget Island–Westport Ferry—Payments for operation and maintenance to Wahkiakum county). ((If Senate Bill No. 5159 is enacted, the department may request a supplemental appropriation:))

(2) ((The appropriations contain \$900,000 of state funds for the guarantee, pursuant to RCW 47.56.712, of the payment of principal of and interest on the Spokane River toll bridge revenue refunding bonds as the bonds become due, but only to the extent that net revenues from the operation of the bridge are insufficient therefor.

(3)) The appropriations contain \$309,000 of state funds from the proceeds of bonds for Columbia Basin county roads authorized in chapter 121, Laws of 1951; chapter 311, Laws of 1955; and chapter 121, Laws of 1965 for reimbursable expenditures on cooperative projects authorized by state or federal laws.

((4)) (3) The appropriations contain \$91,612,528 of federal funds and \$15,227,923 of local funds for reimbursable expenditures for location, design, right-of-way, construction, and maintenance on the north metro operating base interchange, city streets, county roads, and other nonstate highways.

~~((5))~~ (4) The appropriations contain \$61,000,000 of federal funds and \$1,000,000 of local funds for location, design, right-of-way, and construction on state highways which is fully reimbursable.

~~((6))~~ (5) The appropriations contain \$400,000 of local funds to guarantee bond payments on the Astoria-Megler bridge pursuant to RCW 47.56.646.

~~((7))~~ (6) The appropriations contain \$3,437,811 of local funds for miscellaneous sales and services.

~~((8))~~ (7) The appropriations contain \$6,000,000 of federal funds for construction of defense access roads related to the Everett home port.

Sec. 73. Section 27, chapter 10, Laws of 1987 1st ex. sess. as amended by section 13, chapter 283, Laws of 1988 (uncodified) are each amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—EXECUTIVE MANAGEMENT AND MANAGEMENT SERVICES—PROGRAM S**

General Fund—Aeronautics Account Appropriation . . . . .	\$	9,371
General Fund Appropriation . . . . .	\$	15,194
Motor Vehicle Fund—Puget Sound Capital Construction Account Appropriation . . . . .	\$	217,442
Motor Vehicle Fund—Puget Sound Ferry Operations Account Appropriation . . . . .	\$	459,076
Motor Vehicle Fund Appropriation . . . . .	\$	<del>((31,611,418))</del>
		<u>32,211,418</u>
Ferry System Fund Appropriation . . . . .	\$	1,071,178
Total Appropriation . . . . .	\$	<del>((33,383,679))</del>
		<u>33,983,679</u>

The appropriations in this section include \$100,000 for the implementation of the joint financial information systems to be utilized by the office of financial management, legislative evaluation and accountability committee, department of transportation, department of information systems, the committees on ways and means of the senate and house of representatives, and the legislative transportation committee.

Sec. 74. Section 30, chapter 10, Laws of 1987 1st ex. sess. as amended by section 16, chapter 283, Laws of 1988 (uncodified) are each amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X**

<del>((Motor Vehicle Fund—Puget Sound Ferry Operations Account Appropriation . . . . .))</del>	<del>\$</del>	<del>((45,155,127))</del>
Ferry System Fund Appropriation . . . . .	\$	<del>((105,361,963))</del>
		<u>150,517,090</u>

((Total Appropriation..... \$)) ((150,512,090))

The appropriation((s)) in this section ((are)) is provided for management and support of the marine transportation division of the department of transportation and for the operation and maintenance of the state ferry system.

The appropriation((s)) in this section ((are)) is subject to the following conditions and limitations:

(1) The appropriation(~~s~~are)) is based on the budgeted expenditure of \$15,525,251 for vessel operating fuel in the 1987-89 biennium. If the actual cost of fuel is less than this budgeted amount, the excess amount shall not be expended. If the actual cost exceeds this amount, it is the intent of the legislature that the department will request a supplemental appropriation.

(2) Prior to the expenditure of any funds budgeted for additional passenger-only service, the department of transportation shall obtain approval from the legislative transportation committee. If the additional passenger-only service is not approved, the funds appropriated in this section for that purpose shall not be expended for any other purpose.

(3) For the period from July 1, 1987, up to the actual implementation date of the 1987-89 biennial salary increase for employees under the jurisdiction of the state personnel board, no increases in the hourly wage rates of ferry employees, as ferry employee is defined in RCW 47.64.011(5), shall be included in the base hourly wage rates used for future salary increase calculations.

(4) The appropriation contained in this section provides for the compensation of ferry employees, including increases. The expenditures for compensation paid to ferry employees during the 1987-89 biennium shall not exceed \$105,210,000 plus a dollar amount, as prescribed by the office of financial management, which is equal to any insurance benefit increase granted general government employees in excess of \$167 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 1989. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "L" (7.2.6.2). Of the \$105,210,000 provided for compensation, plus the prescribed insurance benefit increase dollar amount:

(a) A maximum of \$678,000 may be used to increase compensation costs, effective January 1, 1988;

(b) The prescribed insurance benefit increase dollar amount may be used to increase compensation costs, effective July 1, 1988;

(c) A maximum of \$2,145,000 shall be used to maintain any 1987-88 compensation increase and may be used to increase compensation costs, effective January 1, 1989.

In no event may the June 30, 1988, hourly salary rate increase exceed any salary rate increase granted during the 1987-88 fiscal year.

In no event may the June 30, 1989, hourly salary rate increase exceed any salary rate increase granted during the 1988-89 fiscal year.

(5) To the extent that ferry employees by bargaining unit have absorbed the required offset of wage increases by the amount that the employer's contribution for employees' and dependents' insurance and health care plans exceeds that of other state general government employees in the 1985-87 biennium, employees will not be required to absorb a further offset except to the extent the differential between employer contributions for those employees and all other state general government employees increases during the 1987-89 biennium. If the differential increases or the 1985-87 offset by bargaining unit is insufficient to meet the required deduction, the amount available for compensation shall be reduced by bargaining unit by the amount of such increase or the 1985-87 shortage in the required offset.

(6) The department of transportation shall provide the legislative transportation committee with a monthly report concerning the status of this program.

(7) In the event that revenues available to the ferry system fund are not sufficient to support the expenditures necessary for the operation and maintenance of the state ferry system, the department may transfer funds from the Puget Sound ferry operations account to the ferry system fund.

NEW SECTION. Sec. 75. 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. 76. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate May 10, 1989.

Passed the House May 10, 1989.

Approved by the Governor May 20, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 20, 1989.

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

"I am returning herewith, without my approval as to sections 6(3), 9(3), 10(3) and (4), 12(1) and (2), 28(6), 38, and 67, Recengrossed Substitute Senate Bill No. 5373 entitled:

"AN ACT Relating to transportation appropriations."

I regret that I am not able to veto this entire bill. The transportation budget contained in this bill is inadequate. It fails to meet even the minimal standards of responsible public policy. But because the Legislature refused to approve an adequate financing package, I have no choice but to approve the major portions of this bill. Without it, the citizens of this state would have to face an unacceptable risk. Without

a transportation budget, we ultimately would have to pull our troopers off our highways and close down critical state functions such as the Department of Licensing. I refuse to place the citizens of this state at such a risk.

Several sections of this bill must be vetoed, however.

Section 6, subsection 3 provides \$464,300 solely for aircraft repair of the Washington state patrol aircraft. Additionally, it provides for any user to pay a pro rata share of the expenses. These costs have not been anticipated in user agency budgets and funding has not been provided. I believe that pro rata billing is a sound management concept and will ask the Office of Financial Management to look at this approach for the 1991-93 budget.

Section 9, subsection 3 provides that \$100,000 of the total appropriation is solely for a budget/policy analyst for the vehicle services division. This subsection is unduly restrictive, given the limited resources provided to the Department of Licensing for operation during the 1989-91 biennium. I am removing this language to aid the Department in retaining more management flexibility to carry out the mandates established by the Legislature.

Section 10, subsection 3 provides that \$432,888 is provided solely for a budget analyst for the driver services division and additional security procedures related to driver's license issuance. This subsection is unduly restrictive, given the limited resources provided to the Department of Licensing for operation during the 1989-91 biennium. I am removing the language to aid the Department in retaining more management flexibility to carry out the mandates established by the Legislature.

Section 10, subsection 4 provides that moneys accruing to the Public Safety and Education Account (PSEA) in excess of the 1989-91 appropriation authority in this act or Senate Bill No. 5352 or any other omnibus appropriation act, shall be transferred to the Highway Safety Fund to reimburse the fund. In recent years, the Legislature has expressed a desire for an open process in determining levels of appropriation to the various agencies from the PSEA. This transfer circumvents that process by dedicating an undetermined amount of revenue to the Highway Safety Fund. Additionally, the forecast for the PSEA has recently been revised downward, which may result in a negative fund balance occurring during the ensuing biennium. It is prudent to maintain a fund balance in the PSEA to cushion against further unanticipated adjustments to revenue.

Section 12, subsection 1 provides that \$200,000 from two funds is solely for the development of a project management plan for integration of driver and motor vehicle systems. It further indicates that the plan shall be submitted to the Legislative Transportation Committee and the authority to expend this money is conditioned on the requirements of section 63 of this Act. This subsection is unduly restrictive, given the limited resources provided to the Department of Licensing for operation during the 1989-91 biennium. I am removing the language to aid the Department in retaining more management flexibility to carry out the mandates established by the Legislature.

Section 12, subsection 2 provides \$275,136 solely for additional data processing storage capacity and for preparing to implement the federal odometer act. This subsection is unduly restrictive, given the limited resources provided to the Department of Licensing for operation during the 1989-91 biennium. I am removing the language to aid the Department in retaining more management flexibility to carry out the mandates established by the Legislature.

Section 28, subsection 6 provides that the appropriation \$8,561,139 for high capacity transportation in this full section is eliminated if Substitute House Bill No. 1825 is not enacted by June 30, 1989. Hence, it would eliminate the appropriations for passenger rail programs, AMTRAK service improvements evaluation, and freight rail administration funding in subsection 28(5)(d). Funds provided for freight rail programs in Substitute Senate Bill 5521, section 607, (the Capital budget), are restricted to capital purchases and grants for capital improvements. Elimination of this appropriation leaves these programs without resources for management. If Substitute

House Bill No. 1825 is not passed, the funds for passenger rail programs will be placed in reserve.

Section 38 states that the amounts assumed in this Act for all revolving funds for various essential support services to the Washington State Patrol and the Department of Licensing by other agencies, shall not be exceeded without the prior approval of the Legislative Transportation Committee. This section puts caps on revolving fund payments for these agencies which are inconsistent relative to other state agencies in matters relating to revolving fund charges. It also inappropriately delegates budgetary authority over executive agencies to a legislative committee.

Section 67 contains language almost identical to language which I previously vetoed in section 17 of Engrossed Second Substitute Senate Bill No. 5658, which was related to risk management. This section would require the Attorney General to submit a yearly report to the Legislative Transportation Committee with information on each tort claim against the State. Much of the information that would be required would be useful to have on an annual basis, and I have no objection to most of this section. One of the subsections, however, is problematic, and in order to remove it from the bill I must veto the entire section. Subsection 6 would require the Attorney General to provide information on each and every settlement offer made on a tort claim and make this public information. This would provide a road map to the State's negotiating strategy to claimant's attorneys and be a serious disadvantage to the State. While those who have legitimate tort claims against the State are entitled to reasonable compensation, the State also has an obligation to settle claims without unnecessary and unjustified costs to the taxpayers of the state.

With the exception of sections 6(3), 9(3), 10(3) and (4), 12(1) and (2), 28(6), 38, and 67, Reengrossed Substitute Senate Bill No. 5373 is approved.\*

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## CHAPTER 7

[Senate Bill No. 6095]  
BRANCH CAMPUSES

AN ACT Relating to branch campuses; amending RCW 28B.25.020; adding new sections to Title 28B RCW; adding a new section to chapter 28B.10 RCW; adding new sections to chapter 28B.80 RCW; creating a new section; and repealing RCW 28B.30.510.

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

**NEW SECTION.** Sec. 1. The legislature finds that the benefits of higher education should be more widely available to the citizens of the state of Washington. The legislature also finds that a citizen's place of residence can restrict that citizen's access to educational opportunity at the upper division and graduate level.

Because most of the state-supported baccalaureate universities are located in areas removed from major metropolitan areas, the legislature finds that many of the state's citizens, especially those citizens residing in the central Puget Sound area, the Tri-Cities, Spokane, Vancouver, and Yakima, have insufficient and inequitable access to upper-division baccalaureate and graduate education.

This lack of sufficient educational opportunities in urban areas makes it difficult or impossible for place-bound individuals, who are unable to relocate, to complete a baccalaureate or graduate degree. It also exacerbates the difficulty financially needy students have in attending school, since many of those students need to work, and work is not always readily available in

some communities where the baccalaureate institutions of higher education are located.

The lack of sufficient educational opportunities in metropolitan areas also affects the economy of the underserved communities. Businesses benefit from access to the research and teaching capabilities of institutions of higher education. The absence of these institutions from some of the state's major urban centers prevents beneficial interaction between businesses in these communities and the state's universities.

The Washington state master plan for higher education, adopted by the higher education coordinating board, recognizes the need to expand upper-division and graduate educational opportunities in the state's large urban centers. The board has also attempted to provide a means for helping to meet future educational demand through a system of branch campuses in the state's major urban areas.

The legislature endorses the assignment of responsibility to serve these urban centers that the board has made to various institutions of higher education. The legislature also endorses the creation of branch campuses for the University of Washington and Washington State University.

The legislature recognizes that, among their other responsibilities, the state's comprehensive community colleges share with the four-year universities and colleges the responsibility of providing the first two years of a baccalaureate education. It is the intent of the legislature that the four-year institutions and the community colleges work as cooperative partners to ensure the successful and efficient operation of the state's system of higher education. The legislature further intends that the four-year institutions work cooperatively with the community colleges to ensure that branch campuses are operated as models of a two plus two educational system.

**NEW SECTION.** Sec. 2. A new section is added to chapter 28B.80 RCW to read as follows:

It is the intent of the legislature that, at the same time additional capital or operating funds are approved for the purposes of sections 3 through 7 of this act, enrollment lids at existing baccalaureate institutions of higher education should be raised at the upper-division level insofar as doing so would increase participation rates in underserved areas.

**NEW SECTION.** Sec. 3. The University of Washington is responsible for ensuring the expansion of upper-division and graduate educational programs in the central Puget Sound area under rules or guidelines adopted by the higher education coordinating board. The University of Washington shall meet that responsibility through the operation of at least two branch campuses. One branch campus shall be located in the Tacoma area. Another branch campus shall be located in the Bothell-Woodinville area.

**NEW SECTION.** Sec. 4. Washington State University is responsible for providing upper-division and graduate level higher education programs



to the citizens of the Tri-Cities area, under rules or guidelines adopted by the higher education coordinating board. Washington State University shall meet that responsibility through the operation of a branch campus in the Tri-Cities area. The branch campus shall replace and supersede the Tri-cities university center. All land, facilities, equipment, and personnel of the Tri-cities university center shall be transferred from the University of Washington to Washington State University.

**NEW SECTION.** Sec. 5. Washington State University is responsible for providing upper-division and graduate level higher education programs to the citizens of the southwest Washington area, under rules or guidelines adopted by the higher education coordinating board. Washington State University shall meet that responsibility through the operation of a branch campus in the southwest Washington area.

**NEW SECTION.** Sec. 6. Washington State University and Eastern Washington University are responsible for providing upper-division and graduate level programs to the citizens of the Spokane area, under rules or guidelines adopted by the higher education coordinating board. Washington State University shall meet its responsibility through the operation of a branch campus in the Spokane area. Eastern Washington University shall meet its responsibility through the operation of co-located programs and facilities in Spokane.

**NEW SECTION.** Sec. 7. Central Washington University is responsible for providing upper-division and graduate level higher education programs to the citizens of the Yakima area, under rules or guidelines adopted by the higher education coordinating board.

**NEW SECTION.** Sec. 8. A new section is added to chapter 28B.80 RCW to read as follows:

In rules and guidelines adopted for purposes of this act, the higher education coordinating board shall ensure a collaborative partnership between the community colleges and the four-year institutions. The partnership shall be one in which the community colleges prepare students for transfer to the upper-division programs of the branch campuses.

**NEW SECTION.** Sec. 9. A new section is added to chapter 28B.80 RCW to read as follows:

Before approving any institutional request to acquire facilities in an area assigned in sections 3 through 7 of this act, the higher education coordinating board shall ensure that creative and cost-effective methods of serving the needs of each assigned area are considered, including but not limited to:

- (1) Exploring the possibility of time-sharing existing college or university facilities for instructional and administrative purposes;
- (2) Using rented facilities; and
- (3) Utilizing telecommunication technology.

**NEW SECTION.** Sec. 10. A new section is added to chapter 28B.10 RCW to read as follows:

(1) The Spokane intercollegiate research and technology institute is hereby created.

(2) The institute shall be operated and administered as a multi-institutional education and research center, housing appropriate programs conducted in Spokane under the authority of Washington State University, Eastern Washington University, and the community colleges of Spokane. Gonzaga University and Whitworth College may participate as full partners in any academic and research activities of the institute. Washington State University shall act as administrative and fiscal agent for the institute.

(3) The institute shall be operated and administered through a cooperative arrangement of the institutions of higher education participating in the institute.

(4) The institute shall house education and research programs specifically designed to meet the needs of the greater Spokane area.

(5) The coordination of programs and activities at the institute shall be subject to the authority of the Spokane joint center for higher education under RCW 28B.25.020.

(6) The establishment of any education or research programs at the institute and the lease, purchase, or construction of any site or facility for the institute shall be subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340.

Sec. 11. Section 98, chapter 370, Laws of 1985 and RCW 28B.25.020 are each amended to read as follows:

(1) The joint center for higher education shall coordinate all undergraduate and graduate degree programs, and all other seminars, courses, and programs of any type offered in the Spokane area by Washington State University and by Eastern Washington University outside of its Cheney campus. The joint center for higher education shall not coordinate the intercollegiate center for nursing.

(2) The joint center for higher education shall coordinate the following higher education activities in the Spokane area outside of the Eastern Washington University Cheney campus:

(a) Articulation between lower division and upper division programs;

(b) The participation of Washington State University in its joint engineering program with Gonzaga University and in its joint engineering management program with Eastern Washington University and Gonzaga University; ~~((and))~~

(c) All contractual negotiations between public and independent colleges and universities; and

(d) Programs offered through the intercollegiate research and technology institute created by section 10 of this act.

(3) The participating institutions in the joint center for higher education shall maintain jurisdiction over the content of the course offerings and the entitlement to degrees.

(4) Disputes regarding which programs are to be coordinated by the joint center for higher education shall be arbitrated by the ((~~council for postsecondary education~~)) higher education coordinating board or its successor agency. The decision of the arbitrating agency shall be binding.

NEW SECTION. Sec. 12. A new section is added to chapter 28B.80 RCW to read as follows:

Eligible students residing in the areas to be served by the branch campuses created by sections 3 through 7 of this act may participate in a demonstration project administered by the higher education coordinating board. The educational opportunity grant project will be designed to permit the students to complete their upper division coursework at any eligible accredited baccalaureate institution of higher education, as defined in RCW 28B.10.802(1) and as further identified by the board. Each participating student may receive up to two thousand five hundred dollars per academic year, not to exceed the student's demonstrated financial need, for that coursework.

NEW SECTION. Sec. 13. A new section is added to chapter 28B.80 RCW to read as follows:

In order to be eligible for the demonstration project outlined in section 12 of this act, students must be placebound residents of the state of Washington who are needy as defined in RCW 28B.10.802(3), and have completed the associate of arts degree or its equivalent.

NEW SECTION. Sec. 14. Authorization for the programs, increases, and facilities described in this act is subject to legislative appropriation.

NEW SECTION. Sec. 15. Sections 3 through 7 and 14 of this act are each added to Title 28B RCW.

NEW SECTION. Sec. 16. Section 13, chapter 72, Laws of 1983 1st ex. sess., section 1, chapter 408, Laws of 1985 and RCW 28B.30.510 are each repealed.

Passed the Senate May 10, 1989.

Passed the House May 10, 1989.

Approved by the Governor May 31, 1989.

Filed in Office of Secretary of State May 31, 1989.

## CHAPTER 8

[Substitute Senate Bill No. 6074]

## PUBLIC FACILITIES DISTRICTS—TAXING AUTHORITY

AN ACT Relating to the repeal of public facilities districts' authority to tax without voter approval and reappropriating funds to public facilities districts; and amending RCW 36.100.010, 36.100.020, 36.100.030, 36.100.040, and 36.100.060.

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

Sec. 1. Section 11, chapter 1, Laws of 1988 ex. sess. and RCW 36.100.010 are each amended to read as follows:

(1) A public facilities district may be created in any county with three hundred thousand or more population that is located more than one hundred miles from any county in which the state has constructed and owns a convention center. A public facilities district shall be coextensive with the boundaries of the county.

~~(2) A public facilities district shall be created upon ((approval)) adoption of a ((proposition to create such)) resolution providing for the creation of such a district by ((a majority of the voters of the proposed district:~~

~~A proposition to create a public facilities district shall be submitted to the voters of the proposed district after)) the county legislative authority in which the proposed district is located and the city council of the largest city within such county ((have each adopted resolutions calling for such submittal. The proposition shall be placed on the ballot at the next general election held sixty or more days after the adoption of both the city and county resolutions. The resolution calling for providing submittal of the proposition to the voters may be adopted only after the county legislative authority and the city council hold a joint public hearing on the proposition. Notice of the public hearing shall be published in a newspaper of general circulation in the county in which the proposed district is located at least ten days before the public hearing.~~

~~A public facilities district shall be coextensive with the boundaries of the county)).~~

(3) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(4) No taxes authorized under this chapter may be assessed or levied unless a majority of the voters of the public facilities district has validated the creation of the public facilities district at a general or special election.

(5) A public facilities district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred

by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

Sec. 2. Section 12, chapter 1, Laws of 1988 ex. sess. and RCW 36-100.020 are each amended to read as follows:

A public facilities district shall be governed by a board of directors consisting of five members as follows: (1) Two members appointed by the county legislative authority to serve for four-year staggered terms; (2) two members appointed by the city council to serve for four-year staggered terms; and (3) one person to serve for a four-year term who is selected by the other directors. At least one member shall be representative of the lodging industry in the public facilities district.

One of the initial members appointed by the county legislative authority shall have a term of office of two years and the other initial member appointed by the county legislative authority shall have a term of four years. One of the initial members appointed by the city council shall have a term of two years and the other initial member appointed by the city council shall have a term of four years.

Sec. 3. Section 13, chapter 1, Laws of 1988 ex. sess. and RCW 36-100.030 are each amended to read as follows:

A public facilities district is authorized to acquire, construct, own, and operate ~~((convention, sports, entertainment, trade, and related facilities, including parking facilities:))~~ sports and entertainment facilities with contiguous parking facilities. A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations. The taxes that are provided for in this chapter ~~((only))~~ may only be imposed for such purposes.

Sec. 4. Section 14, chapter 1, Laws of 1988 ex. sess. and RCW 36-100.040 are each amended to read as follows:

~~((+))~~ A public facilities district may impose an excise tax on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, except that no such tax may be levied on any premises having fewer than forty lodging units. The rate of the tax shall not exceed two percent and the proceeds of the tax shall only be used for the acquisition, ~~design,~~ and construction of ~~((convention, sports, entertainment, trade, and related facilities:))~~

~~(2) A public facilities district may impose an excise tax on the admission charge to any public assembly facility owned and operated by the district member county or city, other than an admission to any activity of any elementary or secondary school, including a tax on persons who are admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same or similar privileges or~~

~~accommodations. The excise tax shall be imposed at a rate of up to fifty cents on each admission charge, or each ticket for each separate admission. This tax is in addition to all other admission and excise taxes imposed upon admissions. Anyone who receives such an admission charge shall collect and remit the tax to the public facilities district. As used in this subsection, the term "admission charge" includes a charge made for season tickets or subscriptions, a cover charge, or a charge made for use of seats and tables, reserved or otherwise, and other similar accommodations, a charge made for food and refreshments in any place where any free entertainment, recreation, or amusement is provided, a charge made for rental or use of equipment or facilities for the purpose of recreation or amusement, and where the rental of the equipment or facilities is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges shall be considered as the admission charge. It shall also include any automobile parking charge where the amount of such charge is determined according to the number of passengers in any automobile)) sports and entertainment facilities. This excise tax shall not be imposed until the district has approved the proposal to acquire, design, and construct the public facilities.~~

Sec. 5. Section 16, chapter 1, Laws of 1988 ex. sess and RCW 36.100-.060 are each amended to read as follows:

(1) To carry out the purpose of this chapter, a public facilities district may issue general obligation bonds, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to three-eighths of one percent of the value of taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36-.015. A facilities district additionally may issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, when authorized by the voters of the public facilities district pursuant to Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by excess property tax levies as provided in ((RCW 36.100.030(2))) this chapter.

(2) General obligation bonds may be issued with a maturity of up to thirty years, and shall be issued and sold in accordance with the provisions of chapter 39.46 RCW.

(3) The general obligation bonds may be payable from the operating revenues of the public facilities district in addition to the tax receipts of the district.

(4) The excise tax imposed pursuant to RCW 36.100.040 shall terminate upon final payment of all bonded indebtedness for the sports and entertainment facility.

Passed the Senate May 7, 1989.

Passed the House May 7, 1989.

Approved by the Governor May 31, 1989.

Filed in Office of Secretary of State May 31, 1989.

## CHAPTER 9

[Senate Bill No. 6152]

### DEPARTMENT OF HEALTH

AN ACT Relating to health; amending RCW 9.02.005, 26.04.165, 26.09.020, 26.09.150, 28B.104.020, 42.48.010, 43.20.025, 43.20.050, 43.20A.010, 43.20A.030, 43.20A.060, 43.20A.360, 43.20A.660, 43.20B.110, 43.21A.170, 43.21A.445, 48.21A.090, 48.42.070, 48.44.320, 48.46.040, 68.50.280, 69.04.915, 71.12.460, 71.12.480, 71.12.485, 71.12.490, 71.12.500, 71.12.520, 71.12.530, 71.12.540, 71.12.640, 70.123.030, 43.20A.600, 43.20A.615, 43.20A.620, 43.20A.625, 43.20A.640, 43.20A.645, 43.20A.650, 43.20A.655, 43.20A.665, 70.37.030, 74.15.060, 74.15.080, 18.120.040, 18.122.010, 18.122.020, 18.122.030, 18.122.050, 18.122.100, 18.122.110, 18.130.020, 18.130.310, 43.24.020, 43.24.086, 19.02.040, 19.02.050, 43.24.015, 18.64.044, 18.64.245, 18.64.080, 18.64.165, 69.41.020, 18.64.005, 18.64.009, 18.64.011, 18.64.040, 18.64.043, 18.64.044, 18.64.045, 18.64.046, 18.64.047, 18.64.050, 18.64.080, 18.64.140, 18.64A.010, 18.64A.030, 18.64A.050, 18.64A.060, 69.41.010, 69.41.075, 69.41.220, 69.50.101, 69.50.201, 69.50.301, 69.50.302, 69.50.303, 69.50.304, 69.50.310, 69.50.311, 69.50.500, 69.51.030, 69.51.040, 69.38.060, 69.43.040, 69.43.050, 69.43.090, 69.45.010, 69.45.020, 69.45.030, 69.45.070, 70.38.015, 70.38.025, 70.38.105, 70.38.111, 70.38.115, 70.38.125, 70.38.135, 70.41.090, 70.41.170, 43.17.010, 43.17.020, 42.17.2401, and 74.38.020; reenacting and amending RCW 43.20.030, 43.200.040, 42.17.310, and 74.04.005; adding a new section to chapter 15.36 RCW; adding a new section to chapter 18.64 RCW; adding a new section to chapter 18.104 RCW; adding a new section to chapter 19.32 RCW; adding a new section to chapter 28A.31 RCW; adding a new section to chapter 41.06 RCW; adding a new section to chapter 43.83B RCW; adding a new section to chapter 43.99D RCW; adding a new section to chapter 43.99E RCW; adding new sections to chapter 69.41 RCW; adding a new section to chapter 70.—RCW (ESHB 1968); adding a new section to chapter 70.05 RCW; adding a new section to chapter 70.08 RCW; adding a new section to chapter 70.12 RCW; adding a new section to chapter 70.22 RCW; adding a new section to chapter 70.24 RCW; adding a new section to chapter 70.40 RCW; adding a new section to chapter 70.41 RCW; adding a new section to chapter 70.54 RCW; adding a new chapter to Title 18 RCW; adding a new chapter to Title 43 RCW; adding new chapters to Title 70 RCW; creating new sections; recodifying RCW 43.20A.600, 43.20A.615, 43.20A.620, 43.20A.625, 43.20A.640, 43.20A.645, 43.20A.650, 43.20A.655, 43.20A.665, 43.24.015, 43.20A.140, and 43.24.072; repealing RCW 18.32.326, 18.34.040, 43.24.075, 70.38.055, 70.38.065, 70.38.145, 18.64.007, 70.38.045, 70.38.085, 70.38.035, and 74.— (section 35, chapter — (ESHB 1968), Laws of 1989); prescribing penalties; making appropriations; providing an effective date; and declaring an emergency.

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

### PART I

#### GENERAL PROVISIONS

NEW SECTION. Sec. 101. The legislature finds and declares that it is of importance to the people of Washington state to live in a healthy environment and to expect a minimum standard of quality in health care. The legislature further finds that the social and economic vitality of the state

depend on a healthy and productive population. The legislature further declares where it is a duty of the state to assure a healthy environment and minimum standards of quality in health care facilities and among health care professionals, the ultimate responsibility for a healthy society lies with the citizens themselves.

For these reasons, the legislature recognizes the need for a strong, clear focus on health issues in state government and among state health agencies to give expression to the needs of individual citizens and local communities as they seek to preserve the public health. It is the intent of the legislature to form such focus by creating a single department in state government with the primary responsibilities for the preservation of public health, monitoring health care costs, the maintenance of minimal standards for quality in health care delivery, and the general oversight and planning for all the state's activities as they relate to the health of its citizenry.

Further, it is the intent of the legislature to improve illness and injury prevention and health promotion, and restore the confidence of the citizenry in the expenditure of public funds on health activities, and to ensure that this new health agency delivers quality health services in an efficient, effective, and economical manner that is faithful and responsive to policies established by the legislature.

**NEW SECTION.** Sec. 102. As used in this chapter, unless the context indicates otherwise:

- (1) "Board" means the state board of health;
- (2) "Council" means the health care access and cost control council;
- (3) "Department" means the department of health; and
- (4) "Secretary" means the secretary of health.

**NEW SECTION.** Sec. 103. (1) There is hereby created a department of state government to be known as the department of health. The department shall be vested with all powers and duties transferred to it by this act and such other powers and duties as may be authorized by law. The main administrative office of the department shall be located in the city of Olympia. The secretary may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the department, and if consistent with the principles set forth in subsection (2) of this section.

(2) The department of health shall be organized consistent with the goals of providing state government with a focus in health and serving the people of this state. The legislature recognizes that the secretary needs sufficient organizational flexibility to carry out the department's various duties. To the extent practical, the secretary shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the department;



(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public;

(c) Maximum span of control without jeopardizing adequate supervision;

(d) A substate or regional organizational structure for the department's health service delivery programs and activities that encourages joint working agreements with local health departments and that is consistent between programs;

(e) Decentralized authority and responsibility, with clear accountability;

(f) A single point of access for persons receiving like services from the department which would limit the number of referrals between divisions.

(3) The department shall provide leadership and coordination in identifying and resolving threats to the public health by:

(a) Working with local health departments and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Developing intervention strategies;

(c) Providing expert advice to the executive and legislative branches of state government;

(d) Providing active and fair enforcement of rules;

(e) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing health preservation measures;

(f) Providing information to the public; and

(g) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment by the department's clients before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the secretary may create such administrative divisions, offices, bureaus, and programs within the department as the secretary deems necessary. The secretary shall have complete charge of and supervisory powers over the department, except where the secretary's authority is specifically limited by law.

(6) The secretary shall appoint such personnel as are necessary to carry out the duties of the department in accordance with chapter 41.06 RCW.

(7) The secretary shall appoint the state health officer and such deputy secretaries, assistant secretaries, and other administrative positions as deemed necessary consistent with the principles set forth in subsection (2) of this section. All persons who administer the necessary divisions, offices,

bureaus, and programs, and five additional employees shall be exempt from the provisions of chapter 41.06 RCW. The officers and employees appointed under this subsection shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the state civil service law.

**NEW SECTION.** Sec. 104. The executive head and appointing authority of the department shall be the secretary of health. The secretary shall be appointed by, and serve at the pleasure of, the governor in accordance with RCW 43.17.020. The secretary shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040.

***\*NEW SECTION. Sec. 105. The department of health shall employ a state health officer. The state health officer shall be appointed by the secretary, with the consent of the senate, and serve at the pleasure of the secretary. The state health officer, who shall serve as a deputy secretary, shall be licensed to practice medicine and surgery or osteopathy and surgery in the state and shall have a master's degree in public health or the equivalent training or experience in the delivery of public health services.***

\*Sec. 105 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 106. In addition to any other powers granted the secretary, the secretary may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of this act;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of this act. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The secretary and the board of health shall review each advisory committee within their jurisdiction and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of this act in accordance with section 107 of this act;

(4) Delegate powers, duties, and functions of the department to employees of the department as the secretary deems necessary to carry out the provisions of this act;

(5) Enter into contracts on behalf of the department to carry out the purposes of this act;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program to the purposes of this act; or

(7) Accept gifts, grants, or other funds.

**NEW SECTION.** Sec. 107. (1) The legislature intends that the department, board, and council promote and assess the quality, cost, and accessibility of health care throughout the state as their roles are specified in

this act in accordance with the provisions of this chapter. In furtherance of this goal, the secretary shall create an ongoing program of data collection, storage, assessability, and review. The legislature does not intend that the department conduct or contract for the conduct of basic research activity. The secretary may request appropriations for studies according to this section from the legislature, the federal government, or private sources.

(2) All state agencies which collect or have access to population-based, health-related data are directed to allow the secretary access to such data. This includes, but is not limited to, data on needed health services, facilities, and personnel; future health issues; emerging bioethical issues; health promotion; recommendations from state and national organizations and associations; and programmatic and statutory changes needed to address emerging health needs. Private entities, such as insurance companies, health maintenance organizations, and private purchasers are also encouraged to give the secretary access to such data in their possession. The secretary's access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines. Such data in any form where the patient or provider of health care can be identified shall not be disclosed, subject to disclosure according to chapter 42.17 RCW, discoverable or admissible in judicial or administrative proceedings. Such data can be used in proceedings in which the use of the data is clearly relevant and necessary and both the department and the patient or provider are parties.

(3) The department shall serve as the clearinghouse for information concerning innovations in the delivery of health care services, the enhancement of competition in the health care marketplace, and federal and state information affecting health care costs.

(4) The secretary shall review any data collected, pursuant to this chapter, to:

(a) Identify high-priority health issues that require study or evaluation. Such issues may include, but are not limited to:

(i) Identification of variations of health practice which indicate a lack of consensus of appropriateness;

(ii) Evaluation of outcomes of health care interventions to assess their benefit to the people of the state;

(iii) Evaluation of specific population groups to identify needed changes in health practices and services;

(iv) Evaluation of the risks and benefits of various incentives aimed at individuals and providers for both preventing illnesses and improving health services;

(v) Identification and evaluation of bioethical issues affecting the people of the state; and

(vi) Other such objectives as may be appropriate;

(b) Further identify a list of high-priority health study issues for consideration by the board or council, within their authority, for inclusion in

the state health report required by RCW 43.20.050. The list shall specify the objectives of each study, a study timeline, the specific improvements in the health status of the citizens expected as a result of the study, and the estimated cost of the study; and

(c) Provide background for the state health report required by RCW 43.20.050.

(5) Any data, research, or findings may also be made available to the general public, including health professions, health associations, the governor, professional boards and regulatory agencies and any person or group who has allowed the secretary access to data.

(6) The secretary may charge a fee to persons requesting copies of any data, research, or findings. The fee shall be no more than necessary to cover the cost to the department of providing the copy.

**NEW SECTION.** Sec. 108. It is the intent of the legislature to promote appropriate use of health care resources to maximize access to adequate health care services. The legislature understands that the rapidly increasing costs of health care are limiting access to care. To promote health care cost-effectiveness, the department shall:

(1) Implement the certificate of need program;

(2) Monitor and evaluate health care costs;

(3) Evaluate health services and the utilization of services for outcome and effectiveness; and

(4) Recommend strategies to encourage adequate and cost-effective services and discourage ineffective services.

**NEW SECTION.** Sec. 109. The department shall evaluate and analyze readily available data and information to determine the outcome and effectiveness of health services, utilization of services, and payment methods. This section should not be construed as allowing the department access to proprietary information.

(1) The department shall make its evaluations available to the board and the council for use in preparation of the state health report required by RCW 43.20.050, and to consumers, purchasers, and providers of health care.

(2) The department, with advice from the council shall use the information to:

(a) Develop guidelines which may be used by consumers, purchasers, and providers of health care to encourage necessary and cost-effective services; and

(b) Make recommendations to the governor on how state government and private purchasers may be prudent purchasers of cost-effective, adequate health services.

PART II  
FUNCTIONS TRANSFERRED FROM DEPARTMENT OF SOCIAL  
AND HEALTH SERVICES, STATE HEALTH COORDINATING  
COUNCIL, AND OTHER AGENCIES

NEW SECTION. Sec. 201. The powers and duties of the department of social and health services and the secretary of social and health services under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 16.70, 18.20, 18.46, 18.71, 18.73, 18.76, 69.30, 70.28, 70.30, 70.32, 70.33, 70.50, 70.58, 70.62, 70.83, 70.83B, 70.90, 70.98, 70.104, 70.116, 70.118, 70.119, 70.119A, 70.121, 70.127, 70.142, and 80.50 RCW. More specifically, the following programs and services presently administered by the department of social and health services are hereby transferred to the department of health:

(1) Personal health and protection programs and related management and support services, including, but not limited to: Immunizations; tuberculosis; sexually transmitted diseases; AIDS; diabetes control; primary health care; cardiovascular risk reduction; kidney disease; regional genetic services; newborn metabolic screening; sentinel birth defects; cytogenetics; communicable disease epidemiology; and chronic disease epidemiology;

(2) Environmental health protection services and related management and support services, including, but not limited to: Radiation, including x-ray control, radioactive materials, uranium mills, low-level waste, emergency response and reactor safety, and environmental radiation protection; drinking water; toxic substances; on-site sewage; recreational water contact facilities; food services sanitation; shellfish; and general environmental health services, including schools, vectors, parks, and camps;

(3) Public health laboratory;

(4) Public health support services, including, but not limited to: Vital records; health data; local public health services support; and health education and information;

(5) Licensing and certification services including, but not limited to: Health and personal care facility survey, construction review, emergency medical services, laboratory quality assurance, and accommodations surveys; and

(6) Effective January 1, 1991, parent and child health services and related management support services, including, but not limited to: Maternal and infant health; child health; parental health; nutrition; handicapped children's services; family planning; adolescent pregnancy services; high priority infant tracking; early intervention; parenting education; prenatal regionalization; and power and duties under RCW 43.20A.635. The director of the office of financial management may recommend to the legislature a delay in this transfer, if it is determined that this time frame is not adequate.

Sec. 202. Section 3, chapter 213, Laws of 1985 and RCW 9.02.005 are each amended to read as follows:

The powers and duties of the state board of health under this chapter shall be performed by the department of (~~social and health services~~) health.

Sec. 203. Section 1, chapter 279, Laws of 1969 ex. sess. as amended by section 34, chapter 141, Laws of 1979 and RCW 26.04.165 are each amended to read as follows:

In addition to the application provided for in RCW 26.04.160, the county auditor for the county wherein the license is issued shall submit to each applicant at the time for application for a license the Washington state department of (~~social and health services~~) health marriage certificate form prescribed by RCW 70.58.200 to be completed by the applicants and returned to the county auditor for the files of the state registrar of vital statistics (~~:-PROVIDED, That~~). After the execution of the application for, and the issuance of a license, no county shall require the persons authorized to solemnize marriages to obtain any further information from the persons to be married except the names and county of residence of the persons to be married.

Sec. 204. Section 2, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 45, Laws of 1983 1st ex. sess. and RCW 26.09.020 are each amended to read as follows:

(1) A petition in a proceeding for dissolution of marriage, legal separation, or for a declaration concerning the validity of a marriage, shall allege the following:

- (a) The last known residence of each party;
  - (b) The date and place of the marriage;
  - (c) If the parties are separated the date on which the separation occurred;
  - (d) The names, ages, and addresses of any child dependent upon either or both spouses and whether the wife is pregnant;
  - (e) Any arrangements as to the custody, visitation and support of the children and the maintenance of a spouse;
  - (f) A statement specifying whether there is community or separate property owned by the parties to be disposed of;
  - (g) The relief sought.
- (2) Either or both parties to the marriage may initiate the proceeding.
- (3) The petitioner shall complete and file with the petition a certificate under RCW 70.58.200 on the form provided by the department of (~~social and health services~~) health.

Sec. 205. Section 15, chapter 157, Laws of 1973 1st ex. sess. and RCW 26.09.150 are each amended to read as follows:

A decree of dissolution of marriage, legal separation, or declaration of invalidity is final when entered, subject to the right of appeal. An appeal which does not challenge the finding that the marriage is irretrievably broken or was invalid, does not delay the finality of the dissolution or declaration of invalidity and either party may remarry pending such an appeal.

No earlier than six months after entry of a decree of legal separation, on motion of either party, the court shall convert the decree of legal separation to a decree of dissolution of marriage. The clerk of court shall complete the certificate as provided for in RCW 70.58.200 on the form provided by the department of ~~((social and health services))~~ health. On or before the tenth day of each month, the clerk of the court shall forward to the state registrar of vital statistics the certificate of each decree of divorce, dissolution of marriage, annulment, or separate maintenance granted during the preceding month.

Upon request by a wife whose marriage is dissolved or declared invalid, the court shall order a former name restored and may, on motion of either party, for just and reasonable cause, order the wife to assume a name other than that of the husband.

Sec. 206. Section 2, chapter 242, Laws of 1988 and RCW 28B.104.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Conditional scholarship" means a loan that is forgiven in whole or in part if the recipient renders nursing service as a nurse serving in a nurse shortage area, as defined by the state department of health ~~((coordinating council))~~.

(2) "Institution of higher education" or "institution" means a community college, vocational-technical school, or university in the state of Washington which is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

(3) "Board" means the higher education coordinating board.

(4) "Eligible student" means a student who has been accepted into a program leading to eligibility for licensure as a licensed practical nurse, or to a program leading to an associate, baccalaureate, or higher degree in nursing or continues satisfactory progress within the program; and has a declared intention to serve in a nurse shortage area upon completion of the educational program.

(5) "Nurse shortage area" means those areas where nurses are in short supply as a result of geographic maldistribution; or specialty areas of nursing, such as geriatrics or critical care, where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The state department of health ~~((coordinating council))~~ shall determine nurse shortage areas in the state guided by federal standards of "health manpower shortage areas."

(6) "Forgiven" or "to forgive" or "forgiveness" means to render nursing service in a nurse shortage area in the state of Washington in lieu of monetary repayment.

(7) "Satisfied" means paid-in-full.

(8) "Participant" means an eligible student who has received a conditional scholarship under this chapter.

Sec. 207. Section 1, chapter 334, Laws of 1985 and RCW 42.48.010 are each amended to read as follows:

For the purposes of this chapter, the following definitions apply:

(1) "Individually identifiable" means that a record contains information which reveals or can likely be associated with the identity of the person or persons to whom the record pertains.

(2) "Legally authorized representative" means a person legally authorized to give consent for the disclosure of personal records on behalf of a minor or a legally incompetent adult.

(3) "Personal record" means any information obtained or maintained by a state agency which refers to a person and which is declared exempt from public disclosure, confidential, or privileged under state or federal law.

(4) "Research" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation carried out by a state agency, by a scientific research professional associated with a bona fide scientific research organization, or by a graduate student currently enrolled in an advanced academic degree curriculum, with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit and service programs. This definition excludes methods of record analysis and data collection that are subjective, do not permit replication, and are not designed to yield reliable and valid results.

(5) "Research record" means an item or grouping of information obtained for the purpose of research from or about a person or extracted for the purpose of research from a personal record.

(6) "State agency" means: (a) The department of social and health services; (b) the department of corrections; ((and)) (c) an institution of higher education as defined in RCW 28B.10.016; or (d) the department of health.

Sec. 208. Section 1, chapter 243, Laws of 1984 and RCW 43.20.025 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Consumer representative" means any person who is not an elected official, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

(2) "Council" means the health care access and cost control council.



(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health, or the secretary's designee.

(5) "Local health board" means a health board created pursuant to chapter 70.05, 70.08, or 70.46 RCW.

~~((3))~~ (6) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(7) "State board" means the state board of health created under chapter 43.20 RCW.

*\*Sec. 209. Section 43.20.030, chapter 8, Laws of 1965 as last amended by section 2, chapter 243, Laws of 1984 and by section 75, chapter 287, Laws of 1984 and RCW 43.20.030 are each reenacted and amended to read as follows:*

*The state board of health shall be composed of ten members. These shall be the secretary or the secretary's designee and nine other persons to be appointed by the governor, including four persons experienced in matters of health and sanitation, an elected city official who is a member of a local health board, an elected county official who is a member of a local health board, a local health officer, and two persons representing the consumers of health care. Before appointing the city official, the governor shall consider any recommendations submitted by the association of Washington cities. Before appointing the county official, the governor shall consider any recommendations submitted by the Washington state association of counties. Before appointing the local health officer, the governor shall consider any recommendations submitted by the Washington state association of local public health officials. Before appointing one of the two consumer representatives, the governor shall consider any recommendations submitted by the state council on aging. The chairman shall be selected by the governor from among the nine appointed members. The department ~~((of social and health services))~~ shall provide necessary technical staff support to the board. The board ~~((may))~~ shall employ an executive director, two additional staff, and a confidential secretary, each of whom shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.*

*Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.*

*\*Sec. 209 was vetoed, see message at end of chapter.*

*Sec. 210. Section 43.20.050, chapter 8, Laws of 1965 as last amended by section 1, chapter 213, Laws of 1985 and RCW 43.20.050 are each amended to read as follows:*

(1) The state board of health shall provide a forum for the development of ~~((public))~~ health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and

professional involvement in all health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

(a) At least every five years, the state board shall convene regional forums to gather citizen input on health issues.

(b) Every two years, in coordination with the development of the state biennial budget, the state board shall prepare the state health report that outlines the health priorities of the ensuing biennium. The report shall:

(i) Consider the citizen input gathered at the health forums;

(ii) Be developed with the assistance of local health departments;

(iii) Be based on the best available information collected and reviewed according to section 107 of this act and recommendations from the council;

(iv) Be developed with the input of state health care agencies. At least the following directors of state agencies shall provide timely recommendations to the state board on suggested health priorities for the ensuing biennium: The secretary of social and health services, the health care authority administrator, the insurance commissioner, the administrator of the basic health plan, the superintendent of public instruction, the director of labor and industries, the director of ecology, and the director of agriculture;

(v) Be used by state health care agency administrators in preparing proposed agency budgets and executive request legislation;

(vi) Be submitted by the state board to the governor by June 1 of each even-numbered year for adoption by the governor. The governor, no later than September 1 of that year, shall approve, modify, or disapprove the state health report.

(c) In fulfilling its responsibilities under this subsection, the state board shall create ad hoc committees or other such committees of limited duration as necessary. Membership should include legislators, providers, consumers, bioethicists, medical economics experts, legal experts, purchasers, and insurers, as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules and regulations for the protection of water supplies for domestic use, and such other uses as may affect the public health, and shall adopt standards and procedures governing the design, construction and operation of water supply, treatment, storage, and distribution facilities, as well as the quality of water delivered to the ultimate consumer;

(b) Adopt rules and regulations and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities;

(c) Adopt rules and regulations controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work;

(d) Adopt rules and regulations for the imposition and use of isolation and quarantine; ~~((and))~~

(e) Adopt rules and regulations for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules and regulations governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by universal rule; and

(f) Adopt rules for accessing existing data bases for the purposes of performing health related research.

(3) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

(4) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules and regulations adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

(5) The state board may advise the secretary on health policy issues pertaining to the department of health and the state.

Sec. 211. Section 1, chapter 18, Laws of 1970 ex. sess. as amended by section 60, chapter 141, Laws of 1979 and RCW 43.20A.010 are each amended to read as follows:

The department of social and health services is designed to integrate and coordinate all those activities involving provision of care for individuals who, as a result of their economic, social or health condition, require financial assistance, institutional care, rehabilitation or other social and health services. In order to provide for maximum efficiency of operation consistent with meeting the needs of those served or affected, the department will encompass substantially all of the powers, duties and functions vested by law on June 30, 1970, in ~~((the department of health,))~~ the department of public assistance, the department of institutions, the veterans' rehabilitation council and the division of vocational rehabilitation of the coordinating council on occupational education. The department will concern itself with changing social needs, and will expedite the development and implementation of programs designed to achieve its goals. In furtherance of this policy, it is the legislative intent to set forth only the broad outline of the structure of the

department, leaving specific details of its internal organization and management to those charged with its administration.

Sec. 212. Section 3, chapter 18, Laws of 1970 ex. sess. as amended by section 62, chapter 141, Laws of 1979 and RCW 43.20A.030 are each amended to read as follows:

There is hereby created a department of state government to be known as the department of social and health services. All powers, duties and functions vested by law on June 30, 1970, in ~~((the department of health;))~~ the department of public assistance, the department of institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education are transferred to the department. Powers, duties and functions to be transferred shall include, but not be limited to, all those powers, duties and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid programs.

Sec. 213. Section 6, chapter 18, Laws of 1970 ex. sess. as amended by section 64, chapter 141, Laws of 1979 and RCW 43.20A.060 are each amended to read as follows:

The department of social and health services shall be subdivided into divisions, including a division of vocational rehabilitation. Except as otherwise specified or as federal requirements may differently require, these divisions shall be established and organized in accordance with plans to be prepared by the secretary and approved by the governor. In preparing such plans, the secretary shall endeavor to promote efficient public management, to improve programs, and to take full advantage of the economies, both fiscal and administrative, to be gained from the consolidation of the departments of ~~((health;))~~ public assistance, institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education.

Sec. 214. Section 2, chapter 189, Laws of 1971 ex. sess. as last amended by section 1, chapter 259, Laws of 1984 and RCW 43.20A.360 are each amended to read as follows:

(1) 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: (a) Health facilities; (b) ~~((radiation control; (c)))~~ children and youth services; ~~((d))~~ (c) blind services; ~~((e))~~ (d) medical and health care; ~~((f))~~ (e) drug abuse and alcoholism; ~~((g))~~ (f) social services; ~~((h))~~ (g) economic services; ~~((i))~~ (h) vocational services; ~~((j))~~ (i) rehabilitative services; ~~((k) 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 or her discretion may determine. The members of the committees or councils shall hold office 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.

~~((3))~~ (2) 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.

Sec. 215. Section 7, chapter 102, Laws of 1967 ex. sess. as amended by section 57, chapter 141, Laws of 1979 and RCW 43.20A.660 are each amended to read as follows:

(1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter ~~((43.20 RCW or chapter))~~ 43.20A RCW, or regulations promulgated ~~((under them))~~ thereunder, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of chapter ~~((43.20 RCW or chapter))~~ 43.20A RCW is reported by the secretary to the prosecuting attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views to the secretary, either orally or in writing, with regard to such contemplated proceeding.

Sec. 216. Section 2, chapter 201, Laws of 1982 as amended by section 6, chapter 75, Laws of 1987 and RCW 43.20B.110 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. ~~((Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro-rata share of the cost of licensure and inspection, if appropriate.))~~ The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of social and health services advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

(4) For fees associated with the licensing or regulation of health professions or health facilities administered by the department of health, in accordance with sections 263 and 319 of this act.

Sec. 217. Section 17, chapter 62, Laws of 1970 ex. sess. as last amended by section 15, chapter 36, Laws of 1988 and RCW 43.21A.170 are each amended to read as follows:

There is hereby created an ecological commission. The commission shall consist of seven members to be appointed by the governor from the electors of the state who shall have a general knowledge of and interest in environmental matters. No persons shall be eligible for appointment who hold any other state, county or municipal elective or appointive office.

(a) One public member shall be a representative of organized labor.

(b) One public member shall be a representative of the business community.

(c) One public member shall be a representative of the agricultural community.

(d) Four persons representing the public at large.

The members of the initial commission shall be appointed within thirty days after July 1, 1970. Of the members of the initial commission, two shall be appointed for terms ending June 30, 1974, two shall be appointed for terms ending on June 30, 1973, two shall be appointed for terms ending on June 30, 1972, and one shall be appointed for a term ending June 30, 1971. Thereafter, each member of the commission shall be appointed for a term of four years. Vacancies shall be filled within ninety days for the remainder of the unexpired term by appointment of the governor in the same manner as the original appointments. Each member of the commission shall continue in office until his successor is appointed. No member shall be appointed for more than two consecutive terms. The chairman of the commission shall be appointed from the members by the governor.

The governor may remove any commission member for cause giving him a copy of the charges against him, and an opportunity of being publicly heard in person, or by counsel in his own defense. There shall be no right of review in any court whatsoever. The director or administrator, or a designated representative, of each of the following state agencies:

- (1) The department of agriculture;
- (2) The department of trade and economic development;
- (3) The department of fisheries;
- (4) The department of wildlife;
- (5) The department of ~~((social and health services))~~ health;
- (6) The department of natural resources; and

(7) The state parks and recreation commission shall be given notice of and may attend all meetings of the commission and shall be given full opportunity to examine and be heard on all proposed orders, regulations or recommendations.

Sec. 218. Section 4, chapter 270, Laws of 1983 as amended by section 1, chapter 279, Laws of 1988 and RCW 43.21A.445 are each amended to read as follows:

The department of ecology, the department of natural resources, the department of ~~((social and health services))~~ health, and the oil and gas conservation committee are authorized to participate fully in and are empowered to administer all programs of Part C of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300h et seq.), as it exists on June 19, 1986, contemplated for state participation in administration under the act.

The department of ecology, in the implementation of powers provided herein shall enter into agreements of administration with the departments of ~~((social and health services))~~ health and natural resources and the oil and gas conservation committee to administer those portions of the state program, approved under the federal act, over which the said departments and committee have primary subject-matter authority under existing state law. The departments of ~~((social and health services))~~ health and natural resources and the oil and gas conservation committee are empowered to enter into such agreements and perform the administration contained therein.

Sec. 219. Section 4, chapter 19, Laws of 1983 1st ex. sess. as amended by section 5, chapter 161, Laws of 1984 and by section 91, chapter 287, Laws of 1984 and RCW 43.200.040 are each reenacted and amended to read as follows:

(1) There is hereby created a nuclear waste board. The board shall consist of the following members: The chairman of the advisory council who shall also serve as chairman of the review board, the director of ecology or the director's designee, the director of the energy office or the director's designee, the commissioner of public lands or the commissioner's designee, the secretary of ~~((social and health services))~~ health or the secretary's designee, the chairman of the energy facility site evaluation council or the chairman's designee, the director of the Washington state water research center or the director's designee, four members of the state senate, appointed by the president of the senate, and four members of the house of representatives, appointed by the speaker, who shall be selected from each of the caucuses in each house, but no more than two members of each house shall be of the same political party. Legislative members shall be ex officio non-voting members of the board and shall serve while members of the legislature, at the pleasure of the appointing officer.

(2) Nonlegislative members shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Legislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 44.04.120. The legislature shall seek reimbursement from available sources, including the federal government, for legislative expenditures incurred pursuant to the provisions of this chapter.

Sec. 220. Section 2, chapter 249, Laws of 1983 as last amended by section 32, chapter 245, Laws of 1988 and RCW 48.21A.090 are each amended to read as follows:

(1) Every insurer entering into or renewing extended health insurance governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions in addition to those set forth in chapters 70.126 and 70.127 RCW:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and restrict benefits to, services rendered by home health and hospice agencies licensed ~~((by the department of social and health services))~~ under chapter 70.127 RCW;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;



(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW.

(5) An insurer, as a condition of reimbursement, may require compliance with home health and hospice certification regulations established by the United States department of health and human services.

Sec. 221. Section 2, chapter 56, Laws of 1984 as amended by section 79, chapter 150, Laws of 1987 and RCW 48.42.070 are each amended to read as follows:

Every person or organization which seeks sponsorship of a legislative proposal which would mandate a health coverage or offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, shall submit a report to the legislative committees having jurisdiction, assessing both the social and financial impacts of such coverage, including the efficacy of the treatment or service proposed, according to the guidelines enumerated in RCW 48.42.080. Copies of the report shall be sent to the state department of health (~~coordinating council~~) for review and comment. ~~The state department of health ((coordinating council, in addition to the duties specified in RCW 70.38.065;)) shall make recommendations based on the report to the extent requested by the legislative committees.~~

Sec. 222. Section 3, chapter 249, Laws of 1983 as last amended by section 33, chapter 245, Laws of 1988 and RCW 48.44.320 are each amended to read as follows:

(1) Every health care service contractor entering into or renewing a group health care service contract governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions in addition to those set forth in chapters 70.126 and 70.127 RCW:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and restrict benefits to, services rendered by home health and hospice agencies licensed ~~((by the department of social and health services))~~ under chapter 70.127 RCW;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW.

(5) An insurer, as a condition of reimbursement, may require compliance with home health and hospice certification regulations established by the United States department of health and human services.

Sec. 223. Section 5, chapter 290, Laws of 1975 1st ex. sess. as amended by section 3, chapter 106, Laws of 1983 and RCW 48.46.040 are each amended to read as follows:

~~((After January 1, 1976,))~~ The commissioner shall issue a certificate of registration to the applicant within sixty days of such filing unless he notifies the applicant within such time that such application is not complete and the reasons therefor; or that he is not satisfied that:

(1) The basic organizational document of the applicant permits the applicant to conduct business as a health maintenance organization;

(2) The organization has demonstrated the intent and ability to assure that comprehensive health care services will be provided in a manner to assure both their availability and accessibility;

(3) The organization is financially responsible and may be reasonably expected to meet its obligations to its enrolled participants. In making this determination, the commissioner shall consider among other relevant factors:

(a) Any agreements with an insurer, a medical or hospital service bureau, a government agency or any other organization paying or insuring payment for health care services;

(b) Any agreements with providers for the provision of health care services; and

(c) Any arrangements for liability and malpractice insurance coverage;

(4) The procedures for offering health care services and offering or terminating contracts with enrolled participants are reasonable and equitable in comparison with prevailing health insurance subscription practices and health maintenance organization enrollment procedures; and, that

(5) Procedures have been established to:

(a) Monitor the quality of care provided by such organization, including, as a minimum, procedures for internal peer review;

(b) Resolve complaints and grievances initiated by enrolled participants in accordance with RCW 48.46.010 and 48.46.100;

(c) Offer enrolled participants an opportunity to participate in matters of policy and operation in accordance with RCW 48.46.020(7) and 48.46.070.

No person to whom a certificate of registration has not been issued, except a health maintenance organization certified by the secretary of the department of health, education and welfare, pursuant to Public Law 93-222 or its successor, shall use the words "health maintenance organization" or the initials "HMO" in its name, contracts, or literature (~~(-PROVIDED HOWEVER, That)~~). Persons who are contracting with, operating in association with, recruiting enrolled participants for, or otherwise authorized by a health maintenance organization possessing a certificate of registration to act on its behalf may use the terms "health maintenance organization" or "HMO" for the limited purpose of denoting or explaining their relationship to such health maintenance organization.

The department of (~~(social and health services)~~) health, at the request of the insurance commissioner, shall inspect and review the facilities of every applicant health maintenance organization to determine that such facilities are reasonably adequate to provide the health care services offered in their contracts. If the commissioner has information to indicate that such facilities fail to continue to be adequate to provide the health care services offered, the department of (~~(social and health services)~~) health, upon request of the insurance commissioner, shall reinspect and review the facilities and report to the insurance commissioner as to their adequacy or inadequacy.

Sec. 224. Section 1, chapter 60, Laws of 1975-'76 2nd ex. sess. as amended by section 64, chapter 331, Laws of 1987 and RCW 68.50.280 are each amended to read as follows:

In any case where a patient is in need of corneal tissue for a transplantation, the county coroner, or county medical examiner or designee,

may provide corneal tissue, from decedents under his(~~f~~) or her jurisdiction, upon the request of an eye bank approved and authorized to make such requests by the secretary of the (~~department of social and health services~~) department of health, subject to the following conditions:

- (1) Ready identification of the decedent is impossible, or
- (2) A reasonable effort to obtain such consent as is required under RCW 68.50.350 is made, within the time period during which corneal tissue is a viable transplant, and no objection by the next of kin is known, and
- (3) Removal of the cornea for transplantation will not interfere with the subsequent course of an investigation or autopsy or alter the post mortem facial appearance of the decedent.

Sec. 225. Section 4, chapter 112, Laws of 1973 1st ex. sess. and RCW 69.04.915 are each amended to read as follows:

The director of the department of agriculture shall by rule and regulation establish uniform standards for pull date labeling, and optimum storage conditions of perishable packaged food goods. In addition to his other duties the director, in consultation with the (~~director~~) secretary of the department of (~~social and health services~~) health where appropriate, may promulgate such other rules and regulations as may be necessary to carry out the purposes of RCW 69.04.900 through 69.04.920.

Sec. 226. Section 71.12.460, chapter 25, Laws of 1959 as amended by section 133, chapter 141, Laws of 1979 and RCW 71.12.460 are each amended to read as follows:

No person, association, or corporation, shall establish or keep, for compensation or hire, an establishment as defined in this chapter without first having obtained a license therefor from the department of (~~social and health services~~) health, and having paid the license fee provided in this chapter. Any person who carries on, conducts, or attempts to carry on or conduct an establishment as defined in this chapter without first having obtained a license from the department of (~~social and health services~~) health, as in this chapter provided, is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment. The managing and executive officers of any corporation violating the provisions of this chapter shall be liable under the provisions of this chapter in the same manner and to the same effect as a private individual violating the same.

Sec. 227. Section 71.12.480, chapter 25, Laws of 1959 as amended by section 134, chapter 141, Laws of 1979 and RCW 71.12.480 are each amended to read as follows:

The department of (~~social and health services~~) health shall not grant any such license until it has made an examination of the premises proposed to be licensed and is satisfied that they are substantially as described, and

are otherwise fit and suitable for the purposes for which they are designed to be used, and that such license should be granted.

Sec. 228. Section 1, chapter 224, Laws of 1959 as last amended by section 122, chapter 266, Laws of 1986 and RCW 71.12.485 are each amended to read as follows:

Standards for fire protection and the enforcement thereof, with respect to all establishments to be licensed hereunder, shall be the responsibility of the director of community development, through the director of fire protection, who shall adopt such recognized standards as may be applicable to such establishments for the protection of life against the cause and spread of fire and fire hazards. The department of (~~social and health services~~) health, upon receipt of an application for a license, or renewal of a license, shall submit to the director of community development, through the director of fire protection, in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the director of community development, through the director of fire protection, or his or her deputy shall make an inspection of the establishment to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as promulgated by the director of community development, through the director of fire protection, he or she shall promptly make a written report to the establishment and the department of (~~social and health services~~) health as to the manner and time allowed in which the premises must qualify for a license and set forth the conditions to be remedied with respect to fire regulations. The department of (~~social and health services~~) health, applicant or licensee shall notify the director of community development, through the director of fire protection, upon completion of any requirements made by him or her, and the state fire marshal or his or her deputy shall make a reinspection of such premises. Whenever the establishment to be licensed meets with the approval of the director of community development, through the director of fire protection, he or she shall submit to the department of (~~social and health services~~) health a written report approving same with respect to fire protection before a full license can be issued. The director of community development, through the director of fire protection, shall make or cause to be made inspections of such establishments at least annually. The department of (~~social and health services~~) health shall not license or continue the license of any establishment unless and until it shall be approved by the director of community development, through the director of fire protection, as herein provided.

In cities which have in force a comprehensive building code, the provisions of which are determined by the director of community development, through the director of fire protection, to be equal to the minimum standards of the director of community development, through the director of fire

protection, for such establishments, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the director of community development, through the director of fire protection, or his or her deputy, and they shall jointly approve the premises before a full license can be issued.

Sec. 229. Section 71.12.490, chapter 25, Laws of 1959 as last amended by section 20, chapter 75, Laws of 1987 and RCW 71.12.490 are each amended to read as follows:

All licenses issued under the provisions of this chapter shall expire on a date to be set by the department of ~~((social and health services: PROVIDED, That))~~ health. No license issued pursuant to this chapter shall exceed thirty-six months in duration. Application for renewal of the license, accompanied by the necessary fee as established by the department of ~~((social and health services under RCW 43.20B.110))~~ health under section 263 of this act, shall be filed with that department, not less than thirty days prior to its expiration and if application is not so filed, the license shall be automatically canceled.

Sec. 230. Section 71.12.500, chapter 25, Laws of 1959 as amended by section 136, chapter 141, Laws of 1979 and RCW 71.12.500 are each amended to read as follows:

The department of ~~((social and health services))~~ health may at any time examine and ascertain how far a licensed establishment is conducted in compliance with the license therefor. If the interests of the patients of the establishment so demand, the department may, for just and reasonable cause, suspend or revoke any such license after notice and hearing.

Sec. 231. Section 71.12.520, chapter 25, Laws of 1959 as amended by section 137, chapter 141, Laws of 1979 and RCW 71.12.520 are each amended to read as follows:

Each such visit may include an inspection of every part of each establishment. The representatives of the department of ~~((social and health services))~~ health may make an examination of all records, methods of administration, the general and special dietary, the stores and methods of supply, and may cause an examination and diagnosis to be made of any person confined therein. The representatives of the department may examine to determine their fitness for their duties the officers, attendants, and other employees, and may talk with any of the patients apart from the officers and attendants.

Sec. 232. Section 71.12.530, chapter 25, Laws of 1959 as amended by section 138, chapter 141, Laws of 1979 and RCW 71.12.530 are each amended to read as follows:

The representatives of the department of (~~social and health services~~) health may, from time to time, at times and places designated by the department, meet the managers or responsible authorities of such establishments in conference, and consider in detail all questions of management and improvement of the establishments, and may send to them, from time to time, written recommendations in regard thereto.

Sec. 233. Section 71.12.540, chapter 25, Laws of 1959 as amended by section 139, chapter 141, Laws of 1979 and RCW 71.12.540 are each amended to read as follows:

The authorities of each establishment as defined in this chapter shall place on file in the office of the establishment the recommendations made by the department of (~~social and health services~~) health as a result of such visits, for the purpose of consultation by such authorities, and for reference by the department representatives upon their visits. Every such establishment shall keep records of every person admitted thereto as follows and shall furnish to the department, when required, the following data: Name, age, sex, marital status, date of admission, voluntary or other commitment, name of physician, diagnosis, and date of discharge.

Sec. 234. Section 71.12.640, chapter 25, Laws of 1959 as amended by section 140, chapter 141, Laws of 1979 and RCW 71.12.640 are each amended to read as follows:

The prosecuting attorney of every county shall, upon application by the department of social and health services, the department of health, or its authorized representatives, institute and conduct the prosecution of any action brought for the violation within his county of any of the provisions of this chapter.

Sec. 235. Section 3, chapter 245, Laws of 1979 ex. sess. and RCW 70.123.030 are each amended to read as follows:

The department of social and health services, in consultation with the state department of health, and individuals or groups having experience and knowledge of the problems of victims of domestic violence, shall:

(1) Establish minimum standards for shelters applying for grants from the department under this chapter. Classifications may be made dependent upon size, geographic location, and population needs;

(2) Receive grant applications for the development and establishment of shelters for victims of domestic violence;

(3) Distribute funds, within forty-five days after approval, to those shelters meeting departmental standards;

(4) Evaluate biennially each shelter receiving departmental funds for compliance with the established minimum standards; and

(5) Review the minimum standards each biennium to ensure applicability to community and client needs.

NEW SECTION. Sec. 236. A new section is added to chapter 15.36 RCW to read as follows:

The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

NEW SECTION. Sec. 237. A new section is added to chapter 18.104 RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

NEW SECTION. Sec. 238. A new section is added to chapter 19.32 RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

NEW SECTION. Sec. 239. A new section is added to chapter 28A.31 RCW to read as follows:

The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

NEW SECTION. Sec. 240. A new section is added to chapter 43.83B RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

NEW SECTION. Sec. 241. A new section is added to chapter 43.99D RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

NEW SECTION. Sec. 242. A new section is added to chapter 43.99E RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

NEW SECTION. Sec. 243. A new section is added to chapter 70.05 RCW to read as follows:

The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

NEW SECTION. Sec. 244. A new section is added to chapter 70.08 RCW to read as follows:

The powers and duties of the secretary of social and health services under this chapter shall be performed by the secretary of health.

NEW SECTION. Sec. 245. A new section is added to chapter 70.12 RCW to read as follows:



The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

**NEW SECTION.** Sec. 246. A new section is added to chapter 70.22 RCW to read as follows:

The powers and duties of the secretary of social and health services under this chapter shall be performed by the secretary of health.

**NEW SECTION.** Sec. 247. A new section is added to chapter 70.24 RCW to read as follows:

The powers and duties of the department of social and health services, the department of licensing, and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

**NEW SECTION.** Sec. 248. A new section is added to chapter 70.40 RCW to read as follows:

The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

**NEW SECTION.** Sec. 249. A new section is added to chapter 70.41 RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

**NEW SECTION.** Sec. 250. A new section is added to chapter 70.54 RCW to read as follows:

The powers and duties of the secretary of social and health services under this chapter shall be performed by the secretary of health.

Sec. 251. Section 43.20.010, chapter 8, Laws of 1965 as last amended by section 2, chapter 213, Laws of 1985 and RCW 43.20A.600 are each amended to read as follows:

The secretary of (~~social and health services~~) health shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to public health and vital statistics;

(2) Investigate and study factors relating to the preservation, promotion, and improvement of the health of the people, the causes of morbidity and mortality, and the effects of the environment and other conditions upon the public health, and report the findings to the state board of health for such action as the board determines is necessary;

(3) Strictly enforce all laws for the protection of the public health and the improvement of sanitary conditions in the state, and all rules, regulations, and orders of the state board of health;

(4) Enforce the public health laws of the state and the rules and regulations promulgated by the department or the board of health in local matters, when in its opinion an emergency exists and the local board of health

has failed to act with sufficient promptness or efficiency, or is unable for reasons beyond its control to act, or when no local board has been established, and all expenses so incurred shall be paid upon demand of the secretary of ~~((social and health services))~~ the department of health by the local health department for which such services are rendered, out of moneys accruing to the credit of the municipality or the local health department in the current expense fund of the county;

(5) Investigate outbreaks and epidemics of disease that may occur and advise local health officers as to measures to be taken to prevent and control the same;

(6) Exercise general supervision over the work of all local health departments and establish uniform reporting systems by local health officers to the state department of ~~((social and health services))~~ health;

(7) Have the same authority as local health officers, except that the secretary shall not exercise such authority unless the local health officer fails or is unable to do so, or when in an emergency the safety of the public health demands it;

(8) Cause to be made from time to time, ~~((inspections of the sanitary and health conditions existing at the state institutions;))~~ Personal health and sanitation inspections at state owned or contracted institutions and facilities to determine compliance with sanitary and health care standards as adopted by the department, and require the governing authorities thereof to take such action as will conserve the health of all persons connected therewith, and report the findings to the governor;

(9) Take such measures as the secretary deems necessary in order to promote the public health, to establish or participate in the establishment of health educational or training activities, and to provide funds for and to authorize the attendance and participation in such activities of employees of the state or local health departments and other individuals engaged in programs related to or part of the public health programs of the local health departments or the state department of ~~((social and health services))~~ health. The secretary is also authorized to accept any funds from the federal government or any public or private agency made available for health education training purposes and to conform with such requirements as are necessary in order to receive such funds; and

(10) Establish and maintain laboratory facilities and services as are necessary to carry out the responsibilities of the department.

NEW SECTION. Sec. 252. (1) The secretary shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the secretary together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by section 30(1), chapter — (EHB 1358), Laws of 1989.

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by section 30(2), chapter — (EHB 1358), Laws of 1989.

Sec. 253. Section 43.20.060, chapter 8, Laws of 1965 as last amended by section 50, chapter 141, Laws of 1979 and RCW 43.20A.615 are each amended to read as follows:

In order to receive the assistance and advice of local health officers in carrying out ~~((his))~~ the secretary's duties and responsibilities, the secretary of ~~((social and health services))~~ health shall hold annually a conference of local health officers, at such place as ~~((he))~~ the secretary deems convenient, for the discussion of questions pertaining to public health, sanitation, and other matters pertaining to the duties and functions of the local health departments, which shall continue in session for such time not exceeding three days as the secretary deems necessary.

The health officer of each county, district, municipality and county-city department shall attend such conference during its entire session, and receive therefor his or her actual and necessary traveling expenses, to be paid by his or her county, district, and municipality or county-city department ~~((PROVIDED, That))~~. No claim for such expenses shall be allowed or paid unless it is accompanied by a certificate from the secretary of ~~((social and health services))~~ health attesting the attendance of the claimant.

Sec. 254. Section 43.20.070, chapter 8, Laws of 1965 as last amended by section 51, chapter 141, Laws of 1979 and RCW 43.20A.620 are each amended to read as follows:

The secretary of ~~((social and health services))~~ health shall have charge of the state system of registration of births, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance, and shall prepare the necessary rules, forms, and blanks for obtaining records, and insure the faithful registration thereof.

Sec. 255. Section 43.20.080, chapter 8, Laws of 1965 as amended by section 2, chapter 26, Laws of 1967 and RCW 43.20A.625 are each amended to read as follows:

The state registrar of vital statistics shall prepare, print, and supply to all registrars all blanks and forms used in registering, recording, and preserving the returns, or in otherwise carrying out the purposes of Title 70 RCW; and shall prepare and issue such detailed instructions as may be required to secure the uniform observance of its provisions and the maintenance of a perfect system of registration. No other blanks shall be used than those supplied by the state registrar. ~~((He))~~ The state registrar shall carefully examine the certificates received monthly from the local registrars,

county auditors, and clerks of the court and, if any are incomplete or unsatisfactory, ~~((he))~~ the state registrar shall require such further information to be furnished as may be necessary to make the record complete and satisfactory, and shall cause such further information to be incorporated in or attached to and filed with the certificate. ~~((He))~~ The state registrar shall furnish, arrange, bind, and make a permanent record of the certificate in a systematic manner, and shall prepare and maintain a comprehensive index of all births, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance registered.

Sec. 256. Section 3, chapter 102, Laws of 1967 ex. sess. as amended by section 53, chapter 141, Laws of 1979 and RCW 43.20A.640 are each amended to read as follows:

The secretary on his or her own motion or upon the complaint of any interested party, may investigate, examine, sample or inspect any article or condition constituting a threat to the public health including, but not limited to, outbreaks of communicable diseases, food poisoning, contaminated water supplies, and all other matters injurious to the public health. When not otherwise available, the department may purchase such samples or specimens as may be necessary to determine whether or not there exists a threat to the public health. In furtherance of any such investigation, examination or inspection, the secretary or ~~((his))~~ the secretary's authorized representative may examine that portion of the ledgers, books, accounts, memorandums, and other documents and other articles and things used in connection with the business of such person relating to the actions involved.

For purposes of such investigation, the secretary or ~~((his))~~ the secretary's representative shall at all times have free and unimpeded access to all buildings, yards, warehouses, storage and transportation facilities or any other place. The secretary may also, for the purposes of such investigation, issue subpoenas to compel the attendance of witnesses, as provided for in ~~((RCW 43.20A.605, and/or))~~ section 252 of this act or the production of books and documents anywhere in the state.

Sec. 257. Section 4, chapter 102, Laws of 1967 ex. sess. as amended by section 54, chapter 141, Laws of 1979 and RCW 43.20A.645 are each amended to read as follows:

Pending the results of an investigation provided for under RCW 43.20A.640 (as recodified by this act), the secretary may issue an order prohibiting the disposition or sale of any food or other item involved in the investigation~~((:PROVIDED, That))~~. The order of the secretary shall not be effective for more than fifteen days without the commencement of a legal action as provided for under RCW 43.20A.650 (as recodified by this act).

Sec. 258. Section 5, chapter 102, Laws of 1967 ex. sess. as amended by section 55, chapter 141, Laws of 1979 and RCW 43.20A.650 are each amended to read as follows:

The secretary of ~~((social and health services))~~ health may bring an action to enjoin a violation or the threatened violation of any of the provisions of the public health laws of this state or any rules or regulation made by the state board of health or the department of ~~((social and health services))~~ health pursuant to said laws, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county.

Sec. 259. Section 6, chapter 102, Laws of 1967 ex. sess. as amended by section 56, chapter 141, Laws of 1979 and RCW 43.20A.655 are each amended to read as follows:

Upon the request of a local health officer, the secretary of ~~((social and health services))~~ health is hereby authorized and empowered to take legal action to enforce the public health laws and rules and regulations of the state board of health or local rules and regulations within the jurisdiction served by the local health department, and may institute any civil legal proceeding authorized by the laws of the state of Washington.

Sec. 260. Section 14, chapter 102, Laws of 1967 ex. sess. as amended by section 59, chapter 141, Laws of 1979 and RCW 43.20A.665 are each amended to read as follows:

Nothing in chapter~~(s)~~ 43.20 ~~((and 43.20A RCW and RCW 70.01-010))~~ or 43.— RCW (as created by this act), or section 264 of this act shall be construed to abridge the right of any person to rely exclusively on spiritual means alone through prayer to alleviate human ailments, sickness or disease, in accordance with the tenets and practice of the Church of Christ, Scientist, nor shall anything in chapters 43.20 ~~((and 43.20A RCW and RCW 70.01-010))~~, 43.— RCW (as created by this act), or section 264 of this act be deemed to prohibit a person so relying who is inflicted with a contagious or communicable disease from being isolated or quarantined in a private place of his own choice, provided, it is approved by the local health officer, and all laws, rules and regulations governing control, sanitation, isolation and quarantine are complied with.

Sec. 261. Section 3, chapter 147, Laws of 1974 ex. sess. as last amended by section 103, chapter 287, Laws of 1984 and RCW 70.37.030 are each amended to read as follows:

There is hereby established a public body corporate and politic, with perpetual corporate succession, to be known as the Washington health care facilities authority. The authority shall constitute a political subdivision of the state established as an instrumentality exercising essential governmental functions. The authority is a "public body" within the meaning of RCW 39.53.010, as now or hereafter amended. The authority shall consist of the

governor who shall serve as chairman, the lieutenant governor, the insurance commissioner, (~~the chairman of the Washington state hospital commission~~) the secretary of health, and one member of the public who shall be appointed by the governor, subject to confirmation by the senate, on the basis of the member's interest or expertise in health care delivery, for a term expiring on the fourth anniversary of the date of appointment. In the event that any of the offices referred to shall be abolished the resulting vacancy on the authority shall be filled by the officer who shall succeed substantially to the powers and duties thereof. The members of the authority shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement, solely from the funds of the authority, for travel expenses incurred in the discharge of their duties under this chapter, subject to the provisions of RCW 43.03.050 and 43.03.060. A majority shall constitute a quorum.

The governor may designate an employee of the governor's office to act on behalf of the governor during the absence of the governor at one or more of the meetings of the authority. The vote of the designee shall have the same effect as if cast by the governor if the designation is in writing and is presented to the person presiding at the meetings included within the designation.

The governor may designate a member to preside during the governor's absence.

**NEW SECTION.** Sec. 262. (1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter 43.20 or 43.\_\_ RCW (as created by this act), or regulations promulgated under them, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of chapter 43.20 or 43.\_\_ RCW (as created by this act) is reported by the secretary to the prosecuting attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his or her views to the secretary, either orally or in writing, with regard to such contemplated proceeding.

**NEW SECTION.** Sec. 263. (1) The secretary shall charge fees to the licensee for obtaining a license. Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

**NEW SECTION.** Sec. 264. In furtherance of the policy of this state to cooperate with the federal government in the public health programs, the department of health shall adopt such rules and regulations as may become necessary to entitle this state to participate in federal funds unless the same be expressly prohibited by law. Any section or provision of the public health laws of this state which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal funds for the various programs of public health.

Sec. 265. Section 6, chapter 172, Laws of 1967 as last amended by section 14, chapter 524, Laws of 1987 and RCW 74.15.060 are each amended to read as follows:

The secretary of (~~((social and health services))~~) health shall have the power and it shall be his duty:

In consultation with the children's services advisory committee and with the advice and assistance of persons representative of the various type agencies to be licensed, to develop minimum requirements pertaining to each category of agency established pursuant to chapter 74.15 RCW and RCW 74.13.031, necessary to promote the health of all persons residing therein.

The secretary of health or the city, county, or district health department designated by him shall have the power and the duty:

(1) To make or cause to be made such inspections and investigations of agencies(~~(, including investigation of alleged child abuse and neglect in accordance with chapter 26.44 RCW,))~~) as may be deemed necessary; and

(2) To issue to applicants for licenses hereunder who comply with the requirements adopted hereunder, a certificate of compliance, a copy of which shall be presented to the department of health before a license shall be issued, except that a provisional license may be issued as provided in RCW 74.15.120.

Sec. 266. Section 8, chapter 172, Laws of 1967 as last amended by section 124, chapter 266, Laws of 1986 and RCW 74.15.080 are each amended to read as follows:

All agencies subject to chapter 74.15 RCW and RCW 74.13.031 shall accord the department of social and health services, the secretary of health, the director of community development, and the director of fire protection, or their designees, the right of entrance and the privilege of access to and

inspection of records for the purpose of determining whether or not there is compliance with the provisions of chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted thereunder.

NEW SECTION. Sec. 267. RCW 43.20A.600, 43.20A.615, 43.20A.620, 43.20A.625, 43.20A.640, 43.20A.645, 43.20A.650, 43.20A.655, and 43.20A.665 are each recodified as part of chapter 43. \_\_ RCW as created by this act.

PART III  
FUNCTIONS TRANSFERRED FROM THE DEPARTMENT OF  
LICENSING

NEW SECTION. Sec. 301. The powers and duties of the department of licensing and the director of licensing under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 18.06, 18.19, 18.22, 18.25, 18.26, 18.29, 18.32, 18.34, 18.35, 18.36A, 18.50, 18.52, 18.52A, 18.52B, 18.52C, 18.53, 18.54, 18.55, 18.57, 18.57A, 18.59, 18.71, 18.71A, 18.72, 18.74, 18.78, 18.83, 18.84, 18.88, 18.89, 18.92, 18.108, 18.135, and 18.138 RCW. More specifically, the health professions regulatory programs and services presently administered by the department of licensing are hereby transferred to the department of health.

***\*NEW SECTION. Sec. 302. (1) The presence of high quality health care professionals practicing in Washington is essential to meet the health care quality objectives of the state. The legislature recognizes that current licensure of professionals assures minimum competence at the time an individual is initially licensed. A concern remains whether the current system of licensure encourages and motivates health care professionals to strive for the best professional performance possible. The effectiveness of the current system of licensure on assuring consumer protection is unclear.***

***(2) The secretary shall prepare a report with recommendations on the need for improvements in the current system of health care professional licensure or the need for an alternative system of quality assurance and consumer protection to replace or augment the state's current health professional licensure program. The report shall be submitted to the legislature and the governor no later than June 30, 1992, and shall include: (a) A survey of current health professional licensure programs in the United States, (b) an analysis of the impact of these regulatory and educational approaches on quality assurance and consumer protection, (c) an analysis of current licensure of health professionals in this state to assess its impact on quality assurance and consumer protection, (d) an evaluation of alternative approaches to licensure and their impact on quality assurance and consumer protection, and (e) an assessment of the costs of implementation of proposed alternatives.***

\*Sec. 302 was vetoed, see message at end of chapter.



**NEW SECTION.** Sec. 303. There is created in the department an office of health consumer assistance. The office shall establish a state-wide hotline and shall assist and serve as an advocate for consumers who are complainants or witnesses in a licensing or disciplinary proceeding.

**NEW SECTION.** Sec. 304. The secretary and each of the professional licensing and disciplinary boards under the administration of the department shall enter into written operating agreements on administrative procedures with input from the regulated profession and the public. The intent of these agreements is to provide a process for the department to consult each board on administrative matters and to ensure that the administration and staff functions effectively enable each board to fulfill its statutory responsibilities. The agreements shall include, but not be limited to, the following provisions:

- (1) Administrative activities supporting the board's policies, goals, and objectives;
- (2) Development and review of the agency budget as it relates to the board; and
- (3) Board related personnel issues.

The agreements shall be reviewed and revised in like manner if appropriate at the beginning of each fiscal year, and at other times upon written request by the secretary or the board.

The secretary shall report to the health care committees of the legislature, on or before February 28, 1990, on the implementation of the written operating agreement and the need, if any, for modification of this section.

Sec. 305. Section 59, chapter 279, Laws of 1984 and RCW 18.120.040 are each amended to read as follows:

Applicant groups shall submit a written report explaining the factors enumerated in RCW 18.120.030 to the legislative committees of reference, copies of which shall be sent to the state (~~health coordinating council and the department of licensing~~) board of health and the department of health for review and comment. The state (~~health coordinating council, in addition to the duties specified in RCW 70.38.065,~~) board of health and the department of health shall make recommendations based on the report submitted by applicant groups to the extent requested by the legislative committees.

Sec. 306. Section 61, chapter 150, Laws of 1987 and RCW 18.122.010 are each amended to read as follows:

The legislature takes note of the burgeoning number of bills proposed to regulate new health and health-related professions and occupations. The legislature further recognizes the number of allied health professions seeking independent practice. Potentially at least one hundred forty-five discrete health professions and occupations are recognized nationally, with at least two hundred fifty secondary job classifications. A uniform and streamlined

credentialing process needs to be established to permit the department of ~~((licensing))~~ health to administer the health professional regulatory programs in the most cost-effective, accountable, and uniform manner. The public interest will be served by establishing uniform administrative provisions for the regulated professions under the jurisdiction of the department of ~~((licensing))~~ health regulated after July 26, 1987.

Sec. 307. Section 62, chapter 150, Laws of 1987 and RCW 18.122.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) To "credential" means to license, certify, or register an applicant.

(2) "Department" means the department of ~~((licensing))~~ health.

(3) "~~((Director))~~ Secretary" means the ~~((director))~~ secretary of ~~((licensing))~~ health or the ~~((director's))~~ secretary's designee.

(4) "Health profession" means a profession providing health services regulated under the laws of this state and under which laws this statute is specifically referenced.

(5) "Credential" means the license, certificate, or registration issued to a person.

Sec. 308. Section 63, chapter 150, Laws of 1987 and RCW 18.122.030 are each amended to read as follows:

(1) The three levels of professional credentialing as defined in chapter 18.120 RCW are:

(a) Registration, which is the least restrictive, and requires formal notification of the department of ~~((licensing))~~ health identifying the practitioner, and does not require qualifying examinations;

(b) Certification, which is a voluntary process recognizing an individual who qualifies by examination and meets established educational prerequisites, and which protects the title of practice; and

(c) Licensure, which is the most restrictive and requires qualification by examination and educational prerequisites of a practitioner whose title is protected and whose scope of practice is restricted to only those licensed.

(2) No person may practice or represent oneself as a practitioner of a health profession by use of any title or description of services without being registered to practice by the department of ~~((licensing))~~ health, unless otherwise exempted by this chapter.

(3) No person may represent oneself as certified or use any title or description of services without applying for certification, meeting the required qualifications, and being certified by the department of ~~((licensing))~~ health, unless otherwise exempted by this chapter.

(4) No person may represent oneself as licensed, use any title or description of services, or engage in any practice without applying for licensure, meeting the required qualifications, and being licensed by the

department of (~~licensing~~) health, unless otherwise exempted by this chapter.

Sec. 309. Section 65, chapter 150, Laws of 1987 and RCW 18.122.050 are each amended to read as follows:

In addition to any other authority provided by law, the (~~director~~) secretary has the authority to:

(1) Adopt rules under chapter (~~34.04~~) 34.05 RCW necessary to implement this chapter;

(2) Establish all credentialing, examination, and renewal fees in accordance with (~~RCW 43.24.086~~) section 319 of this act;

(3) Establish forms and procedures necessary to administer this chapter;

(4) Register any applicants, and to issue certificates or licenses to applicants who have met the education, training, and examination requirements for licensure or certification and to deny a credential to applicants who do not meet the minimum qualifications, except that proceedings concerning the denial of credentials based upon unprofessional conduct or impairment shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(5) Hire clerical, administrative, investigative, and other staff as needed to implement this chapter, and hire individuals credentialed under this chapter to serve as examiners for any practical examinations;

(6) Determine minimum education requirements and evaluate and designate those educational programs from which graduation will be accepted as proof of eligibility to take a qualifying examination for applicants for certification or licensure;

(7) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations for applicants for certification or licensure;

(8) Determine whether alternative methods of training are equivalent to formal education, and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take any qualifying examination;

(9) Determine which states have credentialing requirements equivalent to those of this state, and issue credentials to individuals credentialed in those states without examinations;

(10) Define and approve any experience requirement for credentialing;

(11) Implement and administer a program for consumer education;

(12) Adopt rules implementing a continuing competency program;

(13) Maintain the official department record of all applicants and licenses; and

(14) Establish by rule the procedures for an appeal of an examination failure.

Sec. 310. Section 70, chapter 150, Laws of 1987 and RCW 18.122.100 are each amended to read as follows:

(1) The date and location of examinations shall be established by the ~~((director))~~ secretary. Applicants who have been found by the ~~((director))~~ secretary to meet the other requirements for licensure or certification shall be scheduled for the next examination following the filing of the application. The ~~((director))~~ secretary shall establish by rule the examination application deadline.

(2) The ~~((director))~~ secretary or the ~~((director's))~~ secretary's designees shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the ~~((director))~~ secretary has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the ~~((director))~~ secretary under ~~((RCW 43.24.086))~~ section 319 of this act for each subsequent examination. Upon failing four examinations, the ~~((director))~~ secretary may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The ~~((director))~~ secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements.

Sec. 311. Section 71, chapter 150, Laws of 1987 and RCW 18.122.110 are each amended to read as follows:

Applications for credentialing shall be submitted on forms provided by the ~~((director))~~ secretary. The ~~((director))~~ secretary may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for credentialing provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the ~~((director))~~ secretary under ~~((RCW 43.24.086))~~ section 319 of this act. The fee shall accompany the application.

Sec. 312. Section 2, chapter 279, Laws of 1984 as amended by section 2, chapter 259, Laws of 1986 and RCW 18.130.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Disciplining authority" means (a) the board of medical examiners, the board of dental examiners, and the board of chiropractic examiners with

respect to applicants for a license for the respective professions, (b) the medical disciplinary board, the dental disciplinary board, and the chiropractic disciplinary board with respect to holders of licenses for the respective professions, or (c) the agency or board having the authority to take disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of this chapter or a chapter specified under RCW 18.130.040.

(2) "Department" means the department of ~~((licensing))~~ health.

(3) "~~((Director))~~ Secretary" means the ~~((director))~~ secretary of ~~((licensing))~~ health or the ~~((director's))~~ secretary's designee.

(4) "Board" means any of those boards specified in RCW 18.130.040.

(5) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.130.040 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a consumer, through offerings, advertisements, or use of a professional title or designation, that the individual is qualified to practice a profession or operate a business identified in RCW 18.130.040, without holding a valid, unexpired, unrevoked, and unsuspended license to do so.

(6) "Disciplinary action" means sanctions identified in RCW 18.130.160.

(7) "Practice review" means an investigative audit of records related to the complaint, without prior identification of specific patient or consumer names, to determine whether unprofessional conduct may have been committed.

(8) "Health agency" means city and county health departments and the department of ~~((social and health services))~~ health.

(9) "License," "licensing," and "licensure" shall be deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.120.020.

Sec. 313. Section 23, chapter 279, Laws of 1984 as amended by section 5, chapter 505, Laws of 1987 and RCW 18.130.310 are each amended to read as follows:

Subject to RCW 40.07.040, the disciplinary authority shall submit a biennial report to the legislature on its proceedings during the biennium, detailing the number of complaints made, investigated, and adjudicated and manner of disposition. The report may include recommendations for improving the disciplinary process, including proposed legislation. The department ~~((of licensing))~~ shall develop a uniform report format.

Sec. 314. Section 43.24.020, chapter 8, Laws of 1965 as last amended by section 95, chapter 158, Laws of 1979 and RCW 43.24.020 are each amended to read as follows:

The director of licensing shall administer all laws with respect to the examination of applicants for, and the issuance of, licenses to persons to engage in any business, profession, trade, occupation, or activity except for health professions.

This shall include the administration of all laws pertaining to the regulation of securities and speculative investments.

Sec. 315. Section 12, chapter 168, Laws of 1983 as amended by section 7, chapter 467, Laws of 1987 and RCW 43.24.086 are each amended to read as follows:

~~((+))~~ It shall be the policy of the state of Washington that the cost of each professional, occupational or business licensing program be fully borne by the members of that profession, occupation or business. 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 regulation of professions, occupations or businesses, except for health professions, administered by the business and professions administration in the department of licensing. In fixing said fees, the director shall set the fees for each such program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the director in accordance with the provisions of the administrative procedure act, chapter ~~((34.04))~~ 34.05 RCW.

~~((2) Notwithstanding subsection (1) of this section, no fee for midwives, as licensed in chapter 18.50 RCW may be increased by more than one hundred dollars or fifty percent, whichever is greater, during any biennium))~~ For fees associated with the licensing or regulation of health professions administered by the department of health, see section 319 of this act.

Sec. 316. Section 4, chapter 319, Laws of 1977 ex. sess. as last amended by section 6, chapter 505, Laws of 1987 and RCW 19.02.040 are each amended to read as follows:

(1) There is hereby created a board of review to provide policy direction to the department of licensing as it establishes and operates the business registration and licensing system. The board of review shall be composed of the following officials or their designees:

- (a) Director, department of revenue;
- (b) Director, department of labor and industries;
- (c) Commissioner, employment security department;
- (d) Director, department of agriculture;
- (e) Director, department of trade and economic development;
- (f) Director, department of licensing;
- (g) Director, office of financial management;
- (h) Chairman, liquor control board;
- (i) Secretary, department of social and health services;
- (j) Secretary, department of health;

(k) Secretary of state;

~~((k))~~ (l) The governor; and

~~((l))~~ (m) As ex officio members:

(i) The president of the senate or the president's designee;

(ii) The speaker of the house or the speaker's designee; and

(iii) A representative of a recognized state-wide organization of employers, representing a large cross section of the Washington business community, to be appointed by the governor.

(2) The governor shall be the chairperson. In the governor's absence, the secretary of state shall act as chairperson.

(3) The board shall meet at the call of the chairperson at least semi-annually or at the call of a member to:

(a) Establish interagency policy guidelines for the system;

(b) Review the findings, status, and problems of system operations and recommend courses of action;

(c) Receive reports from industry and agency task forces;

(d) Determine in questionable cases whether a specific license is to be included in the master license system;

(e) Review and make recommendations on rules proposed by the business license center and any amendments to or revisions of the center's rules.

Sec. 317. Section 5, chapter 319, Laws of 1977 ex. sess. as last amended by section 38, chapter 466, Laws of 1985 and RCW 19.02.050 are each amended to read as follows:

(1) The legislature hereby directs the full participation by the following agencies in the implementation of this chapter:

(a) Department of agriculture;

(b) Secretary of state;

(c) Department of social and health services;

(d) Department of revenue;

(e) Department of fisheries;

(f) Department of employment security;

(g) Department of labor and industries;

(h) Department of trade and economic development;

(i) Liquor control board;

(j) ~~((Board of pharmacy))~~ Department of health;

(k) Department of licensing;

(l) Utilities and transportation commission; and

(m) Other agencies as determined by the governor.

Sec. 318. Section 11, chapter 168, Laws of 1983 and RCW 43.24.015 are each amended to read as follows:

In order to provide liaison with the department of ~~((licensing))~~ health, provide continuity between changes in board membership, achieve uniformity as appropriate in licensure or regulated activities under the jurisdiction

of the department, and to better represent the public interest, the ((director)) secretary, or a designee appointed by the ((director)) secretary, shall serve as an ex officio member of every health professional licensure ((and/or)) or disciplinary board established under Title 18 RCW under the administrative authority of the department of ((licensing)) health. The ((director)) secretary shall have no vote unless otherwise authorized by law.

NEW SECTION. Sec. 319. (1) It shall be the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. The secretary 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 regulation of professions, occupations, or businesses administered by the department. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

(2) Notwithstanding subsection (1) of this section, no fee for midwives, as licensed in chapter 18.50 RCW may be increased by more than one hundred dollars or fifty percent, whichever is greater during any biennium.

NEW SECTION. Sec. 320. The secretary may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of health, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, persons so appointed have all the powers, duties, and immunities and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board or committee. This authority is intended to provide for more efficient, economical, and effective examinations.

NEW SECTION. Sec. 321. Notwithstanding any provision of law to the contrary, the license of any person licensed by the secretary of health to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The secretary shall renew the license of every such person who applies for renewal thereof within six months after



being honorably discharged from service upon payment of the renewal fee applicable to the then current year or other license period.

**NEW SECTION.** Sec. 322. Notwithstanding any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter, the secretary of health may, from time to time, extend or otherwise modify the duration of any licensing, certification, or registration period, whether an initial or renewal period, if the secretary determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of health adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period.

**NEW SECTION.** Sec. 323. Funeral directors and embalmers, licensed under chapter 18.39 RCW, are subject to the provisions of chapter 18.130 RCW under the administration of the department of licensing. The department of licensing shall review the statutes authorizing the regulation of funeral directors and embalmers, and recommend any changes necessary by January 1, 1990.

**NEW SECTION.** Sec. 324. RCW 43.24.015 is recodified as part of chapter 43.— RCW as created by this act.

#### PART IV FUNCTIONS TRANSFERRED FROM THE BOARD OF PHARMACY

Sec. 401. Section 17, chapter 90, Laws of 1979 as last amended by section 5, chapter 153, Laws of 1984 and RCW 18.64.044 are each amended to read as follows:

(1) A shopkeeper registered ((or exempt from registration)) as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer. ((Shopkeepers with fifteen or fewer drugs shall be exempt from the registration requirements of this section and shall not be required to pay any fees required by this section, but shall be considered shopkeepers for any other purposes under chapter 18.64 RCW:))

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is hereby required to register as a shopkeeper through the master license system, and he or she shall pay the fee determined by the ((board)) secretary for registration, and on a date to be determined by the ((board)) secretary thereafter the fee determined by

the ~~((board))~~ secretary for renewal of the registration; and shall at all times keep said registration or the current renewal thereof conspicuously exposed in the shop to which it applies. In event such shopkeeper's registration is not renewed by the master license expiration date, no renewal or new registration shall be issued except upon payment of the registration renewal fee and the master license delinquency fee under chapter 19.02 RCW. This registration fee shall not authorize the sale of legend drugs or controlled substances.

(3) The registration fees determined by the ~~((board))~~ secretary under subsection (2) of this section shall not exceed the cost of registering the shopkeeper.

(4) Any shopkeeper who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

Sec. 402. Section 1, chapter 28, Laws of 1939 as amended by section 15, chapter 90, Laws of 1979 and RCW 18.64.245 are each amended to read as follows:

Every proprietor or manager of a pharmacy shall keep readily available a suitable record of prescriptions which shall preserve for a period of not less than ~~((five))~~ two years the record of every prescription dispensed at such pharmacy which shall be numbered, dated, and filed, and shall produce the same in court or before any grand jury whenever lawfully required to do so. The record shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy. All record-keeping requirements for controlled substances must be complied with. Such record of prescriptions shall be for confidential use in the pharmacy, only(~~(: PROVIDED, That))~~). The record of prescriptions shall be open for inspection by the board of pharmacy or any officer of the law, who is authorized to enforce chapter 18.64, 69.41, or 69.50 RCW.

Sec. 403. Section 1, chapter 9, Laws of 1972 ex. sess. as last amended by section 10, chapter 153, Laws of 1984 and RCW 18.64.080 are each amended to read as follows:

(1) The ~~((state board of pharmacy))~~ department 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)~~) approved by the board and administered by the department.

(2) The (~~(state board of pharmacy)~~) department 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)~~) secretary 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)~~) department 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 in an accredited college may file with the (~~(state board of pharmacy)~~) department 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)~~) department a fee to be determined by the (~~(board)~~) secretary. 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, provided however, the board may issue an intern certificate to a person to complete an internship to be eligible for initial licensure or for the reinstatement of a previously licensed pharmacist.

(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))~~ department 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 currently 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))~~ department 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))~~ the 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))~~ department.

(6) The ~~((board))~~ department shall provide for, regulate, and require all persons licensed as pharmacists to renew their license periodically, and shall prescribe the form of such license and information required to be submitted by all applicants.

Sec. 404. Section 15, chapter 38, Laws of 1963 as amended by section 14, chapter 90, Laws of 1979 and RCW 18.64.165 are each amended to read as follows:

The board shall have the power to refuse, suspend, or revoke the license of any manufacturer, wholesaler, pharmacy, shopkeeper, itinerant vendor, ~~((or))~~ peddler, poison distributor, or precursor chemical distributor upon proof that:

(1) The license was procured through fraud, misrepresentation, or deceit;

(2) The licensee has violated or has permitted any employee to violate any of the laws of this state or the United States relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the board of pharmacy or has been convicted of a felony.

NEW SECTION. Sec. 405. A new section is added to chapter 69.41 RCW to read as follows:

A pharmaceutical manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs shall maintain invoices or such other records as are necessary to account for the receipt and disposition of the legend drugs.

The records maintained pursuant to this section shall be available for inspection by the board and its authorized representatives and shall be maintained for two years.

**NEW SECTION.** Sec. 406. A new section is added to chapter 69.41 RCW to read as follows:

All records, reports, and information obtained by the board or its authorized representatives from or on behalf of a pharmaceutical manufacturer, representative of a manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs under this chapter are confidential and exempt from public inspection and copying under chapter 42.17 RCW. Nothing in this section restricts the investigations or the proceedings of the board so long as the board and its authorized representatives comply with the provisions of chapter 42.17 RCW.

Sec. 407. Section 2, chapter 107, Laws of 1987, section 1, chapter 337, Laws of 1987, section 16, chapter 370, Laws of 1987, section 1, chapter 404, Laws of 1987, and section 10, chapter 411, Laws of 1987 and RCW 42.17.310 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property(~~(- PROVIDED, That)~~). If at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern(~~(- PROVIDED, FURTHER, That)~~). However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale

of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 53.31 RCW.

(p) Financial disclosures filed by private vocational schools under chapter 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses during application for loans or program services provided by chapters 43.31, 43.63A, and 43.168 RCW.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land

developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) ~~((Except as provided under section 2 of this 1987 act [1987 c 404 § 2],))~~ All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(x) Information obtained by the board of pharmacy and its representatives as provided in section 406 of this act.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Sec. 408. Section 2, chapter 186, Laws of 1973 1st ex. sess. and RCW 69.41.020 are each amended to read as follows:

Legend drugs shall not be sold, delivered, dispensed or administered except in accordance with this chapter.

(1) No person shall obtain or attempt to obtain a legend drug, or procure or attempt to procure the administration of a legend drug:

(a) By fraud, deceit, misrepresentation, or subterfuge; or

(b) By the forgery or alteration of a prescription or of any written order; or

(c) By the concealment of a material fact; or

(d) By the use of a false name or the giving of a false address.

(2) Information communicated to a practitioner in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall willfully make a false statement in any prescription, order, report, or record, required by this chapter.

(4) No person shall, for the purpose of obtaining a legend drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, or any practitioner.

(5) No person shall make or utter any false or forged prescription or other written order for legend drugs.

(6) No person shall affix any false or forged label to a package or receptacle containing legend drugs.

(7) No person shall willfully fail to maintain the records required by section 405 of this act.

Sec. 409. Section 3, chapter 98, Laws of 1935 as last amended by section 2, chapter 153, Laws of 1984 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))~~ Establish the qualifications for licensure of pharmacists or pharmacy interns ~~((and grant licenses to all applicants whom it shall judge to be properly qualified))~~;

(4) ~~((Establish reasonable fees for licenses, examinations, and services for other agencies sufficient to cover the cost of the operations of the board. In cases where there are unanticipated demands for services the board may request payment for services directly from the agencies for whom the services are performed, to the extent that revenues or other funds are available. Drug-related investigations regarding licensed health care practitioners shall be funded by an appropriation to the board from the health professions account. The payment may be made on either an advance or a reimbursable basis as approved by the director of financial management;~~

~~(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, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW;

~~((9))~~ (5) 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))~~ (6) 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))~~ (7) 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))~~ (8) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;

~~((13))~~ (9) 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))~~ department when acting ~~((at the direction of the board))~~ in the course of disciplinary proceedings;

~~((14))~~ (10) Establish an interdepartmental coordinating committee on drug misuse, diversion, and abuse, composed of one member from each caucus of the house of representatives and senate, the superintendent of public instruction, the ~~((director of licensing))~~ secretary of health, the executive secretary of the criminal justice training commission, the chief of the Washington state patrol, the secretary of social and health services, director of the traffic safety commission, representatives of prescribing, delivering, and dispensing health care practitioner boards, the attorney general, the director of the department of labor and industries, a representative of local law enforcement agencies, and the executive officer of the board of

pharmacy, or their designees. The committee shall meet at least twice annually at the call of the executive officer of the board of pharmacy who shall serve as chairperson of the committee. The committee shall advise the board of pharmacy in all matters related to its powers and duties delineated in subsections ~~((15), (16), (17), (18) and (19))~~ (11), (12), (13), (14) and (15) of this section, and shall report to the legislature each biennium on the results of its and the board's activity under those subsections;

~~((15))~~ (11) Provide for the coordination and exchange of information on state programs relating to drug misuse, diversion, and abuse, and act as a permanent liaison among the departments and agencies engaged in activities concerning the legal and illegal use of drugs;

~~((16))~~ (12) Suggest strategies for preventing, reducing, and eliminating drug misuse, diversion, and abuse, including professional and public education, and treatment of persons misusing and abusing drugs;

~~((17))~~ (13) Conduct or encourage educational programs to be conducted to prevent the misuse, diversion, and abuse of drugs for health care practitioners and licensed or certified health care facilities;

~~((18))~~ (14) Monitor trends of drug misuse, diversion, and abuse and make periodic reports to disciplinary boards of licensed health care practitioners and education, treatment, and appropriate law enforcement agencies regarding these trends;

~~((19))~~ (15) Enter into written agreements with all other state and federal agencies with any responsibility for controlling drug misuse, diversion, or abuse and with health maintenance organizations, health care service contractors, and health care providers to assist and promote coordination of agencies responsible for ensuring compliance with controlled substances laws and to monitor observance of these laws and cooperation between these agencies. The department of social and health services, the department of labor and industries, ~~((the department of licensing;))~~ and any other state agency including licensure disciplinary boards, shall refer all apparent instances of over-prescribing by practitioners and all apparent instances of legend drug overuse to the ~~((board))~~ department. The ~~((board))~~ department shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers.

**NEW SECTION.** Sec. 410. A new section is added to chapter 18.64 RCW to read as follows:

The department shall:

(1) Establish reasonable license and examination fees and fees for services to other agencies in accordance with section 319 of this act. In cases where there are unanticipated demands for services, the department may request payment for services directly from the agencies for whom the services are performed, to the extent that revenues or other funds are available. Drug-related investigations regarding licensed health care practitioners

shall be funded by an appropriation to the department from the health professions account. The payment may be made on either an advance or a reimbursable basis as approved by the director of financial management;

(2) Employ, with confirmation by the board, an executive officer, who shall be exempt from the provisions of chapter 41.06 RCW and who shall be a pharmacist licensed in Washington, and employ inspectors, investigators, chemists, and other persons as necessary to assist it for any purpose which it may deem necessary;

(3) Investigate and prosecute, at the direction of the board, including use of subpoena powers, violations of law or regulations under its jurisdiction or the jurisdiction of the board of pharmacy;

(4) Make, at the direction of the board, 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. The written operating agreement between the department and the board, as required by section 304 of this act shall include provisions for the department to involve the board in carrying out its duties required by this section.

Sec. 411. Section 1, chapter 82, Laws of 1969 ex. sess. as last amended by section 59, chapter 7, Laws of 1985 and RCW 18.64.009 are each amended to read as follows:

Employees of the (~~Washington state board of pharmacy~~) department, who are designated by the board as enforcement officers, are declared to be peace officers and shall be vested with police powers to enforce chapters 18.64, 69.04, 69.36, 69.40, 69.41, and 69.50 RCW and all other laws (~~administered~~) enforced by the board.

Sec. 412. Section 1, chapter 38, Laws of 1963 as last amended by section 3, chapter 153, Laws of 1984 and RCW 18.64.011 are each amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated when used in this chapter.

(1) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(2) "Board" means the Washington state board of pharmacy.

(3) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(4) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or (b) to affect the structure or any function of the body of man or other animals.

(5) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(6) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(7) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(8) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(9) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(10) "Pharmacist" means a person duly licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(11) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(12) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted.

(13) The words "drug" and "devices" shall not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to

render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes, nor shall the word "drug" include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than man.

(14) The word "poison" shall not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(15) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(16) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(17) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(18) "Compounding" shall be the act of combining two or more ingredients in the preparation of a prescription.

(19) "Wholesaler" shall mean a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

(20) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or re-labeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, prepares, compounds, packages, or labels such substance or device.

(21) "Manufacturer" shall mean a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(22) "Labeling" shall mean the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(23) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(24) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement.

(25) "Department" means the department of health.

(26) "Secretary" means the secretary of health or the secretary's designee.

Sec. 413. Section 10, chapter 121, Laws of 1899 as last amended by section 7, chapter 90, Laws of 1979 and RCW 18.64.040 are each amended to read as follows:

Every applicant for license examination under this chapter shall pay the sum determined by the ~~((board))~~ secretary under section 319 of this act before the examination is attempted.

Sec. 414. Section 12, chapter 213, Laws of 1909 as last amended by section 4, chapter 153, Laws of 1984 and RCW 18.64.043 are each amended to read as follows:

(1) The owner of each pharmacy shall pay an original license fee to be determined by the ~~((board))~~ secretary, and annually thereafter, on or before a date to be determined by the ~~((board))~~ secretary, a fee to be determined by the ~~((board))~~ secretary, for which he or she shall receive a license of location, which shall entitle the owner to operate such pharmacy at the location specified, or such other temporary location as the ~~((board))~~ secretary may approve, for the period ending on a date to be determined by the ~~((board))~~ secretary, and each such owner shall at the time of filing proof of payment of such fee as provided in RCW 18.64.045 as now or hereafter amended, file with the ~~((state board of pharmacy))~~ department on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of ownership of the pharmacy mentioned therein.

(2) It shall be the duty of the owner to immediately notify the ~~((board))~~ department of any change of location ~~((and/))~~ or ownership and to keep the license of location or the renewal thereof properly exhibited in said pharmacy.

(3) Failure to comply with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense.

(4) In the event such license fee remains unpaid for sixty days from date due, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the original license fee.

***\*Sec. 415. Section 17, chapter 90, Laws of 1979 as last amended by section 5, chapter 153, Laws of 1984 and RCW 18.64.044 are each amended to read as follows:***

***(1) A shopkeeper registered or exempt from registration as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer. Shopkeepers with fifteen or fewer drugs shall be exempt from the registration requirements of this section and shall not be required to pay any fees required by this section, but shall be considered shopkeepers for any other purposes under chapter 18.64 RCW.***

**(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is hereby required to register as a shopkeeper through the master license system, and he or she shall pay the fee determined by the ((board)) secretary for registration, and on a date to be determined by the ((board)) secretary thereafter the fee determined by the ((board)) secretary for renewal of the registration, and shall at all times keep said registration or the current renewal thereof conspicuously exposed in the shop to which it applies. In event such shopkeeper's registration is not renewed by the master license expiration date, no renewal or new registration shall be issued except upon payment of the registration renewal fee and the master license delinquency fee under chapter 19.02 RCW. This registration fee shall not authorize the sale of legend drugs or controlled substances.**

**(3) The registration fees determined by the ((board)) secretary under subsection (2) of this section shall not exceed the cost of registering the shopkeeper.**

**(4) Any shopkeeper who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.**

\*Sec. 415 was vetoed, see message at end of chapter.

Sec. 416. Section 5, chapter 153, Laws of 1949 as last amended by section 6, chapter 153, Laws of 1984 and RCW 18.64.045 are each amended to read as follows:

The owner of each and every place of business which manufactures drugs shall pay a license fee to be determined by the ((board)) secretary, and thereafter, on or before a date to be determined by the ((board)) secretary, a fee to be determined by the ((board)) secretary, for which the owner shall receive a license of location from the ((state board of pharmacy)) department, which shall entitle the owner to manufacture drugs at the location specified for the period ending on a date to be determined by the board, and each such owner shall at the time of payment of such fee file with the ((state board of pharmacy)) department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the ((board)) department of any change of location ((and/)) or ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business. Failure to conform with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense. In event such license fee remains unpaid for sixty days from date due, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the license renewal fee.

Sec. 417. Section 18, chapter 90, Laws of 1979 as amended by section 7, chapter 153, Laws of 1984 and RCW 18.64.046 are each amended to read as follows:

The owner of each place of business which sells legend drugs and nonprescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the ~~((board))~~ secretary, and thereafter, on or before a date to be determined by the ~~((board))~~ secretary, a like fee to be determined by the ~~((board))~~ secretary, for which the owner shall receive a license of location from the ~~((state board of pharmacy))~~ department, which shall entitle such owner to either sell legend drugs and nonprescription drugs or nonprescription drugs at wholesale at the location specified for the period ending on a date to be determined by the board, and each such owner shall at the time of payment of such fee file with the ~~((state board of pharmacy))~~ department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the ~~((board))~~ department of any change of location and ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business. Failure to conform with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense. In event such license fee remains unpaid for sixty days from date due, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the license renewal fee.

Sec. 418. Section 16, chapter 121, Laws of 1899 as last amended by section 8, chapter 153, Laws of 1984 and RCW 18.64.047 are each amended to read as follows:

Any itinerant vendor or any peddler of any nonprescription drug or preparation for the treatment of disease or injury, shall pay a registration fee determined by the ~~((board))~~ secretary on a date to be determined by the ~~((board))~~ secretary. The ~~((state board of pharmacy))~~ department may issue a registration to such vendor on an approved application made to the ~~((state board of pharmacy))~~ department. Any itinerant vendor or peddler who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense. In event such registration fee remains unpaid for sixty days from date due, no renewal or new registration shall be issued except upon payment of the registration renewal fee and a penalty fee equal to the renewal fee. This registration shall not authorize the sale of legend drugs or controlled substances.



Sec. 419. Section 9, chapter 98, Laws of 1935 as last amended by section 9, chapter 153, Laws of 1984 and RCW 18.64.050 are each amended to read as follows:

In the event that a license or certificate issued by the (~~(board of pharmacy)~~) department is lost or destroyed, the person to whom it was issued may obtain a duplicate thereof upon furnishing proof of such fact satisfactory to the (~~(board of pharmacy)~~) department and the payment of a fee determined by the (~~(board of pharmacy)~~) secretary.

In the event any person desires any certified document to which he is entitled, he shall receive the same upon payment of a fee determined by the (~~(board of pharmacy)~~) secretary.

Sec. 420. Section 1, chapter 9, Laws of 1972 ex. sess. as last amended by section 10, chapter 153, Laws of 1984 and RCW 18.64.080 are each amended to read as follows:

(1) The (~~(state board of pharmacy)~~) department 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)~~) approved by the board and administered by the department.

(2) The (~~(state board of pharmacy)~~) department 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)~~)

secretary 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))~~ department 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 in an accredited college may file with the ~~((state board of pharmacy))~~ department 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))~~ department a fee to be determined by the ~~((board))~~ secretary. 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, provided however, the board may issue an intern certificate to a person to complete an internship to be eligible for initial licensure or for the reinstatement of a previously licensed pharmacist.

(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))~~ department 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 currently 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))~~ department 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))~~, and that the state in which ~~((said))~~ the 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))~~ department.

(6) The ~~((board))~~ department shall provide for, regulate, and require all persons licensed as pharmacists to renew their license periodically, and shall prescribe the form of such license and information required to be submitted by all applicants.

Sec. 421. Section 11, chapter 121, Laws of 1899 as last amended by section 11, chapter 153, Laws of 1984 and RCW 18.64.140 are each amended to read as follows:

Every licensed pharmacist who desires to practice pharmacy shall secure from the ~~((board))~~ department a license, the fee for which shall be determined by the ~~((board))~~ secretary. The renewal fee shall also be determined by the ~~((board))~~ secretary. The date of renewal may be established by the ~~((board))~~ secretary by regulation and the ~~((board))~~ department may by regulation extend the duration of a licensing period for the purpose of staggering renewal periods. Such regulation may provide a method for imposing and collecting such additional proportional fee as may be required for the extended period. Payment of this fee shall entitle the licensee to a pharmacy law book, subsequent current mailings of all additions, changes, or deletions in the pharmacy practice act, chapter 18.64 RCW, and all additions, changes, or deletions of pharmacy board and department regulations. Pharmacists shall pay the license renewal fee and a penalty equal to the license renewal fee for the late renewal of their license more than sixty days after the renewal is due. The current license shall be conspicuously displayed to the public in the pharmacy to which it applies. Any licensed pharmacist who desires to leave the active practice of pharmacy in this state may secure from the ~~((board))~~ department an inactive license. The initial license and renewal fees shall be determined by the ~~((board))~~ secretary. The holder of an inactive license may reactivate his or her license to practice pharmacy in accordance with rules adopted by the board.

Sec. 422. Section 1, chapter 101, Laws of 1977 ex. sess. and RCW 18.64A.010 are each amended to read as follows:

Terms used in this chapter shall have the meaning set forth in this section unless the context clearly indicates otherwise:

- (1) "Board" means the state board of pharmacy;
- (2) "Department" means the department of health;
- (3) "Pharmacist" means a person duly licensed by the state board of pharmacy to engage in the practice of pharmacy;
- ~~((3))~~ (4) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted;
- ~~((4))~~ (5) "Pharmacy assistant level A" means:
  - (a) A person who is enrolled in, or who has satisfactorily completed, a board approved training program designed to prepare persons to perform nondiscretionary functions associated with the practice of pharmacy; or
  - (b) A person who is a graduate with a degree in pharmacy or medicine of a foreign school, university, or college recognized by the board;
- ~~((5))~~ (6) "Pharmacy assistant level B" means a person certified by the board to perform limited functions in the pharmacy;

~~((6))~~ (7) "Practice of pharmacy" means the definition given in RCW 18.64.011, as now or hereafter amended;

(8) "Secretary" means the secretary of health or the secretary's designee.

Sec. 423. Section 3, chapter 101, Laws of 1977 ex. sess. and RCW 18.64A.030 are each amended to read as follows:

The board shall adopt, in accordance with chapter ~~((34.04))~~ 34.05 RCW, rules and regulations governing the extent to which pharmacy assistants may perform services associated with the practice of pharmacy during training and after successful completion of a training course. Such regulations shall provide for the certification of pharmacy assistants by the department at a ~~((uniform annual))~~ fee ~~((to be))~~ determined by the ~~((board))~~ secretary under section 319 of this act according to the following levels of classification:

(1) "Level A pharmacy assistants" may assist in performing, under the immediate supervision and control of a licensed pharmacist, manipulative, nondiscretionary functions associated with the practice of pharmacy.

(2) "Level B pharmacy assistants" may perform, under the general supervision of a licensed pharmacist, duties including but not limited to, typing of prescription labels, filing, refiling, bookkeeping, pricing, stocking, delivery, nonprofessional phone inquiries, and documentation of third party reimbursements.

Sec. 424. Section 5, chapter 101, Laws of 1977 ex. sess. and RCW 18.64A.050 are each amended to read as follows:

The board of pharmacy shall have the power to refuse, suspend, or revoke the certificate of any pharmacy assistant upon proof that:

(1) His or her certificate was procured through fraud, misrepresentation or deceit;

(2) He or she has been found guilty of any offense in violation of the laws of this state relating to drugs, poisons, cosmetics or drug sundries by any court of competent jurisdiction ~~((:PROVIDED, That ))~~. Nothing herein shall be construed to affect or alter the provisions of RCW 9.96A.020;

(3) He or she is unfit to perform his or her duties because of habitual intoxication or abuse of controlled substances;

(4) He or she has exhibited gross incompetency in the performance of his or her duties;

(5) He or she has willfully or repeatedly violated any of the rules and regulations of the board of pharmacy or of the department;

(6) He or she has willfully or repeatedly performed duties beyond the scope of his or her certificate in violation of the provisions of this chapter; or

(7) He or she has impersonated a licensed pharmacist.

In any case of the refusal, suspension or revocation of a certificate by the board, a hearing shall be conducted in accordance with RCW 18.64-.160, as now or hereafter amended, and appeal may be taken in accordance with the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW.

Sec. 425. Section 6, chapter 101, Laws of 1977 ex. sess. and RCW 18-.64A.060 are each amended to read as follows:

No pharmacy licensed in this state shall utilize the services of pharmacy assistants without approval of the board.

Any pharmacy licensed in this state may apply to the board for permission to use the services of pharmacy assistants. The application shall be accompanied by a uniform fee to be determined by the ~~((board))~~ secretary, shall detail the manner and extent to which the pharmacy assistants would be used and supervised, and shall provide other information in such form as the ~~((board))~~ secretary may require.

The board may approve or reject such applications. In addition, the board may modify the proposed utilization of pharmacy assistants and approve the application as modified. No such approval shall extend for more than one year, but approval once granted may be renewed annually upon payment of a uniform fee as determined by the ~~((board))~~ secretary. Whenever it appears to the board that a pharmacy assistant is being utilized in a manner inconsistent with the approval granted, the board may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of approval, a hearing shall be conducted in accordance with chapter 18.64 RCW, as now or hereafter amended, and appeal may be taken in accordance with the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW.

Sec. 426. Section 1, chapter 186, Laws of 1973 1st ex. sess. as last amended by section 17, chapter 153, Laws of 1984 and RCW 69.41.010 are each amended to read as follows:

As used in this chapter, the following terms has the meaning indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(3) "Department" means the department of health.

(4) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

~~((4))~~ (5) "Dispenser" means a practitioner who dispenses.

~~((5))~~ (6) "Distribute" means to deliver other than by administering or dispensing a legend drug.

~~((6))~~ (7) "Distributor" means a person who distributes.

~~((7))~~ (8) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in clause (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

~~((8))~~ (9) "Legend drugs" means any drugs which are required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

~~((9))~~ (10) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

~~((10))~~ (11) "Practitioner" means:

(a) 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 registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, an osteopathic physician's assistant under chapter 18.57A RCW, or a physician's assistant under chapter 18.71A RCW, or a pharmacist under chapter 18.64 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) 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.

(12) "Secretary" means the secretary of health or the secretary's designee.

Sec. 427. Section 3, chapter 139, Laws of 1979 ex. sess. and RCW 69-.41.075 are each amended to read as follows:

The state board of pharmacy may make such rules for the enforcement ~~((and administration))~~ of this chapter as are deemed necessary or advisable. The board shall identify, by rule-making pursuant to chapter ~~((34.04))~~ 34-.05 RCW, those drugs which may be dispensed only on prescription or are

restricted to use by practitioners, only. In so doing the board shall consider the toxicity or other potentiality for harmful effect of the drug, the method of its use, and any collateral safeguards necessary to its use. The board shall classify a drug as a legend drug where these considerations indicate the drug is not safe for use except under the supervision of a practitioner.

In identifying legend drugs the board may incorporate in its rules lists of drugs contained in commercial pharmaceutical publications by making specific reference to each such list and the date and edition of the commercial publication containing it. Any such lists so incorporated shall be available for public inspection at the headquarters of the ~~((state board of pharmacy))~~ department of health and shall be available on request from the ~~((board))~~ department of health upon payment of a reasonable fee to be set by the ~~((board))~~ department.

Sec. 428. Section 3, chapter 83, Laws of 1980 and RCW 69.41.220 are each amended to read as follows:

Each manufacturer and~~((or))~~ distributor shall publish and provide to the board by filing with the department printed material which will identify each current imprint used by the manufacturer or distributor ~~((and))~~. The board shall be notified of any change by the filing of any change with the department. This information shall be provided by the ~~((board))~~ department to all pharmacies licensed in the state of Washington, poison control centers, and hospital emergency rooms.

Sec. 429. Section 69.50.101, chapter 308, Laws of 1971 ex. sess. as last amended by section 2, chapter 144, Laws of 1987 and RCW 69.50.101 are each amended to read as follows:

As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(1) a practitioner, or  
(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(c) "Drug enforcement administration" means the federal drug enforcement administration in the United States Department of Justice, or its successor agency.

(d) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of Article II.

(e) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any

likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(f) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(g) "Department" means the department of health.

(h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

~~((f))~~ (i) "Dispenser" means a practitioner who dispenses.

~~((f))~~ (j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

~~((f))~~ (k) "Distributor" means a person who distributes.

~~((k))~~ (l) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

~~((f))~~ (m) "Immediate precursor" means a substance which the state board of pharmacy has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

~~((m))~~ (n) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(1) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(2) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.



((~~(n)~~)) (o) "Marihuana" means all parts of the plant of the genus *Cannabis* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

((~~(o)~~)) (p) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

((~~(p)~~)) (q) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

((~~(q)~~)) (r) "Opium poppy" means the plant of the genus *Papaver* L., except its seeds, capable of producing an opiate.

((~~(r)~~)) (s) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

((~~(s)~~)) (t) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

((~~(t)~~)) (u) "Practitioner" means:

(1) 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 chiropodist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, a pharmacist

under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery in any state of the United States.

~~((t))~~ (v) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

~~((v))~~ (w) "Secretary" means the secretary of health or the secretary's designee.

(x) "State", when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

~~((w))~~ (y) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

~~((x))~~ (z) "Board" means the state board of pharmacy.

~~((y))~~ "~~Executive officer~~" means the executive officer of the state board of pharmacy.))

Sec. 430. Section 69.50.201, chapter 308, Laws of 1971 ex. sess. as amended by section 2, chapter 124, Laws of 1986 and RCW 69.50.201 are each amended to read as follows:

(a) The state board of pharmacy shall ~~((administer))~~ enforce this chapter and may add substances to or delete or reschedule all substances enumerated in the schedules in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, or 69.50.212 pursuant to the rule-making procedures of chapter ~~((34.04))~~ 34.05 RCW. In making a determination regarding a substance, the board shall consider the following:

- (1) the actual or relative potential for abuse;
- (2) the scientific evidence of its pharmacological effect, if known;
- (3) the state of current scientific knowledge regarding the substance;
- (4) the history and current pattern of abuse;
- (5) the scope, duration, and significance of abuse;
- (6) the risk to the public health;

(7) the potential of the substance to produce psychic or physiological dependence liability; and

(8) whether the substance is an immediate precursor of a substance already controlled under this Article.

(b) After considering the factors enumerated in subsection (a) the board may issue a rule controlling the substance if it finds the substance has a potential for abuse.

(c) If the board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the board, the substance shall be similarly controlled under this chapter after the expiration of thirty days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that thirty day period, the board objects to inclusion, rescheduling, or deletion. In that case, the board shall proceed pursuant to the rule-making procedures of chapter ~~((34.04))~~ 34.05 RCW.

(e) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 66 RCW and Title 26 RCW.

(f) The board shall exclude any nonnarcotic substances from a schedule if such substances may, under the Federal Food, Drug and Cosmetic Act, and under regulations of the drug enforcement administration, and the laws of this state including RCW 18.64.250, be lawfully sold over the counter.

(g) On or before December 1 of each year, the board shall inform the committees of reference of the legislature of the controlled substances added, deleted, or changed on the schedules specified in this chapter and which includes an explanation of these actions.

Sec. 431. Section 69.50.301, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.301 are each amended to read as follows:

The state board of pharmacy may promulgate rules and ~~((charge reasonable))~~ the secretary may set fees of not less than ten dollars or more than fifty dollars relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

Sec. 432. Section 69.50.302, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.302 are each amended to read as follows:

(a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the ~~((state board of pharmacy))~~ department in accordance with ~~((its))~~ the board's rules.

(b) Persons registered by the ~~((board))~~ department under this chapter to manufacture, distribute, dispense, or conduct research with controlled

substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this Article.

(c) The following persons need not register and may lawfully possess controlled substances under this chapter:

(1) an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment(~~(-PROVIDED, That)~~). This exemption shall not include any agent or employee distributing sample controlled substances to practitioners without an order;

(2) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

(d) The board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety(~~(-PROVIDED, That)~~). Personal practitioners licensed or registered in the state of Washington under the respective professional licensing acts shall not be required to be registered under this chapter unless the specific exemption is denied pursuant to RCW 69.50.305 for violation of any provisions of this chapter.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) ~~The ((board))~~ department may inspect the establishment of a registrant or applicant for registration in accordance with the board's rule.

Sec. 433. Section 69.50.303, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.303 are each amended to read as follows:

(a) ~~The ((state board of pharmacy))~~ department shall register an applicant to manufacture or distribute controlled substances included in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 unless ~~((it))~~ the board determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable state and local law;

(3) any convictions of the applicant under any federal and state laws relating to any controlled substance;

(4) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

(5) furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

(6) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(7) any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered, or exempted under RCW 69.50.302(d), to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The board need not require separate registration under this Article for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the board evidence of that federal registration.

(d) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration entitles them to be registered under this chapter upon application and payment of the required fee.

Sec. 434. Section 69.50.304, chapter 308, Laws of 1971 ex. sess. as amended by section 8, chapter 124, Laws of 1986 and RCW 69.50.304 are each amended to read as follows:

(a) A registration, or exemption from registration, under RCW 69.50.303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the state board of pharmacy upon a finding that the registrant:

(1) has furnished false or fraudulent material information in any application filed under this chapter;

(2) has been found guilty of a felony under any state or federal law relating to any controlled substance;

(3) has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or

(4) has violated any state or federal rule or regulation regarding controlled substances.

(b) The board may limit revocation or suspension of a registration to the particular controlled substance or schedule of controlled substances, with respect to which grounds for revocation or suspension exist.

(c) If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The ~~((board))~~ department shall promptly notify the drug enforcement administration of all orders suspending or revoking registration and all forfeitures of controlled substances.

Sec. 435. Section 1, chapter 197, Laws of 1977 ex. sess. and RCW 69.50.310 are each amended to read as follows:

On and after September 21, 1977, a humane society and animal control agency may apply to the ~~((state board of pharmacy))~~ department for registration pursuant to the applicable provisions of this chapter for the sole purpose of being authorized to purchase, possess, and administer sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals. Any agency so registered shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering this drug.

The ~~((board))~~ department may issue a limited registration to carry out the provisions of this section. The board shall promulgate such rules as it deems necessary to insure strict compliance with the provisions of this section. The board may suspend or revoke registration upon determination that the person administering sodium pentobarbital has not demonstrated adequate knowledge as herein provided. This authority is granted in addition to any other power to suspend or revoke registration as provided by law.

Sec. 436. Section 20, chapter 153, Laws of 1984 and RCW 69.50.311 are each amended to read as follows:

Any licensed health care practitioner with prescription or dispensing authority shall, as a condition of licensure and as directed by the practitioner's disciplinary board, consent to the requirement, if imposed, of complying with a triplicate prescription form program as may be established by rule by the department of ~~((licensing))~~ health.

Sec. 437. Section 69.50.500, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.500 are each amended to read as follows:

(a) It is hereby made the duty of the state board of pharmacy, ~~((its))~~ the department, and their officers, agents, inspectors and representatives,

and all law enforcement officers within the state, and of all prosecuting attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and all other states, relating to controlled substances as defined in this chapter.

(b) Employees of the (~~Washington state board of pharmacy~~) department of health, who are so designated by the board as enforcement officers are declared to be peace officers and shall be vested with police powers to enforce the drug laws of this state, including this chapter.

Sec. 438. Section 3, chapter 136, Laws of 1979 and RCW 69.51.030 are each amended to read as follows:

As used in this chapter:

(1) "Board" means the state board of pharmacy;

(2) "Department" means the department of health.

~~((2))~~ (3) "Marijuana" means all parts of the plant of the genus Cannabis L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin; and

~~((3))~~ (4) "Practitioner" means a physician licensed pursuant to chapter 18.71 or 18.57 RCW.

Sec. 439. Section 4, chapter 136, Laws of 1979 and RCW 69.51.040 are each amended to read as follows:

(1) There is established in the board the controlled substances therapeutic research program. The program shall be administered by the (~~board~~) department. The board shall promulgate rules necessary for the proper administration of the Controlled Substances Therapeutic Research Act. In such promulgation, the board shall take into consideration those pertinent rules promulgated by the United States drug enforcement agency, the food and drug administration, and the national institute on drug abuse.

(2) Except as provided in RCW 69.51.050(4), the controlled substances therapeutic research program shall be limited to cancer chemotherapy and radiology patients and glaucoma patients, who are certified to the patient qualification review committee by a practitioner as being involved in a life-threatening or sense-threatening situation(~~(-PROVIDED, That))~~). No patient may be admitted to the controlled substances therapeutic research program without full disclosure by the practitioner of the experimental nature of this program and of the possible risks and side effects of the proposed treatment in accordance with the informed consent provisions of chapter 7.70 RCW.

(3) The board shall provide by rule for a program of registration with the department of bona fide controlled substance therapeutic research projects.

Sec. 440. Section 6, chapter 34, Laws of 1987 and RCW 69.38.060 are each amended to read as follows:

The state board of pharmacy, after consulting with the department of ~~((licensing))~~ health, shall require and provide for the annual licensure of every person now or hereafter engaged in manufacturing or selling poisons within this state. Upon a payment of a fee as set by the ~~((board, the board))~~ department, the department shall issue a license in such form as it may prescribe to such manufacturer or seller. Such license shall be displayed in a conspicuous place in such manufacturer's or seller's place of business for which it is issued.

Any person manufacturing or selling poison within this state without a license is guilty of a misdemeanor.

Sec. 441. Section 4, chapter 147, Laws of 1988 and RCW 69.43.040 are each amended to read as follows:

(1) The ~~((state board of pharmacy))~~ department of health, in accordance with rules developed by the state board of pharmacy shall provide a common reporting form for the substances in RCW 69.43.010 that contains at least the following information:

- (a) Name of the substance;
- (b) Quantity of the substance sold, transferred, or furnished;
- (c) The date the substance was sold, transferred, or furnished;
- (d) The name and address of the person buying or receiving the substance; and
- (e) The name and address of the manufacturer, wholesaler, retailer, or other person selling, transferring, or furnishing the substance.

(2) Monthly reports authorized under subsection (1)(e) of this section may be computer-generated in accordance with rules adopted by the ~~((state board of pharmacy))~~ department.

Sec. 442. Section 5, chapter 147, Laws of 1988 and RCW 69.43.050 are each amended to read as follows:

(1) The state board of pharmacy may adopt all rules necessary to carry out this chapter.

(2) Notwithstanding subsection (1) of this section, the department of health may adopt rules necessary for the administration of this chapter.

Sec. 443. Section 9, chapter 147, Laws of 1988 and RCW 69.43.090 are each amended to read as follows:

(1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010 to a person in this state or who receives from a source outside of the state any substance specified in RCW 69.43.010 shall obtain a permit for the conduct of that business from the state board of pharmacy. However, a permit shall not be required of any manufacturer, wholesaler, retailer, or other person for the sale, transfer, furnishing, or receipt of any drug that



contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in RCW 69.43.010(1), if such drug or cosmetic is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription under chapter 69.04 or 69.41 RCW.

(2) Applications for permits shall be filed with the department in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any substance sold, transferred, or otherwise furnished, or received.

(3) The board may grant permits on forms prescribed by it. The permits shall be effective for not more than one year from the date of issuance.

(4) Each applicant shall pay at the time of filing an application for a permit a fee determined by the ((board)) department.

(5) A permit granted under this chapter may be renewed on a date to be determined by the board, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee determined by the department.

(6) Permit fees charged by the ((board)) department shall not exceed the costs incurred by the ((board)) department in administering this chapter.

(7) Selling, transferring, or otherwise furnishing, or receiving any substance specified in RCW 69.43.010 without a required permit, is a gross misdemeanor.

Sec. 444. Section 1, chapter 411, Laws of 1987 and RCW 69.45.010 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Board" means the board of pharmacy.

(2) "Drug samples" means any federal food and drug administration approved controlled substance, legend drug, or products requiring prescriptions in this state, which is distributed at no charge to a practitioner by a manufacturer or a manufacturer's representative, exclusive of drugs under clinical investigations approved by the federal food and drug administration.

(3) "Controlled substance" means a drug, substance, or immediate precursor of such drug or substance, so designated under or pursuant to chapter 69.50 RCW, the uniform controlled substances act.

(4) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(5) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(6) "Distribute" means to deliver, other than by administering or dispensing, a legend drug.

(7) "Legend drug" means any drug that is required by state law or by regulations of the board to be dispensed on prescription only or is restricted to use by practitioners only.

(8) "Manufacturer" means a person or other entity engaged in the manufacture or distribution of drugs or devices, but does not include a manufacturer's representative.

(9) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(10) "Practitioner" means 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 pharmacist under chapter 18.64 RCW, a commissioned medical or dental officer in the United States armed forces or the public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse under chapter 18.88 RCW when authorized to prescribe by the board of nursing, an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, or a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners.

(11) "Manufacturer's representative" means an agent or employee of a drug manufacturer who is authorized by the drug manufacturer to possess drug samples for the purpose of distribution in this state to appropriately authorized health care practitioners.

(12) "Reasonable cause" means a state of facts found to exist that would warrant a reasonably intelligent and prudent person to believe that a person has violated state or federal drug laws or regulations.

(13) "Department" means the department of health.

(14) "Secretary" means the secretary of health or the secretary's designee.

Sec. 445. Section 2, chapter 411, Laws of 1987 and RCW 69.45.020 are each amended to read as follows:

A manufacturer that intends to distribute drug samples in this state shall register annually with the ~~((board))~~ department, providing the name and address of the manufacturer, and shall:

(1) Provide ~~((the board with))~~ a twenty-four hour telephone number and the name of the individual(s) who shall respond to reasonable official inquiries from the department, as directed by the board, based on reasonable cause, regarding required records, reports, or requests for information

pursuant to a specific investigation of a possible violation. Each official request by the ((board)) department and each response by a manufacturer shall be limited to the information specifically relevant to the particular official investigation. Requests for the address of sites in this state at which drug samples are stored by the manufacturer's representative and the names and addresses of the individuals who are responsible for the storage or distribution of the drug samples shall be responded to as soon as possible but not later than the ((board's)) close of business on the next business day following the request; or

(2) If a twenty-four hour telephone number is not available, provide ((the board with)) the addresses of sites in this state at which drug samples are stored by the manufacturer's representative, and the names and addresses of the individuals who are responsible for the storage or distribution of the drug samples. The manufacturer shall annually submit a complete updated list of the sites and individuals to the ((board)) department.

Sec. 446. Section 3, chapter 411, Laws of 1987 and RCW 69.45.030 are each amended to read as follows:

(1) The following records shall be maintained by the manufacturer distributing drug samples in this state and shall be available for inspection by authorized representatives of the ((board)) department based on reasonable cause and pursuant to an official investigation:

(a) An inventory of drug samples held in this state for distribution, taken at least annually by a representative of the manufacturer other than the individual in direct control of the drug samples;

(b) Records or documents to account for all drug samples distributed, destroyed, or returned to the manufacturer. The records shall include records for sample drugs signed for by practitioners, dates and methods of destruction, and any dates of returns; and

(c) Copies of all reports of lost or stolen drug samples.

(2) All required records shall be maintained for two years and shall include transaction dates.

(3) Manufacturers shall report to the ((board)) department the discovery of any loss or theft of drug samples as soon as possible but not later than the ((board's)) close of business on the next business day following the discovery.

(4) Manufacturers shall report to the ((board)) department as frequently as, and at the same time as, their other reports to the federal drug enforcement administration, or its lawful successor, the name, address and federal registration number for each practitioner who has received controlled substance drug samples and the name, strength and quantity of the controlled substance drug samples distributed.

Sec. 447. Section 7, chapter 411, Laws of 1987 and RCW 69.45.070 are each amended to read as follows:

The ((board)) department may charge reasonable fees for registration. The registration fee shall not exceed the fee charged by the ((board)) department for a pharmacy location license.

PART V  
HEALTH DATA AND CHARITY CARE

NEW SECTION. Sec. 501. (1) The legislature finds and declares that there is a need for health care information that helps the general public understand health care issues and how they can be better consumers and that is useful to purchasers, payers, and providers in making health care choices and negotiating payments. It is the purpose and intent of this chapter to establish a hospital data collection, storage, and retrieval system which supports these data needs and which also provides public officials and others engaged in the development of state health policy the information necessary for the analysis of health care issues.

(2) The legislature finds that rising health care costs and access to health care services are of vital concern to the people of this state. It is, therefore, essential that strategies be explored that moderate health care costs and promote access to health care services.

(3) The legislature further finds that access to health care is among the state's goals and the provision of such care should be among the purposes of health care providers and facilities. Therefore, the legislature intends that charity care requirements and related enforcement provisions for hospitals be explicitly established.

(4) The lack of reliable statistical information about the delivery of charity care is a particular concern that should be addressed. It is the purpose and intent of this chapter to require hospitals to provide, and report to the state, charity care to persons with acute care needs, and to have a state agency both monitor and report on the relative commitment of hospitals to the delivery of charity care services, as well as the relative commitment of public and private purchasers or payers to charity care funding.

NEW SECTION. Sec. 502. As used in this chapter:

(1) "Council" means the health care access and cost control council created by this chapter.

(2) "Department" means department of health.

(3) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW.

(4) "Secretary" means secretary of health.

(5) "Charity care" means necessary hospital health care rendered to indigent persons, to the extent that the persons are unable to pay for the care or to pay deductibles or co-insurance amounts required by a third-party payer, as determined by the department.

(6) "Sliding fee schedule" means a hospital-determined, publicly available schedule of discounts to charges for persons deemed eligible for charity care; such schedules shall be established after consideration of guidelines developed by the department.

(7) "Special studies" means studies which have not been funded through the department's biennial or other legislative appropriations.

**NEW SECTION.** Sec. 503. (1) There is created the health care access and cost control council within the department of health consisting of the following: The director of the department of labor and industries; the administrator of the health care authority; the secretary of social and health services; the administrator of the basic health plan; a person representing the governor on matters of health policy; the secretary of health; and one member from the public-at-large to be selected by the governor who shall represent individual consumers of health care. The public member shall not have any fiduciary obligation to any health care facility or any financial interest in the provision of health care services. Members employed by the state shall serve without pay and participation in the council's work shall be deemed performance of their employment. The public member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for related travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(2) A member of the council designated by the governor shall serve as chairman. The council shall elect a vice-chairman from its members biennially. Meetings of the council shall be held as frequently as its duties require. The council shall keep minutes of its meetings and adopt procedures for the governing of its meetings, minutes, and transactions.

(3) Four members shall constitute a quorum, but a vacancy on the council shall not impair its power to act. No action of the council shall be effective unless four members concur therein.

**NEW SECTION.** Sec. 504. (1) In order to advise the department and the board of health in preparing executive request legislation and the state health report according to RCW 43.20.050, and, in order to represent the public interest, the council shall monitor and evaluate hospital and related health care services consistent with section 501 of this act. In fulfilling its responsibilities, the council shall have complete access to all the department's data and information systems.

(2) The council shall advise the department on the hospital data collection system required by this chapter.

(3) The council, in addition to participation in the development of the state health report, shall, from time to time, report to the governor and the appropriate committees of the legislature with proposed changes in hospital and related health care services, consistent with the findings in section 501 of this act.

(4) The department may undertake, with advice from the council and within available funds, the following studies:

(a) Recommendations regarding health care cost containment, and the assurance of access and maintenance of adequate standards of care;

(b) Analysis of the effects of various payment methods on health care access and costs;

(c) The utility of the certificate of need program and related health planning process;

(d) Methods of permitting the inclusion of advance medical technology on the health care system, while controlling inappropriate use;

(e) The appropriateness of allocation of health care services;

(f) Professional liabilities on health care access and costs, to include:

(i) Quantification of the financial effects of professional liability on health care reimbursement;

(ii) Determination of the effects, if any, of nonmonetary factors upon the availability of, and access to, appropriate and necessary basic health services such as, but not limited to, prenatal and obstetrical care; and

(iii) Recommendation of proposals that would mitigate cost and access impacts associated with professional liability.

The department shall report its findings and recommendations to the governor and the appropriate committees of the legislature not later than July 1, 1991.

**NEW SECTION.** Sec. 505. The department shall have the authority to respond to requests of others for special studies or analysis. The department may require such sponsors to pay any or all of the reasonable costs associated with such requests that might be approved, but in no event may costs directly associated with any such special study be charged against the funds generated by the assessment authorized under section 508 of this act.

**NEW SECTION.** Sec. 506. (1) No hospital or its medical staff shall adopt or maintain admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage and who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is, or is likely to be, less than the anticipated charges for or costs of such services; or

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

(2) No hospital shall adopt or maintain practices or policies which would deny access to emergency care based on ability to pay. No hospital which maintains an emergency department shall transfer a patient with an emergency medical condition or who is in active labor unless the transfer is

performed at the request of the patient or is due to the limited medical resources of the transferring hospital. Hospitals must follow reasonable procedures in making transfers to other hospitals including confirmation of acceptance of the transfer by the receiving hospital.

(3) The department shall develop definitions by rule, as appropriate, for subsection (1) of this section and, with reference to federal requirements, subsection (2) of this section. The department shall monitor hospital compliance with subsections (1) and (2) of this section. The department shall report to the legislature and the governor on hospital compliance with these requirements and shall report individual instances of possible non-compliance to the state attorney general or the appropriate federal agency.

(4) The department shall establish and maintain by rule, consistent with the definition of charity care in section 502 of this act, the following:

(a) Uniform procedures, data requirements, and criteria for identifying patients receiving charity care;

(b) A definition of residual bad debt including reasonable and uniform standards for collection procedures to be used in efforts to collect the unpaid portions of hospital charges that are the patient's responsibility.

(5) For the purpose of providing charity care, each hospital shall develop, implement, and maintain a charity care policy which, consistent with subsection (1) of this section, shall enable people below the federal poverty level access to appropriate hospital-based medical services, and a sliding fee schedule for determination of discounts from charges for persons who qualify for such discounts by January 1, 1990. The department shall develop specific guidelines to assist hospitals in setting sliding fee schedules required by this section. All persons with family income below one hundred percent of the federal poverty standard shall be deemed charity care patients for the full amount of hospital charges, provided that such persons are not eligible for other private or public health coverage sponsorship. Persons who may be eligible for charity care shall be notified by the hospital.

(6) Each hospital shall make every reasonable effort to determine the existence or nonexistence of private or public sponsorship which might cover in full or part the charges for care rendered by the hospital to a patient; the family income of the patient as classified under federal poverty income guidelines; and the eligibility of the patient for charity care as defined in this chapter and in accordance with hospital policy. An initial determination of sponsorship status shall precede collection efforts directed at the patient.

(7) The department shall monitor the distribution of charity care among hospitals, with reference to factors such as relative need for charity care in hospital service areas and trends in private and public health coverage. The department shall report to the legislature and executive any problems in distribution which are in contradiction of the intent of this chapter. The report shall include an assessment of the effects of the provisions of this

chapter on access to hospital and health care services, as well as an evaluation of the contribution of all purchasers of care to hospital charity care.

(8) The department shall issue a report on the subjects addressed in this section at least annually, with the first report due on July 1, 1990.

**NEW SECTION.** Sec. 507. (1) Every person who shall violate or knowingly aid and abet the violation of sections 506 (5) or (6), 508, or 510 of this act, or any valid orders or rules adopted pursuant to these sections, or who fails to perform any act which it is herein made his or her duty to perform, shall be guilty of a misdemeanor. Following official notice to the accused by the department of the existence of an alleged violation, each day of noncompliance upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of this chapter may be enjoined from continuing such violation. The department has authority to levy civil penalties not exceeding one thousand dollars for violations of this chapter and determined pursuant to this section.

(2) Every person who shall violate or knowingly aid and abet the violation of section 506 (1) or (2) of this act, or any valid orders or rules adopted pursuant to such section, or who fails to perform any act which it is herein made his or her duty to perform, shall be subject to the following criminal and civil penalties:

(a) For any initial violations: The violating person shall be guilty of a misdemeanor, and the department may impose a civil penalty not to exceed one thousand dollars as determined pursuant to this section.

(b) For a subsequent violation of section 506 (1) or (2) of this act within five years following a conviction: The violating person shall be guilty of a misdemeanor, and the department may impose a penalty not to exceed three thousand dollars as determined pursuant to this section.

(c) For a subsequent violation with intent to violate section 506 (1) or (2) of this act within five years following a conviction: The criminal and civil penalties enumerated in (a) of this subsection; plus up to a three-year prohibition against the issuance of tax exempt bonds under the authority of the Washington health care facilities authority; and up to a three-year prohibition from applying for and receiving a certificate of need.

(d) For a violation of section 506 (1) or (2) of this act within five years of a conviction under (c) of this subsection: The criminal and civil penalties and prohibition enumerated in (a) and (b) of this subsection; plus up to a one-year prohibition from participation in the state medical assistance or medical care services authorized under chapter 74.09 RCW.

(3) The provisions of chapter 34.05 RCW shall apply to all noncriminal actions undertaken by the department of health, the department of social and health services, and the Washington health care facilities authority pursuant to this act.



**NEW SECTION.** Sec. 508. The basic expenses for the hospital data collection and reporting activities of this chapter shall be financed by an assessment against hospitals of no more than four one-hundredths of one percent of each hospital's gross operating costs, to be levied and collected from and after that date, upon which the similar assessment levied under chapter 70.39 RCW is terminated, for the provision of hospital services for its last fiscal year ending on or before June 30th of the preceding calendar year. Budgetary requirements in excess of that limit must be financed by a general fund appropriation by the legislature. All moneys collected under this section shall be deposited by the state treasurer in the hospital data collection account which is hereby created in the state treasury. All earnings on investments of balances in the hospital data collection account shall be credited to the general fund. The department may also charge, receive, and dispense funds or authorize any contractor or outside sponsor to charge for and reimburse the costs associated with special studies as specified in section 505 of this act.

Any amounts raised by the collection of assessments from hospitals provided for in this section which are not required to meet appropriations in the budget act for the current fiscal year shall be available to the department in succeeding years.

**NEW SECTION.** Sec. 509. The department and any of its contractors or agents shall maintain the confidentiality of any information which may, in any manner, identify individual patients.

**NEW SECTION.** Sec. 510. (1) The department is responsible for the development, implementation, and custody of a state-wide hospital data system. As part of the design stage for development of the system, the department shall undertake a needs assessment of the types of, and format for, hospital data needed by consumers, purchasers, payers, hospitals, and state government as consistent with the intent of this chapter. The department shall identify a set of hospital data elements and report specifications which satisfy these needs. The council shall review the design of the data system and may direct the department to contract with a private vendor for assistance in the design of the data system. The data elements, specifications, and other design features of this data system shall be made available for public review and comment and shall be published, with comments, as the department's first data plan by January 1, 1990.

(2) Subsequent to the initial development of the data system as published as the department's first data plan, revisions to the data system shall be considered through the department's development of a biennial data plan, as proposed to, and funded by, the legislature through the biennial appropriations process. Costs of data activities outside of these data plans except for special studies shall be funded through legislative appropriations.

(3) In designing the state-wide hospital data system and any data plans, the department shall identify hospital data elements relating to both

hospital finances and the use of services by patients. Data elements relating to hospital finances shall be reported by hospitals in conformance with a uniform system of reporting as specified by the department and shall include data elements identifying each hospital's revenues, expenses, contractual allowances, charity care, bad debt, other income, total units of inpatient and outpatient services, and other financial information reasonably necessary to fulfill the purposes of this chapter, for hospital activities as a whole and, as feasible and appropriate, for specified classes of hospital purchasers and payers. Data elements relating to use of hospital services by patients shall, at least initially, be the same as those currently compiled by hospitals through inpatient discharge abstracts and reported to the Washington state hospital commission.

(4) The state-wide hospital data system shall be uniform in its identification of reporting requirements for hospitals across the state to the extent that such uniformity is necessary to fulfill the purposes of this chapter. Data reporting requirements may reflect differences in hospital size; urban or rural location; scope, type, and method of providing service; financial structure; or other pertinent distinguishing factors. So far as possible, the data system shall be coordinated with any requirements of the federal department of health and human services in its administration of the medicare program and the state in its role of gathering public health statistics, so as to minimize any unduly burdensome reporting requirements imposed on hospitals.

(5) In identifying financial reporting requirements under the state-wide hospital data system, the department may require both annual reports and condensed quarterly reports, so as to achieve both accuracy and timeliness in reporting.

(6) In designing the initial state-wide hospital data system as published in the department's first data plan, the department shall review all existing systems of hospital financial and utilization reporting used in this state to determine their usefulness for the purposes of this chapter, including their potential usefulness as revised or simplified.

(7) Until such time as the state-wide hospital data system and first data plan are developed and implemented and hospitals are able to comply with reporting requirements, the department shall require hospitals to continue to submit the hospital financial and patient discharge information previously required to be submitted to the Washington state hospital commission. Upon publication of the first data plan, hospitals shall have a reasonable period of time to comply with any new reporting requirements and, even in the event that new reporting requirements differ greatly from past requirements, shall comply within two years of the effective date of this chapter.

(8) The hospital data collected and maintained by the department shall be available for retrieval in original or processed form to public and private

requestors within a reasonable period of time after the date of request. The cost of retrieving data for state officials and agencies shall be funded through the state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data shall be funded by a fee schedule developed by the department which reflects the direct cost of retrieving the data in the requested form.

**NEW SECTION.** Sec. 511. The department shall provide, or may contract with a private entity to provide, hospital analyses and reports consistent with the purposes of this chapter. Prior to release, the department shall provide affected hospitals with an opportunity to review and comment on reports which identify individual hospital data with respect to accuracy and completeness, and otherwise shall focus on aggregate reports of hospital performance. These reports shall include:

(1) Consumer guides on purchasing hospital care services and publications providing verifiable and useful comparative information to consumers on hospitals and hospital services;

(2) Reports for use by classes of purchasers, payers, and providers as specified for content and format in the state-wide data system and data plan; and

(3) Reports on relevant hospital policy issues including the distribution of hospital charity care obligations among hospitals; absolute and relative rankings of Washington and other states, regions, and the nation with respect to expenses, net revenues, and other key indicators; hospital efficiencies; and the effect of medicare, medicaid, and other public health care programs on rates paid by other purchasers of hospital care.

**\*NEW SECTION.** Sec. 512. *The department shall, by December 15 of each even-numbered year, submit to the appropriate committees of the legislature a report covering total expenditures by state government over the past two years for the purchase or provision of health care services, together with an estimate of such future expenditures during the ensuing four years. The reports, together with any suitable recommendations, shall be consistent with the provisions of section 17, chapter 288, Laws of 1984 (uncodified).*

\*Sec. 512 was vetoed, see message at end of chapter.

## PART VI CERTIFICATE OF NEED

Sec. 601. Section 1, chapter 161, Laws of 1979 ex. sess. as last amended by section 1, chapter 235, Laws of 1983 and RCW 70.38.015 are each amended to read as follows:

It is declared to be the public policy of this state:

(1) That health planning to promote, maintain, and assure the health of all citizens in the state, to provide accessible health services, health manpower, health facilities, and other resources while controlling excessive increases in costs, and to recognize prevention as a high priority in health

programs, is essential to the health, safety, and welfare of the people of the state. Health planning should be ~~((fostered on both a state-wide and regional basis and must maintain responsiveness))~~ responsive to changing health and social needs and conditions. Involvement in health planning from both consumers and providers throughout the state should be encouraged ~~((: Regional health planning under this chapter and in a manner consistent with RCW 36.70.015 is declared to be a proper public purpose for the expenditure of funds of counties or other public entities interested in local and regional health planning))~~;

(2) That the development of health services and resources, including the construction, modernization, and conversion of health facilities, should be accomplished in a planned, orderly fashion, consistent with identified priorities and without unnecessary duplication or fragmentation;

(3) That the development and maintenance of adequate health care information, statistics and projections of need for health facilities and services is essential to effective health planning and resources development;

(4) That the development of nonregulatory approaches to health care cost containment should be considered, including the strengthening of price competition; and

(5) That health planning should be concerned with public health and health care financing, access, and quality, recognizing ~~((the))~~ their close interrelationship ~~((of the three))~~ and emphasizing cost control of health services, including cost-effectiveness and cost-benefit analysis ~~((:~~

~~((6) That this chapter should be construed to effectuate this policy and to be consistent with requirements of the federal health planning and resources development laws))~~.

Sec. 602. Section 2, chapter 161, Laws of 1979 ex. sess. as last amended by section 1, chapter 20, Laws of 1988 and RCW 70.38.025 are each amended to read as follows:

When used in this chapter, the terms defined in this section shall have the meanings indicated.

(1) "Board of health" means the state board of health created pursuant to chapter 43.20 RCW.

(2) "Capital expenditure" is an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a nursing home facility as its own contractor) which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been made by purchase, such expenditure shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a ~~((health care))~~ nursing home facility which if

acquired directly by such facility would be subject to certificate of need review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure.

(3) "Continuing care retirement community" means an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service. A "continuing care contract" means a contract to provide a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

~~(4) ("Council" means the state health coordinating council created in RCW 70.38.055 and described in Public Law 93-641.~~

~~(5)) "Department" means the ((state)) department of ((social and health services)) health.~~

~~((6))~~ (5) "Expenditure minimum" means, for the purposes of the certificate of need program, one million dollars adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule.

~~((7) "Federal law" means Public Law 93-641, as amended, or its successor.~~

~~(8))~~ (6) "Health care facility" means hospices, hospitals, psychiatric hospitals, ~~((tuberculosis hospitals,))~~ nursing homes, kidney disease treatment centers, ambulatory surgical facilities, ~~((rehabilitation facilities,))~~ continuing care retirement communities, and home health agencies, and includes such facilities when owned and operated ~~((by the state or))~~ by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include Christian Science sanatoriums operated, listed, or certified by the First Church of Christ Scientist, Boston, Massachusetts. In addition, the term does not include any nonprofit hospital: (a) Which is operated exclusively to provide health care services for children; (b) which does not charge fees for such services ~~((, (c) whose rate reviews are waived by the state hospital commission));~~ and ~~((d))~~ (c) if not contrary to federal law as necessary to

the receipt of federal funds by the state. In addition, the term does not include a continuing care retirement community which: (i) Offers services only to contractual members; and (ii) provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some form of assistance with activities of daily living; and (iii) contractually assumes responsibility for costs of services exceeding the member's financial responsibility as stated in contract, so that, with the exception of insurance purchased by the retirement community or its members, no third party, including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources; and (iv) has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home; and (v) maintains a binding agreement with the department of social and health services assuring that financial liability for services to members, including nursing home services, shall not fall upon the department of social and health services; and (vi) does not operate, and has not undertaken, a project which would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and (vii) has undertaken no increase in the total number of nursing home beds after January 1, 1988, unless a professional review of pricing and long-term solvency was obtained by the retirement community within the prior five years and fully disclosed to members.

~~((9))~~ (7) "Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

(a) Is a qualified health maintenance organization under Title XIII, section 1310(d) of the Public Health Services Act; or

(b)(i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services, and out-of-area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in (b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

~~((10))~~ (8) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services and as defined in federal law.

~~((11))~~ (9) "Health service area" means a geographic region appropriate for effective health planning which includes a broad range of health services ~~((and a population of at least four hundred fifty thousand persons)).~~

~~((12))~~ "Institutional health services" means health services provided in or through health care facilities and entailing annual operating costs of at least five hundred thousand dollars adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule. PROVIDED, That no new health care facility may be initiated as an institutional health service.

~~(13)~~ "Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of one million dollars, adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule; except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs ~~(10)~~ and ~~(11)~~ of section 1861(s) of such act.

~~(14))~~ (10) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

~~((15))~~ (11) "Provider" generally means a health care professional or an organization, institution, or other entity providing health care but the precise definition for this term shall be established by rule of the department, consistent with federal law.

~~((16))~~ (12) "Public health" means the level of well-being of the general population; those actions in a community necessary to preserve, protect, and promote the health of the people for which government is responsible; and the governmental system developed to guarantee the preservation of the health of the people.

~~((17))~~ "Regional health council" means a public regional planning body or a private nonprofit corporation which is organized and operated in a manner that is consistent with the laws of the state and which is capable of performing each of the functions described in RCW 70.38.085. A regional health council shall have a governing body for health planning which is composed of a majority (but not more than sixty percent of the members) of persons who are residents of the health service area served by the entity; who are consumers of health care; who are broadly representative of the social, economic, linguistic, and racial populations, and geographic areas of the health service area; and major purchasers of health care; and who are

not, nor within the twelve months preceding appointment have been, providers of health care. The remainder of the members shall be residents of the health service area served by the agency who are providers of health care.

~~(18) "Regional health plan" means a document which provides at least a statement of health goals and priorities for the health service area. In addition, it sets forth the number, type, and distribution of health facilities, services, and manpower needed within the health service area to meet the goals of the plan.~~

~~(19) "State health plan" means a document developed in accordance with RCW 70.38.065.)~~

(13) "Secretary" means the secretary of health or the secretary's designee.

(14) "Tertiary health service" means a specialized service that meets complicated medical needs of people and requires sufficient patient volume to optimize provider effectiveness, quality of service, and improved outcomes of care.

(15) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW.

Sec. 603. Section 10, chapter 161, Laws of 1979 ex. sess. as last amended by section 21, chapter 288, Laws of 1984 and RCW 70.38.105 are each amended to read as follows:

(1) The department is authorized and directed to implement the certificate of need program in this state pursuant to the provisions of this chapter.

(2) There shall be a state certificate of need program which is administered consistent with the requirements of federal law as necessary to the receipt of federal funds by the state.

(3) No person shall engage in any undertaking which is subject to certificate of need review under subsection (4) of this section without first having received from the department either a certificate of need or an exception granted in accordance with this chapter.

(4) The following shall be subject to certificate of need review under this chapter:

(a) The construction, development, or other establishment of a new health care facility;

(b) The sale, purchase, or lease of part or all of any existing hospital as defined in RCW ~~((70.39.020))~~ 70.38.025;

(c) Any capital expenditure ((by or on behalf of a health care facility)) for the construction, renovation, or alteration of a nursing home which substantially changes the services of the facility after January 1, 1981, provided that the substantial changes in services are specified by the department in rule;



(d) Any capital expenditure (~~(by or on behalf of a health care facility)~~) for the construction, renovation, or alteration of a nursing home which exceeds the expenditure minimum as defined by RCW 70.38.025. However, a capital expenditure which is not subject to certificate of need review under (a), (b), (c), or ~~(f), or (g))~~ of this subsection and which is solely for any one or more of the following is not subject to certificate of need review except to the extent required by the federal government as a condition to receipt of federal assistance and does not substantially affect patient charges:

(i) Communications and parking facilities;  
 (ii) Mechanical, electrical, ventilation, heating, and air conditioning systems;

(iii) Energy conservation systems;

(iv) Repairs to, or the correction of, deficiencies in existing physical plant facilities which are necessary to maintain state licensure;

(v) Acquisition of equipment, including data processing equipment, which is not or will not be used in the direct provision of health services;

(vi) Construction which involves physical plant facilities, including administrative and support facilities, which are not or will not be used for the provision of health services;

(vii) Acquisition of land; and

(viii) Refinancing of existing debt;

(e) A change in bed capacity of a health care facility which increases the total number of licensed beds or redistributes beds among ~~((facility and service categories of))~~ acute care, skilled nursing, intermediate care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months;

~~(f) ((Acquisition of major medical equipment:~~

~~(i) If the equipment will be owned by or located in a health care facility, or~~

~~(ii) If, after January 1, 1981, the equipment is not to be owned by or located in a health care facility, the department finds consistent with federal regulations the equipment will be used to provide services for hospital inpatients, or the person acquiring such equipment did not notify the department of the intent to acquire such equipment at least thirty days before entering into contractual arrangements for such acquisition;~~

~~(g)) Any new ((institutional)) tertiary health services which are offered in or through a health care facility, and which were not offered on a regular basis by, in, or through such health care facility within the twelve-month period prior to the time such services would be offered; ((and~~

~~(h)) (g) Any expenditure ((by or on behalf of a health care facility)) for the construction, renovation, or alteration of a nursing home or change in nursing home services in excess of the expenditure minimum made in preparation for any undertaking under subsection (4) of this section and~~

any arrangement or commitment made for financing such undertaking. Expenditures of preparation shall include expenditures for architectural designs, plans, working drawings, and specifications. The department may issue certificates of need permitting predevelopment expenditures, only, without authorizing any subsequent undertaking with respect to which such predevelopment expenditures are made; and

(h) Any increase in the number of dialysis stations in a kidney disease center.

(5) The department is authorized to charge fees for the review of certificate of need applications and requests for exemptions from certificate of need review. The fees shall be sufficient to cover the full cost of review and exemption, which may include the development of standards, criteria, and policies.

~~((5))~~ (6) No person may divide a project in order to avoid review requirements under any of the thresholds specified in this section.

Sec. 604. Section 9, chapter 139, Laws of 1980 as amended by section 3, chapter 119, Laws of 1982 and RCW 70.38.111 are each amended to read as follows:

(1) The department shall not require a certificate of need for the offering of an inpatient ~~((institutional))~~ tertiary health service ~~((or the acquisition of major medical equipment for the provision of an inpatient institutional health service or the obligation of a capital expenditure for the provision of an inpatient institutional health service by))~~ by:

(a) A health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the ~~((institutional))~~ tertiary health service will be individuals enrolled with such organization or organizations in the combination~~((:));~~

(b) A health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least seventy-five percent of the patients who can reasonably be expected to receive the ~~((institutional))~~ tertiary health service will be individuals enrolled with such organization or organizations in the combination~~((:));~~ or

(c) A health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals and, on the date the application is submitted under subsection (2) of this section, at least fifteen years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the ~~((institutional))~~ tertiary health service will be individuals enrolled with such organization(;;); if, with respect to such offering(~~(-acquisition,)~~) or obligation by a nursing home, the department has, upon application under subsection (2) of this section, granted an exemption from such requirement to the organization, combination of organizations, or facility.

(2) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under subsection (1) of this section from obtaining a certificate of need before offering ~~((an institutional health service, acquiring major medical equipment, or obligating capital expenditures unless=))~~ a tertiary health service unless:

(a) It has submitted at least thirty days prior to the offering of ~~((an institutional health service, acquiring major medical equipment, or obligating capital expenditures in excess of the expenditure minimum))~~ services reviewable under RCW 70.38.105(4)(d) an application for such exemption(;;); and

(b) The application contains such information respecting the organization, combination, or facility and the proposed offering(~~(-acquisition,)~~) or obligation by a nursing home as the department may require to determine if the organization or combination meets the requirements of subsection (1) of this section or the facility meets or will meet such requirements(;;); and

(c) The department approves such application. The department shall approve or disapprove an application for exemption within thirty days of receipt of a completed application. In the case of a proposed health care facility (or portion thereof) which has not begun to provide ~~((institutional))~~ tertiary health services on the date an application is submitted under this subsection with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of subsection (1) of this section when the facility first provides such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

(3) A health care facility (or any part thereof) ~~((or medical equipment))~~ with respect to which an exemption was granted under subsection (1) of this section may not be sold or leased and a controlling interest in

such facility (~~(or equipment)~~) or in a lease of such facility (~~(or equipment)~~) may not be acquired and a health care facility described in (1)(c) which was granted an exemption under subsection (1) of this section may not be used by any person other than the lessee described in (1)(c) unless(=);

(a) The department issues a certificate of need approving the sale, lease, acquisition, or use(,); or

(b) The department determines, upon application, that (i) the entity to which the facility (~~(or equipment)~~) is proposed to be sold or leased, which intends to acquire the controlling interest, or which intends to use the facility is a health maintenance organization or a combination of health maintenance organizations which meets the requirements of (1)(a)(i), and (ii) with respect to such facility (~~(or equipment)~~), meets the requirements of (1)(a) (ii) or (iii) or the requirements of (1)(b) (i) and (ii).

(4) In the case of a health maintenance organization, an ambulatory care facility, or a health care facility, which ambulatory or health care facility is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, the department may under the program apply its certificate of need requirements only to the offering of inpatient (~~(institutional)~~) tertiary health services (~~(and the acquisition of major medical equipment and the obligation of capital expenditures for the offering of inpatient institutional health services,)~~) and then only to the extent that such offering(~~(, acquisition, or obligation)~~) is not exempt under the provisions of this section.

Sec. 605. Section 11, chapter 161, Laws of 1979 ex. sess. as last amended by section 22, chapter 288, Laws of 1984 and RCW 70.38.115 are each amended to read as follows:

(1) Certificates of need shall be issued, denied, suspended, or revoked by the designee of the secretary (~~(of the department)~~) in accord with the provisions of this chapter and rules of the department which establish review procedures and criteria for the certificate of need program.

(2) Criteria for the review of certificate of need applications, except as provided in subsection (3) of this section for health maintenance organizations, shall include but not be limited to consideration of the following:

(a) Until June 30, 1990, the relationship of the health services being reviewed to the applicable health plans;

(b) The need that the population served or to be served by such services has for such services;

(c) The availability of less costly or more effective alternative methods of providing such services;

(d) The financial feasibility and the probable impact of the proposal on the cost of and charges for providing health services in the community to be served(~~(, including findings and recommendations of the Washington state hospital commission in the case of applications submitted by hospitals. An application by a hospital shall be denied if the state hospital commission~~

~~does not recommend approval, unless the secretary provides the commission with a written statement setting forth the reason or reasons, and citing the applicable subsection or subsections of this section, for approving an application that the commission has determined to be not feasible));~~

(e) In the case of health services to be provided, (i) the availability of alternative uses of project resources for the provision of other health services, (ii) the extent to which such proposed services will be accessible to all residents of the area to be served, and (iii) the need for and the availability in the community of services and facilities for osteopathic and allopathic physicians and their patients. The department shall consider the application in terms of its impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels;

(f) In the case of a construction project, the costs and methods of the proposed construction, including the cost and methods of energy provision, and the probable impact of the construction project reviewed (i) on the cost of providing health services by the person proposing such construction project and (ii) on the cost and charges to the public of providing health services by other persons;

(g) The special needs and circumstances of osteopathic hospitals, nonallopathic services and children's hospitals;

(h) Improvements or innovations in the financing and delivery of health services which foster cost containment and serve to promote quality assurance and cost-effectiveness;

(i) In the case of health services proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities similar to those proposed;

(j) In the case of existing services or facilities, the quality of care provided by such services or facilities in the past; and

(k) In the case of hospital certificate of need applications, whether the hospital meets or exceeds the regional average level of charity care, as determined by the ~~((hospital commission))~~ secretary.

(3) A certificate of need application of a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization, shall be approved by the department if the department finds:

(a) Approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll; and

(b) The health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its ~~((institutional))~~ health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of

the organization and which makes such services available on a long-term basis through physicians and other health professionals associated with it.

A health care facility ((f))<sub>1</sub> or any part thereof(~~(t) or medical equipment~~)<sub>1</sub> with respect to which a certificate of need was issued under this subsection may not be sold or leased and a controlling interest in such facility (~~or equipment~~) or in a lease of such facility (~~or equipment~~) may not be acquired unless the department issues a certificate of need approving the sale, acquisition, or lease.

(4) Until the final expiration of the state health plan as provided under section 610 of this act, the decision of the department on a certificate of need application shall be consistent with the state health plan in effect, except in emergency circumstances which pose a threat to the public health. The department in making its final decision may issue a conditional certificate of need if it finds that the project is justified only under specific circumstances. The conditions shall directly relate to the project being reviewed. The conditions may be released if it can be substantiated that the conditions are no longer valid and the release of such conditions would be consistent with the purposes of this chapter.

(5) Criteria adopted for review in accordance with subsection (2) of this section may vary according to the purpose for which the particular review is being conducted or the type of health service reviewed.

(6) The department shall specify information to be required for certificate of need applications. Within fifteen days of receipt of the application, the department shall request additional information considered necessary to the application or start the review process. Applicants may decline to submit requested information through written notice to the department, in which case review starts on the date of receipt of the notice. Applications may be denied or limited because of failure to submit required and necessary information.

(7) Concurrent review is for the purpose of comparative analysis and evaluation of competing or similar projects in order to determine which of the projects may best meet identified needs. Categories of projects subject to concurrent review include at least new health care facilities, new services, and expansion of existing health care facilities. The department shall specify time periods for the submission of applications for certificates of need subject to concurrent review, which shall not exceed ninety days. Review of concurrent applications shall start fifteen days after the conclusion of the time period for submission of applications subject to concurrent review. Concurrent review periods shall be limited to one hundred fifty days, except as provided for in rules adopted by the department authorizing and limiting amendment during the course of the review, or for an unresolved pivotal issue declared by the department.

(8) Review periods for certificate of need applications other than those subject to concurrent review shall be limited to ninety days. Review periods

may be extended up to thirty days if needed by a review agency, and for unresolved pivotal issues the department may extend up to an additional thirty days. A review may be extended in any case if the applicant agrees to the extension.

(9) The department or (~~a designated regional health council~~) its designee, shall conduct a public hearing on a certificate of need application if requested unless the review is expedited or subject to emergency review. The department by rule shall specify the period of time within which a public hearing must be requested and requirements related to public notice of the hearing, procedures, recordkeeping and related matters.

(10) Any applicant denied a certificate of need or whose certificate of need has been suspended or revoked shall be afforded an opportunity for administrative review in accordance with chapter (~~34.04~~) 34.05 RCW and a hearing shall be held within one hundred twenty days of a request therefor. An administrative law judge shall review the decision of the secretary's designee and render a proposed decision for consideration by the secretary in accordance with chapter 34.12 RCW or remand the matter to the secretary's designee for further consideration. The secretary's final decision is subject to review by the superior court as provided in chapter (~~34.04~~) 34.05 RCW.

(11) The department may establish procedures and criteria for reconsideration of decisions.

(12) An amended certificate of need shall be required for the following modifications of an approved project:

(a) A new service requiring review under this chapter;

(b) An expansion of a service subject to review beyond that originally approved;

(c) An increase in bed capacity;

(d) A significant reduction in the scope of a nursing home project without a commensurate reduction in the cost of the nursing home project, or a cost increase (as represented in bids on a nursing home construction project or final cost estimates acceptable to the person to whom the certificate of need was issued) if the total of such increases exceeds twelve percent or fifty thousand dollars, whichever is greater, over the maximum capital expenditure approved. The review of reductions or cost increases shall be restricted to the continued conformance of the nursing home project with the review criteria pertaining to financial feasibility and cost containment.

(13) An application for a certificate of need for a nursing home capital expenditure which is determined by the department to be required to eliminate or prevent imminent safety hazards or correct violations of applicable licensure and accreditation standards shall be approved.

Sec. 606. Section 12, chapter 161, Laws of 1979 ex. sess. as last amended by section 9, chapter 235, Laws of 1983 and RCW 70.38.125 are each amended to read as follows:

(1) A certificate of need shall be valid for two years(~~(-PROVIDED; That)~~). One six-month extension may be made if it can be substantiated that substantial and continuing progress toward commencement of the project has been made as defined by regulations to be adopted pursuant to this chapter.

(2) A project for which a certificate of need has been issued shall be commenced during the validity period for the certificate of need.

(3) The department(~~(; in cooperation with the regional health councils, and the hospital commission in the case of hospital projects;)~~) shall monitor the (~~(costs and components of)~~) approved projects to assure conformance with certificates of need that have been issued. Rules and regulations adopted shall specify when changes in the (~~(cost or components of a)~~) project require reevaluation of the project. The department may require applicants to submit periodic progress reports on approved projects or other information as may be necessary to effectuate its monitoring responsibilities.

(4) The secretary (~~(of the department)~~), in the case of a new health facility, shall not issue any license unless and until a prior certificate of need shall have been issued by the department for the offering or development of such new health facility.

(5) Any person who engages in any undertaking which requires certificate of need review without first having received from the department either a certificate of need or an exception granted in accordance with this chapter shall be liable to the state in an amount not to exceed one hundred dollars a day for each day of such unauthorized offering or development. Such amounts of money shall be recoverable in an action brought by the attorney general on behalf of the state in the superior court of any county in which the unauthorized undertaking occurred. Any amounts of money so recovered by the attorney general shall be deposited in the state general fund.

(6) The department may bring any action to enjoin a violation or the threatened violation of the provisions of this chapter or any rules and regulations adopted pursuant to this chapter, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county.

Sec. 607. Section 13, chapter 161, Laws of 1979 ex. sess. as amended by section 10, chapter 235, Laws of 1983 and RCW 70.38.135 are each amended to read as follows:

The secretary (~~(of the department)~~) shall have authority to:

(1) Provide when needed temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part time or fee-for-service basis;



(2) Make or cause to be made such on-site surveys of health care or medical facilities as may be necessary ~~((to the development of the state health plan and))~~ for the administration of the certificate of need program;

(3) Upon review of recommendations, if any, from the board of health:

(a) Promulgate rules under which health care facilities providers doing business within the state shall submit to the department such data related to health and health care as the department finds necessary to the performance of its functions under this chapter;

(b) Promulgate rules pertaining to the maintenance and operation of medical facilities which receive federal assistance under the provisions of Title XVI;

(c) Promulgate rules in implementation of the provisions of this chapter, including the establishment of procedures for public hearings for predecisions and post-decisions on applications for certificate of need;

(d) Promulgate rules providing circumstances and procedures of expedited certificate of need review if((:

~~(i) An application is found consistent with the state health plan; and~~  
~~(ii))~~ there has not been a significant change in existing health facilities of the same type or in the need for such health facilities and services;

(4) Grant allocated state funds to ~~((regional health councils))~~ qualified entities, as defined by the department, to fund not more than seventy-five percent of the costs of regional planning activities, excluding costs related to review of applications for certificates of need, provided for in this chapter or approved by the ~~((council))~~ department; and

(5) Contract with and provide reasonable reimbursement for ~~((designated regional health councils))~~ qualified entities to assist in determinations of certificates of need.

NEW SECTION. Sec. 608. The enactment of sections 601 through 607 of this act shall not have the effect of terminating, or in any way modifying, the validity of any certificate of need which shall already have been issued prior to the effective date of this act.

NEW SECTION. Sec. 609. Any certificate of need application which was submitted and declared complete, but upon which final action had not been taken prior to the effective date of this act, shall be reviewed and action taken based on chapter 70.38 RCW, as in effect prior to the effective date of this act, and the rules adopted thereunder.

NEW SECTION. Sec. 610. For the purpose of supporting the certificate of need process, the state health plan developed in accordance with RCW 70.38.065 and in effect on the effective date of this act, shall remain effective until June 30, 1990, or until superseded by rules adopted by the department of health for this purpose. The governor may amend the state health plan, as the governor finds appropriate, until the final expiration of the plan.

Sec. 611. Section 9, chapter 267, Laws of 1955 and RCW 70.41.090 are each amended to read as follows:

~~((After January 1, 1956;))~~ (1) No person or governmental unit of the state of Washington, acting separately or jointly with any other person or governmental unit, shall establish, maintain, or conduct a hospital in this state, or use the word "hospital" to describe or identify an institution, without a license under this chapter: PROVIDED, That the provisions of this section shall not apply to state mental institutions and psychiatric hospitals which come within the scope of chapter 71.12 RCW.

(2) After June 30, 1989, no hospital shall initiate a tertiary health service as defined in RCW 70.38.025(14) unless it has received a certificate of need as provided in RCW 70.38.105 and 70.38.115.

Sec. 612. Section 17, chapter 267, Laws of 1955 and RCW 70.41.170 are each amended to read as follows:

Any person operating or maintaining a hospital without a license under this chapter, or, after June 30, 1989, initiating a tertiary health service as defined in RCW 70.38.025(14) that is not approved under RCW 70.38.105 and 70.38.115, shall be guilty of a misdemeanor, and each day of operation of an unlicensed hospital or unapproved tertiary health service, shall constitute a separate offense.

## PART VII RURAL HEALTH

NEW SECTION. Sec. 701. (1) The legislature declares that availability of health services to rural citizens is an issue on which a state policy is needed.

The legislature finds that changes in the demand for health care, in reimbursement policies of public and private purchasers, in the economic and demographic conditions in rural areas threaten the availability of care services.

In addition, many factors inhibit needed changes in the delivery of health care services to rural areas which include inappropriate and outdated regulatory laws, aging and inefficient health care facilities, the absence of local planning and coordination of rural health care services, the lack of community understanding of the real costs and benefits of supporting rural hospitals, the lack of regional systems to assure access to care that cannot be provided in every community, and the absence of state health care policy objectives.

The legislature further finds that the creation of effective health care delivery systems that assure access to health care services provided in an affordable manner will depend on active local community involvement. It further finds that it is the duty of the state to create a regulatory environment and health care payment policy that promotes innovation at the local level to provide such care.

It further declares that it is the responsibility of the state to develop policy that provides direction to local communities with regard to such factors as a definition of health care services, identification of state-wide health status outcomes, clarification of state, regional, community responsibilities and interrelationships for assuring access to affordable health care and continued assurances that quality health care services are provided.

(2) The legislature further finds that many rural communities do not operate hospitals in a cost-efficient manner. The cost of operating the rural hospital often exceeds the revenues generated. Some of these hospitals face closure, which may result in the loss of health care services for the community. Many communities are struggling to retain health care services by operating a cost-efficient facility located in the community. Current regulatory laws do not provide for the facilities licensure option that is appropriate for rural areas. A major barrier to the development of an appropriate rural licensure model is federal medicare approval to guarantee reimbursement for the costs of providing care and operating the facility. Medicare certification typically elaborates upon state licensure requirements. Medicare approval of reimbursement is more likely if the state has developed legal criteria for a rural-appropriate health facility. Medicare has begun negotiations with other states facing similar problems to develop exceptions with the goal of allowing reimbursement of rural alternative health care facilities. It is in the best interests of rural citizens for Washington state to begin negotiations with the federal government with the objective of designing a medicare eligible rural health care facility structured to meet the health care needs of rural Washington and be eligible for federal and state financial support for its development and operation.

NEW SECTION. Sec. 702. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Administrative structure" means a system of contracts or formal agreements between organizations and persons providing health services in an area that establishes the roles and responsibilities each will assume in providing the services of the rural health care facility.

(2) "Department" means the department of health.

(3) "Health care delivery system" means services and personnel involved in providing health care to a population in a geographic area.

(4) "Health care facility" means any land, structure, system, machinery, equipment, or other real or personal property or appurtenances useful for or associated with delivery of inpatient or outpatient health care service or support for such care or any combination thereof which is operated or undertaken in connection with a hospital, clinic, health maintenance organization, diagnostic or treatment center, extended care facility, or any facility providing or designed to provide therapeutic, convalescent or preventive health care services.

(5) "Health care system strategic plan" means a plan developed by the participant and includes identification of health care service needs of the participant, services and personnel necessary to meet health care service needs, identification of health status outcomes and outcome measures, identification of funding sources, and strategies to meet health care needs including measures of effectiveness.

(6) "Institutions of higher education" means educational institutions as defined in RCW 28B.10.016.

(7) "Local administrator" means an individual or organization representing the participant who may enter into legal agreements on behalf of the participant.

(8) "Participant" means communities, counties, and regions that serve as a health care catchment area where the project site is located.

(9) "Project" means the Washington rural health system project.

(10) "Project site" means a site selected to participate in the project.

(11) "Rural health care facility" means a facility, group, or other formal organization or arrangement of facilities, equipment, and personnel capable of providing or assuring availability of health services in a rural area. The services to be provided by the rural health care facility may be delivered in a single location or may be geographically dispersed in the community health service catchment area so long as they are organized under a common administrative structure or through a mechanism that provides appropriate referral, treatment, and follow-up.

(12) "Secretary" means the secretary of health.

**NEW SECTION.** Sec. 703. (1) The department shall establish the Washington rural health system project to provide financial and technical assistance to participants. The goal of the project is to help assure access to affordable health care services to citizens in the rural areas of Washington state.

(2) Administrative costs necessary to implement this project shall be kept at a minimum to insure the maximum availability of funds for participants.

(3) The secretary may appoint such technical or advisory committees as he or she deems necessary consistent with the provisions of section 106 of this act. In appointing an advisory committee the secretary should assure representation by health care professionals, health care providers, and those directly involved in the purchase, provision, or delivery of health care services as well as consumers, rural community leaders, and those knowledgeable of the issues involved with health care public policy. Individuals appointed to any technical advisory committee shall serve without compensation for their services as members, but may be reimbursed for their travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(4) The secretary may contract with third parties for services necessary to carry out activities to implement this chapter where this will promote

economy, avoid duplication of effort, and make the best use of available expertise.

(5) The secretary may apply for, receive, and accept gifts and other payments, including property and service, from any governmental or other public or private entity or person, and may make arrangements as to the use of these receipts, including the undertaking of special studies and other projects related to the delivery of health care in rural areas.

(6) In designing and implementing the project the secretary shall consider the report of the Washington rural health care commission established under chapter 207, Laws of 1988. Nothing in this chapter requires the secretary to follow any specific recommendation contained in that report except as it may also be included in this chapter.

NEW SECTION. Sec. 704. The department shall adopt rules consistent with this chapter to carry out the purpose of this chapter. All rules shall be adopted in accordance with chapter 34.05 RCW. All rules and procedures adopted by the department shall minimize paperwork and compliance requirements for participants and should not be complex in nature so as to serve as a barrier or disincentive for prospective participants applying for the project.

NEW SECTION. Sec. 705. The secretary shall have the following powers and duties:

(1) To design the project application and selection process, including a program to advertise the project to rural communities and encourage prospective applicants to apply. Up to six project sites shall be selected which are eligible to receive seed grant funding. Funding shall be used to hire consultants and perform other activities necessary to meet participant requirements defined in this chapter. In considering selection of participants eligible for seed grant funding, the secretary should consider project sites where (a) existing access to health care is severely inadequate, (b) where a financially vulnerable health care facility is present, (c) where a financially vulnerable health care facility is present and an adjoining community in the same catchment area has a competing facility, or (d) where improvements in the delivery of primary care services, including preventive care services, is needed.

Up to six additional project sites shall be selected which receive no funding. The secretary shall select unfunded project sites based upon merit and to the extent possible, based upon the desire to address specific health status outcomes;

(2) To design acceptable outcome measures which are based upon health status outcomes and are to be part of the community plan, to work with communities to set acceptable local outcome targets in the health care delivery system strategic plan, and to serve as a general resource to participants in the planning, administration, and evaluation of project sites;

(3) To assess and approve community strategic plans developed by participants, including an assessment of the technical and financial feasibility of implementing the plan and whether adequate local support for the plan is demonstrated;

(4) To define health care catchment areas, identify financially vulnerable health care facilities, and to identify rural populations which are not receiving adequate health care services;

(5) To identify existing private and public resources which may serve as eligible consultants, identify technical assistance resources for communities in the project, create a register of public and private technical resource services available and provide the register to participants. The secretary shall screen consultants to determine their qualifications prior to including them on the register;

(6) To work with other state agencies, institutions of higher education, and other public and private organizations to coordinate technical assistance services for participants;

(7) To administer available funds for community use while participating in the project and establish procedures to assure accountability in the use of seed grant funds by participants;

(8) To define data and other minimum requirements for adequate evaluation of projects and to develop and implement an overall monitoring and evaluation mechanism for the projects;

(9) To act as facilitator for multiple applicants and entrants to the project;

(10) To report to the appropriate legislative committees and others from time to time on the progress of the projects including the identification of statutory and regulatory barriers to successful completion of rural health care delivery goals and an ongoing evaluation of the project.

NEW SECTION. Sec. 706. The duties and responsibilities of participating communities shall include:

(1) To involve major health care providers, businesses, public officials, and other community leaders in project design, administration, and oversight;

(2) To identify an individual or organization to serve as the local administrator of the project. The secretary may require the local administrator to maintain acceptable accountability of seed grant funding;

(3) To coordinate and avoid duplication of public health and other health care services;

(4) To assess and analyze community health care needs;

(5) To identify services and providers necessary to meet needs;

(6) To develop outcome measures to assess the long-term effectiveness of modifications initiated through the project;

(7) To write a health care delivery system strategic plan including to the extent possible, identification of outcome measures needed to achieve

health status outcomes identified in the plan. New organizational structures created should integrate existing programs and activities of local health providers so as to maximize the efficient planning and delivery of health care by local providers and promote more accessible and affordable health care services to rural citizens. Participants should create health care delivery system strategic plans which promote health care services which the participant can financially sustain;

(8) To screen and contract with consultants for technical assistance if the project site was selected to receive funding and assistance is needed;

(9) To monitor and evaluate the project in an ongoing manner;

(10) To implement necessary changes as defined in the plans such as converting existing facilities, developing or modifying services, recruiting providers, or obtaining agreements with other communities to provide some or all health care services; and

(11) To provide data and comply with other requirements of the administrator that are intended to evaluate the effectiveness of the projects.

**NEW SECTION.** Sec. 707. (1) The secretary may call upon other agencies of the state to provide available information to assist the secretary in meeting the responsibilities under this chapter. This information shall be supplied as promptly as circumstances permit.

(2) The secretary may call upon other state agencies including institutions of higher education as authorized under Title 28B RCW to identify and coordinate the delivery of technical assistance services to participants in meeting the responsibilities of this chapter. The state agencies and institutions of higher education shall cooperate and provide technical assistance to the secretary to the extent that current funding for these agencies and institutions of higher education permits.

**NEW SECTION.** Sec. 708. In addition to the powers and duties specified in section 705 of this act the secretary has the power to enter into contracts for the following functions and services:

(1) With public or private agencies, to assist the secretary in the secretary's duties to design or revise the health status outcomes, or to monitor or evaluate the performance of participants.

(2) With public or private agencies, to provide technical or professional assistance to project participants.

**NEW SECTION.** Sec. 709. (1) Participants are authorized to use funding granted to them by the secretary for the purpose of contracting for technical assistance services. Participants shall use only consultants identified by the secretary for consulting services unless the participant can show that an alternative consultant is qualified to provide technical assistance and is approved by the secretary. Adequate records shall be kept by the participant showing project site expenditures from grant moneys. Inappropriate use of grant funding shall be a gross misdemeanor.

(2) In providing a list of qualified consultants the secretary and the state shall not be held responsible for assuring qualifications of consultants and shall be held harmless for the actions of consultants. Furthermore, the secretary and the state shall not be held liable for the failure of participants to meet contractual obligations established in connection with project participation.

**NEW SECTION.** Sec. 710. (1) The department shall establish and adopt such standards and regulations pertaining to the construction, maintenance, and operation of a rural health care facility and the scope of health care services, and rescind, amend, or modify such regulations from time to time as necessary in the public interest. In developing the regulations, the department shall consult with representatives of rural hospitals, community mental health centers, public health departments, community and migrant health clinics, and other providers of health care in rural communities. The department shall also consult with third-party payers, consumers, local officials, and others to insure broad participation in defining regulatory standards and requirements that are appropriate for a rural health care facility.

(2) When developing the rural health care facility licensure rules, the department shall consider the report of the Washington rural health care commission established under chapter 207, Laws of 1988. Nothing in this chapter requires the department to follow any specific recommendation contained in that report except as it may also be included in this chapter.

(3) Upon developing rules, the department shall enter into negotiations with appropriate federal officials to seek medicare approval of the facility and financial participation of medicare and other federal programs in developing and operating the rural health care facility.

(4) The department shall report periodically to the appropriate committees of the legislature on the progress of rule development and negotiations with the federal government.

**NEW SECTION.** Sec. 711. In developing the rural health care facility licensure regulations, the department shall:

(1) Minimize regulatory requirements to permit local flexibility and innovation in providing services;

(2) Promote the cost-efficient delivery of health care and other social services as is appropriate for the particular local community;

(3) Promote the delivery of services in a coordinated and nonduplicative manner;

(4) Maximize the use of existing health care facilities in the community;

(5) Permit regionalization of health care services when appropriate;

(6) Provide for linkages with hospitals, tertiary care centers, and other health care facilities to provide services not available in the facility; and

(7) Achieve health care outcomes defined by the community through a community planning process.



NEW SECTION. Sec. 712. The rural health care facility is not considered a hospital for building occupancy purposes.

NEW SECTION. Sec. 713. (1) The legislature finds that a current shortage of nurses exists in many areas of the state as well as in certain nurse specialties. Surveys of nurses in Washington state evidenced a need for more accessible education for advancement to higher levels of practice.

The legislature declares that there is a need for the development of a state-wide plan for nursing education to meet the educational needs of nurses and the health care needs of the citizens of Washington state.

(2) The higher education coordinating board, in consultation with at least the state board of nursing, the state board of practical nursing, representatives of the state board for community college education, the superintendent of public instruction, public and private nursing education, health care facilities, and practicing nurses, shall develop a state-wide plan to be implemented no later than January 1, 1992. The plan shall provide for:

(a) Geographic availability of nursing education and training programs;

(b) Curriculum standards for each type of nursing education and training program;

(c) Procedures to facilitate optimal transfer or granting of course credit; and

(d) The use of evaluation processes, which may include challenge exams, to maximize opportunities for receiving credit for both knowledge and clinical skills.

The higher education coordinating board shall submit a plan to the legislature by December 1, 1990. The board shall make a progress report to the senate and house of representatives standing committees on health care by December 1, 1989.

***\*NEW SECTION. Sec. 714. (1) The legislature finds that a shortage of physicians, nurses, and physician assistants exists in rural areas of the state. In addition, many education programs to train these health care providers do not include options for practical training experience in rural settings. As a result, many health care providers find their current training does not prepare them for the unique demands of rural practice.***

***The legislature declares that the availability of rural training opportunities as a part of professional medical, nursing, and physician assistant education would provide needed practical experience, serve to attract providers to rural areas, and help address the current shortage of these providers in rural Washington.***

***(2) The higher education coordinating board, in consultation with at least the state board for community college education, the superintendent of public instruction, and state-supported education programs in medicine and nursing, shall develop a plan for increasing rural training opportunities for students in medicine and nursing. The plan shall provide for direct exposure***

*to rural health professional practice conditions for students planning careers in rural medicine and nursing.*

*(3) The boards and the medical and nurse education programs shall:*

*(a) Inventory existing rural-based clinical experience programs, including internships, clerkships, residencies, and other training opportunities available to students pursuing degrees in nursing and medicine;*

*(b) Identify where training opportunities do not currently exist and are needed;*

*(c) Develop recommendations for improving the availability of rural training opportunities;*

*(d) Develop recommendations on establishing agreements between education programs to assure that all students in medical and nurse education programs in the state have access to rural training opportunities; and*

*(e) Review private and public funding sources to finance rural-based training opportunities.*

*(4) The higher education coordinating board shall report to the house of representatives and senate standing committees on health care by December 1, 1989, with their findings and recommendations including needed legislative changes.*

\*Sec. 714 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 715. (1) The legislature finds that a shortage of trained radiologic technologists, respiratory therapists, and pharmacy and laboratory technologists exists in rural areas of the state. In addition, low patient volumes in rural hospitals and primary care clinics make it financially difficult to hire and retain separate individuals with skills from each of these professions. The result is that health care services that could be provided locally are often not provided and patients are forced to go to urban areas for care.

The legislature declares that some limited cross-credentialing of health professionals with skills from one or more of these professions would be desirable in rural areas where shortages exist. The legislature further declares that the cross-credentialing of health professionals should not result in a reduction in the quality of health care provided by such individuals.

(2) The department of health, in consultation with the board of health, the higher education coordinating board, representatives of rural hospitals and rural primary health care clinics, and other entities that the department of health wishes to consult with, shall investigate opportunities for the development of a pool of individuals who are cross-trained with skills in radiology, respiratory therapy, and pharmacy and laboratory technology.

(3) The department shall:

(a) Determine whether there is a need for health care professionals with multiple skills in rural areas;

(b) Determine whether individuals can be cross-credentialed for multiple skills without a reduction in the quality of health care;

(c) Examine current training, education and state credentialing requirements for each of the affected professions;

(d) Identify what training and educational requirements are needed to allow for the medical practice of individuals with multiple skills;

(e) Develop recommendations on changes in current credentialing requirements to allow for credentialing of individuals with multiple skills; and

(f) Develop recommendations on whether the practice of cross-credentialed individuals should be limited to rural areas of the state.

(4) The department shall report to the house of representatives committee on health care and the senate committee on health care and corrections by December 1, 1990, on the need for changes in current credentialing requirements for the affected professions.

(5) The sum of forty-five thousand four hundred ninety-three dollars, or as much thereof as may be necessary, is appropriated from the health professions account to the department of health for the biennium ending June 30, 1991, to carry out the purposes of this section.

**NEW SECTION.** Sec. 716. The legislature finds that changes in demographics, the delivery of health care services, and an escalation in the cost of educating health professionals has resulted in shortages of health professionals. A poor distribution of health care professionals has resulted in a surplus of some professionals in some areas of the state and a shortage of others in other parts of the state such as in the more rural areas. The high cost of health professional education requires that health care practitioners command higher incomes to repay the financial obligations incurred to obtain the required training. Health professional shortage areas are often areas that have troubled economies and lower per capita incomes. These areas often require more services because the health care needs are greater due to poverty or because the areas are difficult to service due to geographic circumstances. The salary potentials for shortage areas are often not as favorable when compared to nonshortage areas and practitioners are unable to serve. The legislature further finds that encouraging health professionals to serve in shortage areas is essential to assure continued access to health care for persons living in these parts of the state.

**NEW SECTION.** Sec. 717. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Loan repayment" means a loan that is paid in full or in part if the participant renders health care services in a health professional shortage area or medically underserved areas as defined by the department of health.

(2) "Participant" means a licensed health professional who has commenced practice as a primary care provider in a designated health professional shortage area.

(3) "Board" means the higher education coordinating board.

(4) "Health professional shortage areas" means those geographic areas where health professionals are in short supply as a result of geographic

maldistribution and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department of health shall determine health professional shortage areas in the state guided by federal standards of "health manpower shortage areas," and "medically underserved areas," and "medically underserved populations."

(5) "Satisfied" means paid-in-full.

(6) "Licensed health professional" means a person authorized in the state of Washington to practice medicine pursuant to chapter 18.57 or 18.57A RCW or 18.71 or 18.71A RCW, to practice nursing pursuant to chapter 18.88 or 18.78 RCW, or to practice dentistry pursuant to chapter 18.32 RCW.

NEW SECTION. Sec. 718. The health professional loan repayment program is established for licensed health professionals serving in health professional shortage areas. The program shall be administered by the higher education coordinating board. In administering this program, the board shall have the following duties:

(1) It shall select licensed health professionals to participate in the loan repayment program;

(2) It shall adopt rules to administer the program;

(3) It shall publicize the program; and

(4) It shall solicit and accept grants and donations from public and private sources for the program.

NEW SECTION. Sec. 719. The board shall establish a planning committee to assist it in developing criteria for the selection of participants. The board shall, at a minimum, include on the planning committee: Representatives from rural hospitals; public health districts or departments; community and migrant clinics; and private providers.

NEW SECTION. Sec. 720. The board may grant loan repayment awards to eligible participants from the funds appropriated for this purpose, or from any private or public funds given to the board for this purpose. The amount of the loan repayment shall not exceed fifteen thousand dollars per year for a maximum of five years. The board may establish awards of less than fifteen thousand dollars per year based upon reasonable levels of expenditures for each of the health professions covered by this chapter. Participants in the conditional scholarship program authorized by chapter 28B.104 RCW are ineligible to receive assistance from the program authorized by this chapter.

NEW SECTION. Sec. 721. Participants in the health professional loan repayment program shall receive payment from the program for the purpose of repaying educational loans secured while attending a program of health professional training which led to licensure as a licensed health professional in the state of Washington.

(1) Participants shall agree to serve at least three years in a designated health professional shortage area.

(2) In providing health care services the participant shall not discriminate against any person on the basis of the person's ability to pay for such services or because payment for the health care services provided to such persons will be made under the insurance program established under part A or B of Title XVIII of the federal social security act or under a state plan for medical assistance approved under Title XIX of the federal social security act and agrees to accept assignment under section 18.42(b)(3)(B)(ii) of such act for all services for which payment may be made under part B of Title XVIII and enters into an appropriate agreement with the department of social and health services for medical assistance under Title XIX to provide services to individuals entitled to medical assistance under the plan. Participants found by the board in violation of this section shall be declared ineligible for receiving assistance under the program authorized by this chapter.

(3) Repayment shall be limited to reasonable educational and living expenses as determined by the board and shall include principal and interest.

(4) Loans from both government and private sources may be repaid by the program. Participants shall agree to allow the board access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(5) Repayment of loans established pursuant to this program shall begin no later than ninety days after the individual has become a participant. Payments shall be made quarterly, or more frequently if deemed appropriate by the board, to the participant until the loan is repaid or the participant becomes ineligible due to discontinued service in a health professional shortage area or after the fifth year of services when eligibility discontinues, whichever comes first.

(6) Should the participant discontinue service in a health professional shortage area payments against the loans of the participants shall cease to be effective on the date that the participant discontinues service.

(7) Except for circumstances beyond their control, participants who serve less than three years shall be obligated to repay to the program an amount equal to twice the total amount paid by the program on their behalf in addition to any payments on the unsatisfied portion of the principal and interest. The board shall determine the applicability of this subsection.

(8) The board is responsible for the collection of payments made on behalf of participants from the participants who discontinue service before their three-year obligation. The board shall exercise due diligence in such collection, maintaining all necessary records to ensure that the maximum

amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law, including wage garnishment if necessary.

(9) The board shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires.

NEW SECTION. Sec. 722. After consulting with the higher education coordinating board, the governor may transfer the administration of this program to another agency with an appropriate mission.

NEW SECTION. Sec. 723. No loan repayment may be awarded after June 30, 1995.

### PART VIII MISCELLANEOUS

NEW SECTION. Sec. 801. All references to the secretary or department of social and health services in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in section 201 and sections 236 through 250 of this act.

NEW SECTION. Sec. 802. All references to the director of licensing or department of licensing in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in section 301 of this act.

NEW SECTION. Sec. 803. All references to the hospital commission in the Revised Code of Washington shall be construed to mean the secretary or the department of health.

NEW SECTION. Sec. 804. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services, department of licensing, board of pharmacy, and hospital commission relating to the powers, functions, and duties transferred by this act, shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health services, department of licensing, hospital commission, and board of pharmacy in carrying out the powers, functions, and duties transferred by this act, shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred by this act, shall be assigned to the department of health.

Any appropriations made to the department of social and health services, department of licensing, hospital commission, and board of pharmacy for carrying out the powers, functions, and duties transferred by this act, shall, on the effective date of this section, and upon the approval of the director of the office of financial management be transferred and credited to

the department of health. The transfer of funds shall additionally include funds appropriated to the department of social and health services for the support of regional health planning.

Whenever any question arises as to the transfer of any personnel, funds, 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, 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. 805. All positions of the department of social and health services, including the health planning program of the department of social and health services, the department of licensing, the hospital commission, and the board of pharmacy determined to be necessary by the director of the office of financial management for the performance of the powers, functions, and duties transferred by this act, shall be transferred to the jurisdiction of the department of health. All employees assigned to such classified positions under chapter 41.06 RCW, the state civil service law, are assigned to the department of health, effective upon approval of the director of the office of financial management as outlined in section 804 of this act, 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. 806. All rules and all pending business before the department of social and health services, department of licensing, board of pharmacy, and hospital commission pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All contracts and obligations existing at the time of the transfer shall remain in full force and shall be performed by the department of health.

**NEW SECTION.** Sec. 807. The transfer of the powers, duties, functions, and personnel of the department of social and health services, department of licensing, board of pharmacy, and hospital commission shall not affect the validity of any act performed prior to the effective date of this section.

**NEW SECTION.** Sec. 808. If apportionments of budgeted funds are required because of the transfers directed by sections 804 through 807 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. 809. Nothing contained in sections 801 through 808 of this act may be construed to alter 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.

Sec. 810. Section 1, chapter 10, Laws of 1979 as last amended by section 2, chapter 506, Laws of 1987 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 wildlife, (7) the department of transportation, (8) the department of licensing, (9) the department of general administration, (10) the department of trade and economic development, (11) the department of veterans affairs, (12) the department of revenue, (13) the department of retirement systems, (14) the department of corrections, ~~((and))~~ (15) the department of community development, and (16) the department of health, 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. 811. Section 2, chapter 10, Laws of 1979 as last amended by section 3, chapter 506, Laws of 1987 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 wildlife, (7) the secretary of transportation, (8) the director of licensing, (9) the director of general administration, (10) the director of trade and economic development, (11) the director of veterans affairs, (12) the director of revenue, (13) the director of retirement systems, (14) the secretary of corrections, ~~((and))~~ (15) the director of community development, and (16) the secretary of health.

Such officers, except the secretary of transportation, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor ~~((: PROVIDED, That))~~. The director of wildlife, however, shall be appointed according to the provisions of RCW 77.04.080. 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. A temporary director of wildlife shall not serve more than one year. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. ~~((There is appropriated from the general fund to the department of wildlife for the biennium ending June 30, 1989, the sum of eight million dollars. PROVIDED, That four million five hundred thousand dollars of this appropriation shall revert to the general fund if the comprehensive spending plan submitted to the legislature under RCW~~



~~77.04.055(2) is rejected by the legislature in the 1988 session: PROVIDED FURTHER, That three million five hundred thousand dollars of this appropriation may be expended by the department of wildlife without regard to approval of the comprehensive spending plan:)~~

Sec. 812. Section 2, chapter 34, Laws of 1984 as last amended by section 13, chapter 36, Laws of 1988 and RCW 42.17.2401 are each amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of financial management, the director of personnel, the director of community development, the director of the state system of community colleges, the secretary of health, the director of the department of information services, the executive secretary of the forest practices 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))~~ indeterminate sentence review board, 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;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Each member of the state board for community college education, information services board, forest practices board, forest practices appeals board, gambling commission, wildlife 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, personnel appeals board, ~~((board of prison terms and paroles))~~ indeterminate sentence review board, 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, state housing finance commission, and the utilities and transportation commission.

**NEW SECTION.** Sec. 813. A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the department of health to any deputy secretary, assistant secretary, or person who administers the necessary divisions, offices, bureaus, and programs and five additional positions involved in policy or program direction.

**\*NEW SECTION. Sec. 814. (1)** *The department of social and health services shall monitor the treatment programs provided under chapter 70.96A RCW and shall collect and maintain relevant demographic data regarding persons receiving treatment services under chapter 70.96A RCW and persons receiving general assistance – unemployable benefits based on an incapacity of alcoholism and drug addiction. The department also shall monitor contracted service providers to ensure conformance with the statutory priorities.*

*(2) The department shall report the results of the data collection and monitoring provided for in subsection (1) of this section to appropriate committees of the legislature on or before December 1, 1989, and December 1, 1990.*

*(3) The department of social and health services shall contract with the University of Washington alcoholism and drug abuse institute to evaluate the outcomes of the treatment programs provided under chapter 70.96A RCW. The evaluation shall include assessments of treatment outcomes for a sample number of participants selected at random and monitored over at least a one-year period. The results of the evaluation shall be reported to appropriate committees of the legislature on or before December 1, 1990.*

\*Sec. 814 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 815. A new section is added to chapter 70.— RCW (sections 14 through 34, chapter ..., Laws of 1989 (ESHB 1968)) to read as follows:

(1) Unless the context clearly requires otherwise, these definitions shall apply throughout this section and sections 36, 37, 38, 39, 40, and 41, chapter ..., Laws of 1989 (ESHB 1968):

(a) "Adult family home" means a facility licensed pursuant to chapter 70.— RCW (sections 14 through 34, chapter ..., Laws of 1989 (ESHB 1968)) or the regular family abode of a person or persons who are providing personal care, room, and board to one adult not related by blood or marriage to the person providing the services.

(b) "Residential care facility" means a facility that cares for at least five, but not more than fifteen functionally disabled persons, that is not licensed pursuant to chapter 70.— RCW (sections 14 through 34, chapter ..., Laws of 1989 (ESHB 1968)).

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

(2) An adult family home shall be considered a residential use of property for zoning purposes. Adult family homes shall be a permitted use

in all areas zoned for residential or commercial purposes, including areas zoned for single family dwellings.

Sec. 816. Section 1, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 31, chapter 75, Laws of 1987 and by section 9, chapter 406, Laws of 1987 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) (a) "General assistance"—Aid to persons in need who:

(i) Are not eligible to receive federal-aid assistance, other than food stamps and medical assistance; however, an individual who refuses or fails to cooperate in obtaining federal-aid assistance, without good cause, is not eligible for general assistance;

(ii) Are either:

(A) Pregnant: PROVIDED, That need is based on the current income and resource requirements of the federal aid to families with dependent children program: PROVIDED FURTHER, That during any period in which an aid for dependent children employable program is not in operation, only those pregnant women who are categorically eligible for medicaid are eligible for general assistance; or

(B) Incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of sixty days as determined by the department. Persons who are unemployable due to alcohol or drug addiction are not eligible for general assistance. Persons receiving general assistance on July 26, 1987, or becoming eligible for such assistance thereafter, due to an alcohol or drug-related incapacity, shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW.

Referrals shall be made at the time of application or at the time of eligibility review. Alcoholic and drug addicted clients who are receiving general assistance on July 26, 1987, may remain on general assistance if they otherwise retain their eligibility until they are assessed for services under chapter 74.50 RCW. This subsection (6)(a)(ii)(B) shall not be construed to prohibit the department from granting general assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the general assistance program;

(iii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law; and

(iv) Have furnished the department their social security account number. If the social security account number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of assistance, and the social security number shall be provided to the department upon receipt.

(b) Notwithstanding the provisions of subsection (6)(a)(i), (ii), and (c) of this section, general assistance shall be provided to the following recipients of federal-aid assistance:

(i) Recipients of supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse; or

(ii) To the extent authorized by the legislature in the biennial appropriations act, to recipients of aid to families with dependent children whose needs are not being met because of a temporary reduction in monthly income below the entitled benefit payment level caused by loss or reduction of wages or unemployment compensation benefits or some other unforeseen circumstances. The amount of general assistance authorized shall not exceed the difference between the entitled benefit payment level and the amount of income actually received.

(c) General assistance shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in subsection (6) (a)(ii)(A) and (b) of this section, and will accept available services which can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(d) The department shall adopt by rule medical criteria for general assistance eligibility to ensure that eligibility decisions are consistent with

statutory requirements and are based on clear, objective medical information.

(e) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(f) Recipients of general assistance who remain otherwise eligible shall not have their benefits terminated absent a clear showing of material improvement in their medical or mental condition or specific error in the prior determination that found the recipient eligible by reason of incapacitation.

(7) "Applicant"—Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

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

(9) "Standards of assistance"—The level of income required by an applicant or recipient to maintain a level of living specified by the department.

(10) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent: PROVIDED, That an applicant may retain the following described resources and not be ineligible for public assistance because of such resources.

(a) A home, which is defined as real property owned and used by an applicant or recipient as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, which is used by and useful to the applicant. Whenever a recipient shall cease to use such property for residential purposes, either for himself or his dependents, the property shall be considered as a resource which can be made available to meet need, and if the recipient or his dependents absent themselves from the home for a period of ninety consecutive days such absence, unless due to hospitalization or health reasons or a natural disaster, shall raise a rebuttable presumption of abandonment: PROVIDED, That if in the opinion of three physicians the recipient will be unable to return to the home during his lifetime, and the home is not occupied by a spouse or dependent children or disabled sons or daughters, such property shall be considered as a resource which can be made available to meet need.

(b) Household furnishings and personal effects and other personal property having great sentimental value to the applicant or recipient, as limited by the department consistent with limitations on resources and exemptions for federal aid assistance.

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed one thousand five hundred dollars.

(d) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance.

(e) Applicants for or recipients of general assistance may retain the following described resources in addition to exemption for a motor vehicle or home and not be ineligible for public assistance because of such resources:

(i) Household furnishings, personal effects, and other personal property having great sentimental value to the applicant or recipient;

(ii) Term and burial insurance for use of the applicant or recipient;

(iii) Life insurance having a cash surrender value not exceeding one thousand five hundred dollars; and

(iv) Cash, marketable securities, and any excess of values above one thousand five hundred dollars equity in a vehicle and above one thousand five hundred dollars in cash surrender value of life insurance, not exceeding one thousand five hundred dollars for a single person or two thousand two hundred fifty dollars for a family unit of two or more. The one thousand dollar limit in subsection (10)(d) of this section does not apply to recipients of or applicants for general assistance.

(f) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property, but the recipient must sign an agreement to dispose of the property and repay assistance payments made to the date of disposition of the property which would not have been made had the disposal occurred at the beginning of the period for which the payments of such assistance were made. In no event shall such amount due the state exceed the net proceeds otherwise available to the recipient from the disposition, unless after nine months from the date of the agreement the property has not been sold, or if the recipient's eligibility for financial assistance ceases for any other reason. In these two instances the entire amount of assistance paid during this period will be treated as an overpayment and a debt due the state, and may be recovered pursuant to RCW 43.20B.630.

(11) "Income"—(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance(~~(--PROVIDED, 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 an applicant or 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 income and resources and the availability thereof, consistent with federal requirements. All resources and income not specifically exempted, and any income or other economic benefit derived from the use of, or appreciation in value of, exempt resources, shall be considered in determining the need of an applicant or recipient of public assistance.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(12) "Need"—The difference between the applicant's or recipient's standards of assistance for himself and the dependent members of his family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his family.

(13) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(14) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the

past and future tenses, unless the context thereof shall clearly indicate to the contrary.

Sec. 817. Section 2, chapter 131, Laws of 1975-'76 2nd ex. sess. as amended by section 2, chapter 321, Laws of 1977 ex. sess. and RCW 74.38.020 are each amended to read as follows:

As used in this chapter, the following words and phrases shall have the following meaning unless the content clearly requires otherwise:

(1) "Area agency" means an agency, other than a state agency, designated by the department to carry out programs or services approved by the department in a designated geographical area of the state.

(2) "Area plan" means the document submitted annually by an area agency to the department for approval which sets forth (a) goals and measurable objectives, (b) review of past expenditures and accounting of revenue for the previous year, (c) estimated revenue and expenditures for the ensuing year, and (d) the planning, coordination, administration, social services, and evaluation activities to be undertaken to carry out the purposes of the Older Americans Act of 1965 (42 U.S.C. Sec. 3024 et. seq.), as now or hereafter amended.

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

(4) "Office" shall mean the office on aging which is the organizational unit within the department responsible for coordinating and administering aging problems.

(5) "Eligible persons" means senior citizens who are:

(a) Sixty-five years of age or more; or

(b) Sixty years of age or more and are either (i) nonemployed, or (ii) employed for twenty hours per week or less; and

(c) In need of services to enable them to remain in their customary homes because of physical, mental, or other debilitating impairments.

(6) "Low income" means initial resources or subsequent income at or below forty percent of the state median income as promulgated by the secretary of the United States department of health, education and welfare for Title XX of the Social Security Act, or, in the alternative, a level determined by the department and approved by the legislature.

(7) "Income" shall have the same meaning as ~~((RCW 74.04.005(12)))~~ in chapter 74.04 RCW, as now or hereafter amended; except, that money received from RCW 74.38.060 shall be excluded from this definition.

(8) "Resource" shall have the same meaning as ~~((RCW 74.04.005(11)))~~ in chapter 74.04 RCW, as now or hereafter amended.

(9) "Need" shall have the same meaning as ~~((RCW 74.04.005(13)))~~ in chapter 74.04 RCW, as now or hereafter amended.

NEW SECTION. Sec. 818. (1) The sum of five hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the department of health for the purposes of implementation of the rural health care project



authorized by this act on condition that at least ninety percent of these funds are used for seed grant awards and the provision of technical assistance to participating rural communities.

(2) The sum of one hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the department of health for the purposes of implementation of the loan forgiveness program for rural health professionals authorized under this act.

NEW SECTION. Sec. 819. The following acts or parts of acts are each repealed:

- (1) Section 3, chapter 252, Laws of 1987 and RCW 18.32.326;
- (2) Section 4, chapter 43, Laws of 1957 and RCW 18.34.040;
- (3) Section 61, chapter 279, Laws of 1984 and RCW 43.24.075;
- (4) Section 5, chapter 161, Laws of 1979 ex. sess., section 4, chapter 139, Laws of 1980 and RCW 70.38.055;
- (5) Section 6, chapter 161, Laws of 1979 ex. sess., section 5, chapter 139, Laws of 1980, section 5, chapter 235, Laws of 1983 and RCW 70.38-.065;
- (6) Section 14, chapter 161, Laws of 1979 ex. sess. and RCW 70.38-.145;
- (7) Section 19, chapter 38, Laws of 1963, section 3, chapter 90, Laws of 1979 and RCW 18.64.007;
- (8) Section 4, chapter 161, Laws of 1979 ex. sess., section 3, chapter 139, Laws of 1980, section 4, chapter 235, Laws of 1983 and RCW 70.38-.045;
- (9) Section 8, chapter 161, Laws of 1979 ex. sess., section 6, chapter 139, Laws of 1980, section 6, chapter 235, Laws of 1983 and RCW 70.38-.085;
- (10) Section 3, chapter 161, Laws of 1979 ex. sess., section 3, chapter 235, Laws of 1983 and RCW 70.38.035; and
- (11) Section 35, chapter ... (ESHB 1968), Laws of 1989 and RCW 74.—.—.

NEW SECTION. Sec. 820. Sections 101 through 109, 201, 252, 262 through 264, 301, and 319 through 323 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 821. Sections 501 through 512 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 822. RCW 43.20A.140 and 43.24.072 are each recodified as sections in chapter 43. \_\_ RCW, created by section 820 of this act.

NEW SECTION. Sec. 823. Sections 701 through 712 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 824. Sections 716 through 723 of this act shall constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 825. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

NEW SECTION. Sec. 826. 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 May 7, 1989.

Passed the House May 10, 1989.

Approved by the Governor May 31, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 31, 1989.

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

"I am returning herewith, without my approval as to sections 105, 209, 302, 415, 512, 714, and 814, Engrossed Senate Bill No. 6152 entitled:

"AN ACT Relating to health."

I am pleased that you have sent me a bill creating a Department of Health which encompasses the full range of health issues. You have done considerable and admirable work on this piece of legislation, and it is my pleasure to sign the majority of this bill into law.

While a great number of the programs and policies contained in this bill are sound public policy, I am very concerned for the viability of this Department. When I originally proposed a Department of Health, we carefully and conservatively estimated the costs of transition and of various new programs. However, both the funding provided for the transition in the budget bill and the appropriations for new programs in this bill are grossly inadequate, leaving an estimated shortfall of nearly \$2 million. I cannot in good conscience allow this level of new unfunded programs in this Department.

Therefore, I am vetoing those sections of the bill which are not critical to the viability of the Department of Health. This message should not be construed as a statement in opposition to the policy of these sections, except where I have specifically noted. Although I have been forced to use my veto power, there remains a resource shortfall. Without vetoing the entire measure, there is no way I can eliminate the deficit. I am very disappointed that the Legislature did not fully fund this new Department and allow it to begin its duties with sufficient resources.

Section 105 requires that the State Health Officer hold the position of Deputy Secretary within the Department of Health and be subject to Senate confirmation. The requirement of Deputy Director confirmation by the Senate is unprecedented and inappropriate. The other requirements remove administrative flexibility from the executive branch. While I agree that there should be a person employed by the Department with the expertise as defined in this section, I do not agree that the position must be a Deputy Secretary. If I do not appoint a Secretary with the qualifications required by this section, I will ask the Secretary to hire such a person to fill an appropriate position.

Section 209 mandates an increase in staff to the Board of Health. The Board has been understaffed for years, but has been unsuccessful in obtaining the funding for staff support. Currently, the Board is allowed to hire an executive director and a

confidential secretary, but does not have sufficient funds to fill either of those positions. While I strongly support providing the Board of Health with needed assistance, I cannot support signing this section without the appropriate funding accompanying this mandated increase.

Section 302 requires the Department of Health to study and report on health care professional licensure needs. This is a subject deserving a coordinated review; however, I cannot support signing this section without an accompanying appropriation.

Section 415 amends RCW 18.64.044 which is also amended by section 401. Since the language within section 401 reflects the statute as amended by section 1, chapter 352, Laws of 1989 (HB 1478), I am vetoing section 415.

Section 512 requires the Department of Health to perform a biennial study of the State's expenditures on health care services, and submit that report to the Legislature. Since this study was not funded and the Legislature currently has the ability to request this type of information from each of the affected state agencies, I am vetoing this section.

Section 714 requires the Higher Education Coordinating Board (HECB) to develop a plan for increasing rural training opportunities for students in medicine and nursing by December 1, 1989. I agree that the training needed for working in rural settings is different from that needed for urban settings; however, I cannot support yet another unfunded study requirement of the HECB. Note, I would have also vetoed section 713 of this bill but we have the opportunity, given the delayed due date of that study, to come back and seek funding to carry out its purpose.

Section 814 requires the Department of Social and Health Services to monitor alcohol and drug treatment programs, to collect data on addicted persons who receive general assistance, and to contract with the University of Washington Alcoholism and Drug Abuse Institute to evaluate treatment outcomes. Although the purposes of this section are of value, no funds have been provided for these purposes. In order to collect this data, the Department would have to use a substantial portion of funds provided for treatment services. This diversion of treatment funds would impair the State's commitment to assist as many addicted persons as we can to overcome their addictions.

I strongly urge the Legislature to consider the impact of legislation on the budget before passing legislation. The unfunded programs and studies which I am returning to you without my approval are programs of merit. I strongly encourage you to revisit these issues, and to pass them again with appropriate funding.

With the exception of sections 105, 209, 302, 415, 512, 714, and 814, Engrossed Senate Bill No. 6152 is approved.\*

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## CHAPTER 10

[House Bill No. 2244]

### MATERNITY CARE—ACCESS

AN ACT Relating to maternity care; amending RCW 74.09.510; adding new sections to chapter 74.09 RCW; creating a new section; and making appropriations.

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

**NEW SECTION.** Sec. 1. This act may be known and cited as the "maternity care access act of 1989."

**NEW SECTION.** Sec. 2. (1) The legislature finds that Washington state and the nation as a whole have a high rate of infant illness and death

compared with other industrialized nations. This is especially true for minority and low-income populations. Premature and low weight births have been directly linked to infant illness and death. The availability of adequate maternity care throughout the course of pregnancy has been identified as a major factor in reducing infant illness and death. Further, the investment in preventive health care programs, such as maternity care, contributes to the growth of a healthy and productive society and is a sound approach to health care cost containment. The legislature further finds that access to maternity care for low-income women in the state of Washington has declined significantly in recent years and has reached a crisis level.

(2) It is the purpose of this chapter to provide, consistent with appropriated funds, maternity care necessary to ensure healthy birth outcomes for low-income families. To this end, a maternity care access system is established based on the following principles:

(a) The family is the fundamental unit in our society and should be supported through public policy.

(b) Access to maternity care for eligible persons to ensure healthy birth outcomes should be made readily available in an expeditious manner through a single service entry point.

(c) Unnecessary barriers to maternity care for eligible persons should be removed.

(d) Access to preventive and other health care services should be available for low-income children.

(e) Each woman should be encouraged to and assisted in making her own informed decisions about her maternity care.

(f) Unnecessary barriers to the provision of maternity care by qualified health professionals should be removed.

(g) The system should be sensitive to cultural differences among eligible persons.

(h) To the extent possible, decisions about the scope, content, and delivery of services should be made at the local level involving a broad representation of community interests.

(i) The maternity care access system should be evaluated at appropriate intervals to determine effectiveness and need for modification.

(j) Maternity care services should be delivered in a cost-effective manner.

**NEW SECTION.** Sec. 3. The legislature reserves the right to amend or repeal all or any part of this chapter at any time and there shall be no vested private right of any kind against such amendment or repeal. All rights, privileges, or immunities conferred by this chapter or any acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this chapter at any time.

**NEW SECTION.** Sec. 4. Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 1 through 8 of this act:

(1) "At-risk eligible person" means an eligible person determined by the department to need special assistance in applying for and obtaining maternity care, including pregnant women who are substance abusers, pregnant and parenting adolescents, pregnant minority women, and other eligible persons who need special assistance in gaining access to the maternity care system.

(2) "County authority" means the board of county commissioners, county council, or county executive having the authority to participate in the maternity care access program or its designee. Two or more county authorities may enter into joint agreements to fulfill the requirements of this chapter.

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

(4) "Eligible person" means a woman in need of maternity care or a child, who is eligible for medical assistance pursuant to chapter 74.09 RCW or the prenatal care program administered by the department.

(5) "Maternity care services" means inpatient and outpatient medical care, case management, and support services necessary during prenatal, delivery, and postpartum periods.

(6) "Support services" means, at least, public health nursing assessment and follow-up, health and childbirth education, psychological assessment and counseling, outreach services, nutritional assessment and counseling, needed vitamin and nonprescriptive drugs, transportation, and child care. Support services may include alcohol and substance abuse treatment for pregnant women who are addicted or at risk of being addicted to alcohol or drugs to the extent funds are made available for that purpose by Engrossed Second Substitute House Bill No. 1793, if enacted.

**NEW SECTION.** Sec. 5. The department shall, consistent with the state budget act, develop a maternity care access program designed to ensure healthy birth outcomes as follows:

(1) Provide maternity care services to low-income pregnant women and health care services to children in poverty to the maximum extent allowable under the medical assistance program, Title XIX of the federal social security act;

(2) Provide maternity care services to low-income women who are not eligible to receive such services under the medical assistance program, Title XIX of the federal social security act;

(3) By January 1, 1990, have the following procedures in place to improve access to maternity care services and eligibility determinations for pregnant women applying for maternity care services under the medical assistance program, Title XIX of the federal social security act:

(a) Use of a shortened and simplified application form;

- (b) Outstationing department staff to make eligibility determinations;
- (c) Establishing local plans at the county and regional level, coordinated by the department; and
- (d) Conducting an interview for the purpose of determining medical assistance eligibility within five working days of the date of an application by a pregnant woman and making an eligibility determination within fifteen working days of the date of application by a pregnant woman;
- (4) Establish a maternity care case management system that shall assist at-risk eligible persons with obtaining medical assistance benefits and receiving maternity care services, including transportation and child care services;
- (5) Within available resources, establish appropriate reimbursement levels for maternity care providers;
- (6) Implement a broad-based public education program that stresses the importance of obtaining maternity care early during pregnancy;
- (7) Study the desirability and feasibility of implementing the presumptive eligibility provisions set forth in section 9407 of the federal omnibus budget reconciliation act of 1986 and report to the appropriate committees of the legislature by December 1, 1989; and
- (8) Refer persons eligible for maternity care services under the program established by this section to persons, agencies, or organizations with maternity care service practices that primarily emphasize healthy birth outcomes.

NEW SECTION. Sec. 6. (1) The department shall establish an alternative maternity care service delivery system, if it determines that a county or a group of counties is a maternity care distressed area. A maternity care distressed area shall be defined by the department, in rule, as a county or a group of counties where eligible women are unable to obtain adequate maternity care. The department shall include the following factors in its determination:

- (a) Higher than average percentage of eligible persons in the distressed area who receive late or no prenatal care;
  - (b) Higher than average percentage of eligible persons in the distressed area who go out of the area to receive maternity care;
  - (c) Lower than average percentage of obstetrical care providers in the distressed area who provide care to eligible persons;
  - (d) Higher than average percentage of infants born to eligible persons per obstetrical care provider in the distressed area; and
  - (e) Higher than average percentage of infants that are of low birth weight, five and one-half pounds or two thousand five hundred grams, born to eligible persons in the distressed area.
- (2) If the department determines that a maternity care distressed area exists, it shall notify the relevant county authority. The county authority

shall, within one hundred twenty days, submit a brief report to the department recommending remedial action. The report shall be prepared in consultation with the department and its local community service offices, the local public health officer, community health clinics, health care providers, hospitals, the business community, labor representatives, and low-income advocates in the distressed area. A county authority may contract with a local nonprofit entity to develop the report. If the county authority is unwilling or unable to develop the report, it shall notify the department within thirty days, and the department shall develop the report for the distressed area.

(3) The department shall review the report and use it, to the extent possible, in developing strategies to improve maternity care access in the distressed area. The department may contract with or directly employ qualified maternity care health providers to provide maternity care services, if access to such providers in the distressed area is not possible by other means. In such cases, the department is authorized to pay that portion of the health care providers' malpractice liability insurance that represents the percentage of maternity care provided to eligible persons by that provider through increased medical assistance payments.

NEW SECTION. Sec. 7. To the extent that federal matching funds are available, the department or the department of health if one is created shall establish, in consultation with the health science programs of the state's colleges and universities, and community health clinics, a loan repayment program that will encourage maternity care providers to practice in medically underserved areas in exchange for repayment of part or all of their health education loans.

Sec. 8. Section 4, chapter 30, Laws of 1967 ex. sess. as last amended by section 2, chapter 87, Laws of 1989 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, as defined in the social security Title XIX state plan for mandatory categorically needy persons and: (1) Individuals who would be eligible for cash assistance except for their institutional status; (2) individuals who are under twenty-one years of age, who would be eligible for aid to families with dependent children, but do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) an intermediate care facility or an intermediate care facility for the mentally retarded, or (d) inpatient psychiatric facilities; (3) the aged, blind, and disabled who: (a) Receive only a state supplement, or (b) would not be eligible for cash assistance if they were not institutionalized; (4) individuals who would be eligible for but choose not to receive cash assistance; (5) ~~((pregnant women who would be eligible for aid to families with dependent children if the child had been born and was living with the mother during the month of the payment, and~~

~~the pregnancy has been medically verified, (6))~~ individuals who are enrolled in managed health care systems, who have otherwise lost eligibility for medical assistance, but who have not completed a current six-month enrollment in a managed health care system, and who are eligible for federal financial participation under Title XIX of the social security act; (6) children and pregnant women allowed by federal statute for whom funding is appropriated; and (7) other individuals eligible for medical services under RCW 74.09.035 and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act.

NEW SECTION. Sec. 9. The department shall contract with an independent nonprofit entity to evaluate the effectiveness of the maternity care access program set forth in sections 1 through 7 of this act based on the principles set forth in section 2 of this act. The evaluation shall also address:

(1) Characteristics of women receiving services, including health risk factors;

(2) Services utilized by eligible women;

(3) Birth outcomes of women receiving services;

(4) Birth outcomes of women receiving services, by type of practitioner;

(5) Services utilized by eligible infants; and

(6) Referrals to other programs for services.

The department shall submit an evaluation report to the appropriate committees of the legislature by December 1, 1990.

NEW SECTION. Sec. 10. The sum of forty-seven million five hundred thirty-one thousand dollars, or as much thereof as may be necessary, of which twenty-five million five hundred seventy thousand dollars shall be from federal funds, is appropriated from the state general fund for the biennium ending June 30, 1991, to the department of social and health services, medical assistance program, for medical assistance for categorically needy pregnant women and children under one year of age whose household income does not exceed one hundred eighty-five percent of the federal poverty level, and whose coverage qualifies for federal financial participation under Title XIX of the federal social security act.

NEW SECTION. Sec. 11. The sum of nine million five hundred thirty thousand dollars, or as much thereof as may be necessary, of which five million one hundred ten thousand dollars shall be from federal funds, is appropriated from the state general fund for the biennium ending June 30, 1991, to the department of social and health services, medical assistance program, for medical assistance for children under eight years of age whose family income does not exceed one hundred percent of the federal poverty level, and whose coverage qualifies for federal financial participation under Title XIX of the federal social security act.



**NEW SECTION.** Sec. 12. The sum of fourteen million three hundred ten thousand dollars, or as much thereof as may be necessary, of which seven million seven hundred ten thousand dollars shall be from federal funds, is appropriated from the state general fund for the biennium ending June 30, 1991, to the department of social and health services, medical assistance program, to increase reimbursement levels to health care providers for the delivery of maternity services.

**NEW SECTION.** Sec. 13. The sum of eight million eight hundred forty-one thousand dollars, or as much thereof as may be necessary, of which four million seven hundred forty-one thousand dollars shall be from federal funds, is appropriated from the state general fund for the biennium ending June 30, 1991, to the department of social and health services, medical assistance program, for the purpose of establishing a maternity care case management system as prescribed in this act.

**NEW SECTION.** Sec. 14. The sum of ten million one hundred fifty-three thousand dollars, or as much thereof as may be necessary, of which five million three hundred thirty-six thousand dollars shall be from federal funds, is appropriated from the state general fund for the biennium ending June 30, 1991, to the department of social and health services, children and family services program, for the purpose of establishing a maternity care support service system as prescribed in this act.

**NEW SECTION.** Sec. 15. The sum of one million eight hundred five thousand dollars, or as much thereof as may be necessary, of which nine hundred twenty-six thousand dollars shall be from federal funds, is appropriated from the state general fund for the biennium ending June 30, 1991, to the department of social and health services, community services administration program, for administration and claims processing activities associated with the medical assistance eligibility expansions prescribed in this act, and for prenatal case management and support services claims processing.

**NEW SECTION.** Sec. 16. Sections 1 through 7 of this act shall be added to chapter 74.09 RCW and codified with the subchapter heading of "maternity care access program."

Passed the House May 10, 1989.

Passed the Senate May 10, 1989.

Approved by the Governor May 31, 1989.

Filed in Office of Secretary of State May 31, 1989.

## CHAPTER 11

[Substitute House Bill No. 1581]

## FAMILY LEAVE

AN ACT Relating to family leave; adding new sections to chapter 49.12 RCW; adding a new chapter to Title 49 RCW; creating new sections; prescribing penalties; and providing effective dates.

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

**NEW SECTION.** Sec. 1. The legislature finds that the demands of the workplace and of families need to be balanced to promote family stability and economic security. Changes in workplace leave policies are desirable to accommodate changes in the work force such as rising numbers of dual-career couples and working single parents. In addition, given the mobility of American society, many people no longer have available community or family support networks and therefore need additional flexibility in the workplace. The legislature declares it to be in the public interest to provide reasonable family leave upon the birth or adoption of a child and to care for a child under eighteen years old with a terminal health condition.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Child" means a biological or adopted child, or a stepchild, living with the employee.

(2) "Department" means the department of labor and industries.

(3) "Employee" means a person other than an independent contractor employed by an employer on a continuous basis for the previous fifty-two weeks for at least thirty-five hours per week.

(4) "Employer" means: (a) Any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and includes any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision, which (i) employed a daily average of one hundred or more employees during the last calendar quarter at the place where the employee requesting leave reports for work, or (ii) employed a daily average of one hundred or more employees during the last calendar quarter within a twenty mile radius of the place where the employee requesting leave reports for work, where the employer maintains a central hiring location and customarily transfers employees among workplaces; and (b) the state, state institutions, and state agencies.

(5) "Family leave" means leave from employment to care for a newborn or newly adopted child under the age of six or a child under eighteen years old with a terminal health condition, as provided in section 3 of this act.

(6) "Health care provider" means a person licensed as a physician under chapter 18.71 RCW or an osteopath under chapter 18.57 RCW.

(7) "Parent" means a biological or adoptive parent, or a stepparent.

(8) "Reduced leave schedule" means leave scheduled for fewer than an employee's usual number of hours or days per workweek.

(9) "Terminal health condition" means a condition caused by injury, disease, or illness, that, within reasonable medical judgment, is incurable and will produce death within the period of leave to which the employee is entitled.

**NEW SECTION.** Sec. 3. (1) An employee is entitled to twelve workweeks of family leave during any twenty-four month period to: (a) Care for a newborn child or adopted child of the employee who is under the age of six at the time of placement for adoption, or, (b) care for a child under eighteen years old of the employee who has a terminal health condition. Leave under subsection (1)(a) of this section shall be completed within twelve months after the birth or placement for adoption, as applicable. An employee is entitled to leave under subsection (1)(b) of this section only once for any given child.

(2) Family leave may be taken on a reduced leave schedule subject to the approval of the employer.

(3) The leave required by this section may be unpaid. If an employer provides paid family leave for fewer than twelve workweeks, the additional workweeks of leave added to attain the twelve-workweek total may be unpaid. An employer may require an employee to first use up the employee's total accumulation of leave to which the employee is otherwise entitled before going on family leave; however, except as provided in subsection (4) of this section, nothing in this section requires more than twelve total workweeks of leave during any twenty-four month period. An employer is not required to allow an employee to use the employee's other leave in place of the leave provided under this chapter.

(4) The leave required by this section is in addition to any leave for sickness or temporary disability because of pregnancy or childbirth.

(5) An employer may limit or deny family leave to either: (a) Up to ten percent of the employer's workforce in the state designated as key personnel by the employer. Any designation made under this section shall take effect thirty days after it is issued and may be changed no more than once in any twelve-month period. An employer shall not designate key personnel on the basis of age or gender or for the purpose of evading the requirements of this chapter. No employee may be designated as key personnel after giving notice of intent to take leave pursuant to section 4 of this act. The designation shall be in writing and shall be displayed in a conspicuous place; or (b) if the employer does not designate key personnel, the highest paid ten percent of the employer's employees in the state.

**NEW SECTION.** Sec. 4. (1) An employee planning to take family leave under section 3(1)(a) of this act shall provide the employer with written notice at least thirty days in advance of the anticipated date of delivery or placement for adoption, stating the dates during which the employee intends to take family leave. The employee shall adhere to the dates stated in the notice unless:

- (a) The birth is premature;
- (b) The mother is incapacitated due to birth such that she is unable to care for the child;
- (c) The employee takes physical custody of the newly adopted child at an unanticipated time and is unable to give notice thirty days in advance; or
- (d) The employer and employee agree to alter the dates of family leave stated in the notice.

(2) In cases of premature birth, incapacity, or unanticipated placement for adoption referred to in subsection (1) of this section, the employee must give notice of revised dates of family leave as soon as possible but at least within one working day of the birth or placement for adoption or incapacitation of the mother.

(3) If family leave under section 3(1)(b) of this act is foreseeable, the employee shall provide the employer with written notice at least fourteen days in advance of the expected leave and shall make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the employer. If family leave under section 3(1)(b) of this act is not foreseeable fourteen or more days before the leave is to take place, the employee shall notify the employer of the expected leave as soon as possible, but at least within one working day of the beginning of the leave.

(4) If the employee fails to give the notice required by this section, the employer may reduce or increase the family leave required by this chapter by three weeks.

**NEW SECTION.** Sec. 5. (1) In the event of any dispute under this chapter regarding premature birth, incapacitation of the mother, maternity disability, or terminal condition of a child, an employer may require confirmation by a health care provider of: (a) The date of the birth; (b) the date on which incapacity because of childbirth or disability because of pregnancy or childbirth commenced or will probably commence, and its probable duration; or (c) for family leave under section 3(1)(b) of this act, the fact that the child has a terminal health condition.

(2) An employer may require, at the employer's expense, that the employee obtain the opinion of a second health care provider selected by the employer concerning any information required under subsection (1) of this section. If the health care providers disagree on any factor which is determinative of the employee's eligibility for family leave, the two health care providers shall select a third health care provider, whose opinion, obtained at the employer's expense, shall be conclusive.

NEW SECTION. Sec. 6. If both parents of a child are employed by the same employer, they shall together be entitled to a total of twelve workweeks of family leave during any twenty-four month period, and leave need be granted to only one parent at a time.

NEW SECTION. Sec. 7. (1) Subject to subsection (2) of this section, an employee who exercises any right provided under section 3 of this act shall be entitled, upon return from leave or during any reduced leave schedule:

(a) To the same position held by the employee when the leave commenced; or

(b) To a position with equivalent benefits and pay at a workplace within twenty miles of the employee's workplace when leave commenced; or

(c) If the employer's circumstances have so changed that the employee cannot be reinstated to the same position, or a position of equivalent pay and benefits, the employee shall be reinstated in any other position which is vacant and for which the employee is qualified.

(2) The entitlement under subsection (1) of this section is subject to bona fide changes in compensation or work duties, and does not apply if:

(a) The employee's position is eliminated by a bona fide restructuring, or reduction-in-force;

(b) The employee's workplace is permanently or temporarily shut down for at least thirty days;

(c) The employee's workplace is moved to a location at least sixty miles from the location of the workplace when leave commenced;

(d) An employee on family leave takes another job; or

(e) The employee fails to provide timely notice of family leave as required under section 4 of this act, or fails to return on the established ending date of leave.

NEW SECTION. Sec. 8. (1) The taking of leave under this chapter shall not result in the loss of any benefit, including seniority or pension rights, accrued before the date on which the leave commenced.

(2) Nothing in this chapter shall be construed to require the employer to grant benefits, including seniority or pension rights, during any period of leave.

(3) All policies applied during the period of leave to the classification of employees to which the employee on leave belongs shall apply to the employee on leave.

(4) During any period of leave taken under section 3 of this act, if the employee is not eligible for any employer contribution to medical or dental benefits under an applicable collective bargaining agreement or employer policy during any period of leave, an employer shall allow the employee to continue, at his or her own expense, medical or dental insurance coverage, including any spouse and dependent coverage, in accordance with state or

federal law. The premium to be paid by the employee shall not exceed one hundred two percent of the applicable premium for the leave period.

NEW SECTION. Sec. 9. The department of labor and industries shall administer the provisions of this chapter.

NEW SECTION. Sec. 10. (1) Except as provided in this chapter, the rights under this chapter are in addition to any other rights provided by law. The remedies under this chapter shall be exclusive.

(2) Nothing in this chapter shall be construed to discourage employers from adopting policies which provide greater leave rights to employees than those required by this chapter.

NEW SECTION. Sec. 11. (1) Nothing in this chapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan which provides greater leave rights to employees than the rights provided under this chapter.

(2) The rights provided to employees under this chapter may not be diminished by any collective bargaining agreement or any employment benefit program or plan entered into or renewed after the effective date of this section.

NEW SECTION. Sec. 12. (1) In the case of employees covered by an unexpired collective bargaining agreement that expires on or after September 1, 1989, or by an employee benefit program or plan with a stated year ending on or after September 1, 1989, the effective date of this chapter shall be the later of: (a) The first day following expiration of the collective bargaining agreement; or (b) the first day of the next plan year.

(2) Notwithstanding the provisions of sections 14 through 21 of this act, where this chapter has been incorporated into a collective bargaining agreement, the grievance procedures contained in the respective collective bargaining agreement shall be used to resolve complaints related to this chapter.

NEW SECTION. Sec. 13. No employer, employment agency, labor union, or other person shall discharge, expel, or otherwise discriminate against any person because he or she has opposed any practices forbidden by this chapter, or because he or she has filed a complaint, testified, or assisted in any proceeding under this chapter.

NEW SECTION. Sec. 14. (1) An employee who believes that his or her employer has violated any provision of this chapter may file a complaint with the department within ninety days of the alleged violation. The complaint shall contain the following:

(a) The name and address of the employee making the complaint;

(b) The name, address, and telephone number of the employer against whom the complaint is made;

(c) A statement of the specific facts which constitute the alleged violation, including the date(s) on which the alleged violation occurred.

(2) Upon receipt of a complaint, the department shall forward written notice of the complaint to the employer.

(3) The department may investigate any complaint filed within the required time frame. If the department determines that a violation of this chapter has occurred, it may issue a notice of infraction.

**NEW SECTION.** Sec. 15. The department may issue a notice of infraction to an employer who violates this chapter. The employment standards supervisor shall direct that notices of infraction contain the following when issued:

(1) A statement that the notice represents a determination that the infraction has been committed by the employer named in the notice and that the determination shall be final unless contested;

(2) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

(3) A statement of the specific violation which necessitated issuance of the infraction;

(4) A statement of the penalty involved if the infraction is established;

(5) A statement informing the employer of the right to a hearing conducted pursuant to chapter 34.05 RCW if requested within twenty days of issuance of the infraction;

(6) A statement that at any hearing to contest the notice of infraction the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed, and that the employer may subpoena witnesses including the agent that issued the notice of infraction;

(7) If a notice of infraction is personally served upon a supervisory or managerial employee of a firm or corporation, the department shall within seventy-two hours of service send a copy of the notice by certified mail to the employer;

(8) Constructive service may be made by certified mail directed to the employer named in the notice of infraction.

**NEW SECTION.** Sec. 16. (1) If an employer is a corporation or a partnership, the department need not serve the employer personally. In such a case, if no officer or partner of a violating employer is present, the department may issue a notice of infraction to any managerial employee.

(2) If the department serves a notice of infraction on a managerial employee, and not on an officer, or partner of the employer, the department shall mail by certified mail a copy of the notice of infraction to the employer. The department shall mail a second copy by ordinary mail.

**NEW SECTION.** Sec. 17. In any case in which the department shall issue an order against any political or civil subdivision of the state, or any agency, or instrumentality of the state or of the foregoing, or any officer or

employee thereof, the department shall transmit a copy of such order to the governor of the state. The governor shall take such action to secure compliance with such order as the governor deems necessary.

**NEW SECTION.** Sec. 18. (1) If an employer desires to contest the notice of infraction issued, the employer shall file two copies of a notice of appeal with the department at the office designated on the notice of infraction, within twenty days of issuance of the infraction.

(2) The department shall conduct a hearing in accordance with chapter 34.05 RCW.

(3) Employers may appear before the administrative law judge through counsel, or may represent themselves. The department shall be represented by the attorney general.

(4) Admission of evidence is subject to RCW 34.05.452 and 34.05.446.

(5) The administrative law judge shall issue a proposed decision that includes findings of fact, conclusions of law, and if appropriate, any legal penalty. The proposed decision shall be served by certified mail or personally on the employer and the department. The employer or department may appeal to the director within thirty days after the date of issuance of the proposed decision. If none of the parties appeals within thirty days, the proposed decision may not be appealed either to the director or the courts.

(6) An appellant must file with the director an original and four copies of its notice of appeal. The notice of appeal must specify which findings and conclusions are erroneous. The appellant must attach to the notice the written arguments supporting its appeal.

The appellant must serve a copy of the notice of appeal and the arguments on the other parties. The respondent parties must file with the director their written arguments within thirty days after the date the notice of appeal and the arguments were served upon them.

(7) The director shall review the proposed decision in accordance with the administrative procedure act, chapter 34.05 RCW. The director may: Allow the parties to present oral arguments as well as the written arguments; require the parties to specify the portions of the record on which the parties rely; require the parties to submit additional information by affidavit or certificate; remand the matter to the administrative law judge for further proceedings; and require a departmental employee to prepare a summary of the record for the director to review. The director shall issue a final decision that can affirm, modify, or reverse the proposed decision.

(8) The director shall serve the final decision on all parties. Any aggrieved party may appeal the final decision to superior court pursuant to RCW 34.05.570 unless the final decision affirms an unappealed proposed decision. If no party appeals within the period set by RCW 34.05.570, the director's decision is conclusive and binding on all parties.

**NEW SECTION.** Sec. 19. An employer found to have committed an infraction under this chapter may be subject to a fine of up to two hundred



dollars for the first infraction. An employer that continues to violate the statute may be subject to a fine of up to one thousand dollars for each infraction. An employer found to have failed to reinstate an employee as required under section 7 of this act may also be ordered to reinstate the employee, with or without back pay.

**NEW SECTION.** Sec. 20. The department shall develop and furnish to each employer a poster which describes an employer's obligations and an employee's rights under this chapter. The poster must include notice about any state law, rule, or regulation governing maternity disability leave and indicate that federal or local ordinances, laws, rules or regulations may also apply. The poster must also include a telephone number and an address of the department to enable employees to obtain more information regarding this chapter. Each employer must display this poster in a conspicuous place. Nothing in this section shall be construed to create a right to continued employment.

**NEW SECTION.** Sec. 21. (1) The department will cease to administer and enforce this act upon the effective date of any federal act it determines, with the consent of the legislative budget committee, to be substantially similar, in substance and enforcement, to this act. A federal act shall be considered substantially similar even where the duration of leave required or size of employer covered is different than that under this chapter.

(2) No employee shall have a private right of action for any alleged violation of this chapter.

**NEW SECTION.** Sec. 22. The legislature finds that employers often distinguish between biological parents, and adoptive parents and stepparents in their employee leave policies. Many employers who grant leave to their employees to care for a newborn child either have no policy or establish a more restrictive policy regarding whether an adoptive parent or stepparent can take similar leave. The legislature further finds that many employers establish different leave policies for men and women regarding the care of a newborn or newly placed child. The legislature recognizes that the bonding that occurs between a parent and child is important to the nurturing of that child, regardless of whether the parent is the child's biological parent and regardless of the gender of the parent. For these reasons, the legislature declares that it is the public policy of this state to require that employers who grant leave to their employees to care for a newborn child make the same leave available upon the same terms for adoptive parents and stepparents, men and women.

**NEW SECTION.** Sec. 23. A new section is added to chapter 49.12 RCW to read as follows:

(1) An employer must grant an adoptive parent or a stepparent, at the time of birth or initial placement for adoption of a child under the age of

six, the same leave under the same terms as the employer grants to biological parents. As a term of leave, an employer may restrict leave to those living with the child at the time of birth or initial placement.

(2) An employer must grant the same leave upon the same terms for men as it does for women.

(3) The department shall administer and investigate violations of this section. Notices of infraction, penalties, and appeals shall be administered in the same manner as violations under RCW 49.12.285.

(4) For purposes of this section, "employer" includes all private and public employers listed in RCW 49.12.005(3).

(5) For purposes of this section, "leave" means any leave from employment granted to care for a newborn or a newly adopted child at the time of placement for adoption.

(6) Nothing in this section requires an employer to:

(a) Grant leave equivalent to maternity disability leave; or

(b) Establish a leave policy to care for a newborn or newly placed child if no such leave policy is in place for any of its employees.

NEW SECTION. Sec. 24. A new section is added to chapter 49.12 RCW to read as follows:

In the case of employees covered by an unexpired collective bargaining agreement that expires on or after September 1, 1989, or by an employee benefit program or plan with a stated year ending on or after September 1, 1989, the effective date of section 23 of this act shall be the later of: (1) The first day following expiration of the collective bargaining agreement; or (2) the first day of the next plan year.

NEW SECTION. Sec. 25. 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. 26. Sections 1 through 21 of this act shall constitute a new chapter in Title 49 RCW.

NEW SECTION. Sec. 27. This act shall take effect September 1, 1989.

Passed the House May 10, 1989.

Passed the Senate May 10, 1989.

Approved by the Governor June 1, 1989.

Filed in Office of Secretary of State June 1, 1989.

## CHAPTER 12

[Substitute Senate Bill No. 5521]

## CAPITAL BUDGET

AN ACT Adopting the capital budget; making appropriations and authorizing expenditures for capital improvements; authorizing certain projects; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. A capital budget is hereby adopted and, subject to the provisions set forth in this act, the several dollar amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital projects during the period ending June 30, 1991, out of the several funds specified in this act.

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**NEW SECTION.** Sec. 2. As used in this act, the following phrases have the following meanings:

"CEP & RI Acct" means Charitable, Educational, Penal, and Reformatory Institutions Account;

"CWU Cap Proj Acct" means Central Washington University Capital Projects Account;

"Cap Bldg Constr Acct" means Capitol Building Construction Account;

"Cap Purch & Dev Acct" means Capitol Purchase and Development Account;

"Capital improvements" or "capital projects" means 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;

"Common School Constr Fund" means Common School Construction Fund;

"DSHS Constr Acct" means State Social and Health Services Construction Account;

"ESS Rail Assis Acct" means essential rail assistance account;

"ESS Rail Bank Acct" means essential rail bank account;

"EWU Cap Proj Acct" means Eastern Washington University Capital Projects Account;

"East Cap Devel Acct" means east campus development account;

"Fish Cap Proj Acct" means Fisheries Capital Projects Account;

"For Dev Acct" means Forest Development Account;

"Game Spec Wildlife Acct" means Game Special Wildlife Account;

"H Ed Constr Acct" means Higher Education Construction Account 1979;

"H Ed Reimb S/T bonds Acct" means Higher Education Reimbursable Short-Term Bonds Account;

"Hndcp Fac Constr Acct" means Handicapped Facilities Construction Account;

"K-12 Education Acct" means the "children's initiative fund—K-12 education account" created by Initiative 102 if Initiative 102 is enacted;

"L & I Constr Acct" means Labor and Industries Construction Account;

"LIRA" means State and Local Improvement Revolving Account;

"LIRA, DSHS Fac" means Local Improvements Revolving Account—Department of Social and Health Services Facilities;

"LIRA, Public Rec Fac" means State and Local Improvement Revolving Account—Public Recreation Facilities;

"LIRA, Waste Disp Fac" means State and Local Improvement Revolving Account—Waste Disposal Facilities;

"LIRA, Waste Fac 1980" means State and Local Improvement Revolving Account—Waste Disposal Facilities 1980;

"LIRA, Water Sup Fac" means State and Local Improvement Revolving Account—Water supply facilities;

"Lapse" or "revert" means the amount shall return to an unappropriated status;

"Local Jail Imp & Constr Acct" means Local Jail Improvement and Construction Account;

"ORA" means Outdoor Recreation Account;

"ORV" means off road vehicle;

"Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is unnecessary to fulfill the specified purpose shall revert;

"Public Safety and Education Acct" means Public Safety and Education Account;

"Res Mgmt Cost Acct" means Resource Management Cost Account;

"Sal Enhmt Constr Acct" means Salmon Enhancement Construction Account;

"St Bldg Constr Acct" means State Building Construction Account;

"St Fac Renew Acct" means State Facilities Renewal Account;

"St H Ed Constr Acct" means State Higher Education Construction Account;

"State Emerg Water Proj Rev" means Emergency Water Project Revolving Account—State;

"TESC Cap Proj Acct" means The Evergreen State College Capital Projects Account;

"UW Bldg Acct" means University of Washington Building Account;

"Unemp Comp Admin Acct" means Unemployment Compensation Administration Account;

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"WA St Dev Loan Acct" means Washington State Development Loan Account;

"WSU Bldg Acct" means Washington State University Building Account;

"WWU Cap Proj Acct" means Western Washington University Capital Projects Account.

**PART 1  
GENERAL GOVERNMENT**

**NEW SECTION. Sec. 101. FOR THE SECRETARY OF STATE**

Renovate essential records protection facility—Birch Bay (88-2-001)

	Reappropriation	Appropriation
St Bldg Constr Acct	60,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
52,000		112,000

**NEW SECTION. Sec. 102. FOR THE SECRETARY OF STATE**

Design and construct regional branch archive facility (90-1-003)

	Reappropriation	Appropriation
St Bldg Constr Acct		3,039,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
49,000	7,069,000	10,123,000

**NEW SECTION. Sec. 103. FOR THE SECRETARY OF STATE**

Acquisition and installation of moveable archive vault #2 shelving (90-2-002)

	Reappropriation	Appropriation
St Bldg Constr Acct		152,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		152,000

**NEW SECTION. Sec. 104. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Local jail facilities (88-2-001)

	Reappropriation	Appropriation
Local Jail Imp & Con Acct	150,615	
St Bldg Constr Acct	1,060,789	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,827,596		5,039,000

**NEW SECTION. Sec. 105. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Higher education planning study

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely to contract with the higher education coordinating board for the purpose of developing, in cooperation with the public institutions of higher education and the office of financial management, a long-range plan for the orderly development of branch campuses and other programs and facilities located off the main campuses. The plan developed by the board shall be submitted to the legislature by January 1, 1990, and shall include recommendations on facilities required, space needs, and the most cost-efficient use of existing and new facilities to meet projected enrollments and programs.

	Reappropriation	Appropriation
St Bldg Constr Acct		1,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,000,000

**NEW SECTION. Sec. 106. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Higher education—Site acquisition and development

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for the acquisition of land and/or construction of facilities as recommended by the higher education coordinating board and consistent with the provisions of Senate Bill No. 6095, and shall be allocated to appropriate public institutions of higher education upon approval of the board.

	Reappropriation	Appropriation
St Bldg Constr Acct		45,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	100,000,000	145,000,000

**NEW SECTION. Sec. 107. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Energy retrofit projects (83-R-015)

	Reappropriation	Appropriation
Cap Bldg Constr Acct	314,700	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
715,300		1,030,000

**NEW SECTION. Sec. 108. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Temple of Justice renovation (86-1-011)

	Reappropriation	Appropriation
St Bldg Constr Acct	3,700,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
11,660,000		15,360,000

**NEW SECTION. Sec. 109. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Boiler plant structural repairs (88-1-003)

	Reappropriation	Appropriation
Cap Bldg Constr Acct	337,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
15,000		352,000

**NEW SECTION. Sec. 110. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Life/safety projects-Buildings (88-1-006)

	Reappropriation	Appropriation
Cap Bldg Constr Acct	113,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,014,000		1,127,000

**NEW SECTION. Sec. 111. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Northern State-Life Safety Repair (88-1-007)

	Reappropriation	Appropriation
St Bldg Constr Acct	256,418	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
68,582		325,000

**NEW SECTION. Sec. 112. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Archives renovation (88-2-004)



	Reappropriation	Appropriation
Cap Purch & Dev Acct	20,000	
St Bldg Constr Acct	10,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
530,000		560,000

**NEW SECTION. Sec. 113. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Campus repairs—Inadequate building systems (88-2-008)

	Reappropriation	Appropriation
Cap Bldg Constr Acct	50,000	
Cap Purch & Dev Acct	50,000	
St Bldg Constr Acct	1,825,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
5,442,000		7,367,000

**NEW SECTION. Sec. 114. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

John A. Cherberg Building remodel—Phase I: Floors 2 and 3 (88-2-040)

	Reappropriation	Appropriation
St Bldg Constr Acct	3,000,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
800,000		3,800,000

**NEW SECTION. Sec. 115. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Campus property protection (88-3-012)

	Reappropriation	Appropriation
St Bldg Constr Acct	350,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
410,000		760,000

**NEW SECTION. Sec. 116. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

East Campus programming and planning (88-3-042)

	Reappropriation	Appropriation
St Bldg Constr Acct	90,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
910,000		1,000,000

**NEW SECTION. Sec. 117. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Highway--License Building renovation (88-5-011)

	Reappropriation	Appropriation
Cap Purch & Devel Acct	449,000	
St Bldg Constr Acct	51,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		500,000

**NEW SECTION. Sec. 118. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Emergency repairs (90-1-001)

	Reappropriation	Appropriation
Cap Bldg Constr Acct		250,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	500,000	750,000

**NEW SECTION. Sec. 119. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Small repairs and improvements (90-1-002)

	Reappropriation	Appropriation
Cap Bldg Constr Acct		450,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	900,000	1,350,000

**NEW SECTION. Sec. 120. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Campus asbestos program (90-1-004)

	Reappropriation	Appropriation
St Bldg Constr Acct		200,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	210,000	410,000

**NEW SECTION. Sec. 121. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor works: Northern state repairs (90-1-012)

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

(1) The appropriation from the charitable, educational, penal, and reformatory institutions account shall be used solely for developing a long-range plan for the use of the Northern State Hospital facility. The plan shall be developed cooperatively with the department of social and health services and in consultation with affected local communities. The study shall be submitted to the office of financial management and the legislature by January 8, 1990.

(2) The appropriation from the state building construction account shall be used for asbestos abatement in residence facilities currently in use.

	Reappropriation	Appropriation
CEP & RI Acct		100,000
St Bldg Constr Acct		960,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,060,000

NEW SECTION. Sec. 122. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Boiler plant structural repairs (90-1-016)

	Reappropriation	Appropriation
St Bldg Constr Acct		730,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		730,000

NEW SECTION. Sec. 123. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Asbestos inventory and inspection program (90-01-023)

The appropriation in this section is subject to the following conditions and limitations: The department shall:

(1) Develop guidelines for asbestos surveys in all state-owned buildings.

(2) Review and approve state agency asbestos survey policies and procedures.

(3) Establish and maintain a central file of asbestos surveys of state-owned buildings.

	Reappropriation	Appropriation
St Bldg Constr Acct		200,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		200,000

**NEW SECTION. Sec. 124. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor works: Sidewalk and street repairs (90-2-005)

	Reappropriation	Appropriation
Cap Bldg Constr Acct		500,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	200,000	700,000

**NEW SECTION. Sec. 125. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor works: Building exterior repairs and renovation (90-2-006)

	Reappropriation	Appropriation
Cap Bldg Constr Acct		1,426,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	1,340,000	2,766,000

**NEW SECTION. Sec. 126. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor works: Elevator/escalator repair (90-2-007)

	Reappropriation	Appropriation
St Bldg Constr Acct		614,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	1,400,000	2,014,000

**NEW SECTION. Sec. 127. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor works: Electrical repairs (90-2-008)

	Reappropriation	Appropriation
Cap Bldg Constr Acct		797,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	901,000	1,698,000

**NEW SECTION. Sec. 128. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor works: Mechanical system repairs (90-2-009)

	Reappropriation	Appropriation
St Bldg Constr Acct		2,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	2,341,000	4,431,020

**NEW SECTION. Sec. 129. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor works: Interior building repair (90-2-010)

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

(1) \$80,000 of the state building construction account appropriation is provided solely to reimburse the senate during the 1987-89 biennium for costs incurred in the completion of the renovation of the legislative building.

(2) The appropriation from the state building construction account includes moneys to make repairs at the state building at 506 East 16th Street, Olympia.

(3) The capitol building construction account appropriation is provided solely to refurbish a portion of the third floor of the Cherberg building.

	Reappropriation	Appropriation
Cap Bldg Constr Acct		133,000
Motor Transport Acct		262,000
St Bldg Constr Acct		1,305,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	1,329,000	3,007,000

**NEW SECTION. Sec. 130. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Capitol Lake repairs and preservation (90-3-013)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$85,000 of this appropriation is provided solely for shoreline repairs.

(2) \$200,000 is provided solely for a study of the feasibility of developing a fresh-water wetland in the middle and south basins of Capitol Lake. The department of general administration shall contract with a qualified state agency, firm, or individual to conduct the feasibility study. The study shall include recommendations to local governments on ways they can reduce erosion and nonpoint pollution that adversely affect Capitol Lake.

	Reappropriation	Appropriation
Cap Bldg Constr Acct		285,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		285,000

**NEW SECTION. Sec. 131. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Facilities management system (90-4-018)

The appropriation in this section is subject to the following conditions and limitations: The department shall establish and maintain a central inventory of all state-owned land and facilities. The data elements of the inventory shall be developed in cooperation with the office of financial management.

	Reappropriation	Appropriation
St Bldg Constr Acct		200,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		200,000

**NEW SECTION. Sec. 132. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Construction of archives storage building (90-4-024)

	Reappropriation	Appropriation
St Bldg Constr Acct		2,015,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		2,015,000

**NEW SECTION. Sec. 133. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

East campus development (90-5-003)

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely to design and construct a natural resources building and parking facility on a site directly east of the old Thurston County courthouse. Prior to the start of construction, the department shall prepare a parking and traffic plan for the building.

	Reappropriation	Appropriation
East Cap Devel Acct		73,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		73,000,000

**NEW SECTION. Sec. 134. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Dawley property acquisition (90-5-011)

	Reappropriation	Appropriation
St Bldg Constr Acct		1,311,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,311,000

NEW SECTION. Sec. 135. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Preplans and surveys (90-5-022)

	Reappropriation	Appropriation
Cap Bldg Constr Acct		143,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		143,000

NEW SECTION. Sec. 136. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Capitol Campus master plan (90-5-025)

The appropriation in this section is subject to the following conditions and limitations: In developing the master plan, a capital museum shall be considered.

	Reappropriation	Appropriation
Cap Bldg Constr Acct		500,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		500,000

NEW SECTION. Sec. 137. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Capitol campus fire, safety, and temperature control system

	Reappropriation	Appropriation
Cap Bldg Constr Acct		850,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		850,000

NEW SECTION. Sec. 138. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Northern State Multi-Service Center

The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation is provided solely for the renovation of buildings to provide long-term care for the mentally ill.

(2) No moneys from this appropriation may be expended until the department secures a lease with a county or a group of counties for the buildings to be renovated, for the purpose of operating a long-term care facility for the mentally ill.

(3) No moneys from this appropriation may be expended prior to adoption of a plan to provide mental health services through a regional support network as required by chapter 205, Laws of 1989.

	Reappropriation	Appropriation
St Bldg Constr Acct		2,500,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		2,500,000

**NEW SECTION. Sec. 139. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Criminal justice training center study**

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for an examination of potential sites for a new criminal justice training center. By December 1, 1989, the department shall submit its recommendations to the legislative fiscal committees. The report shall consider whether the center should be separate or collocated with other state facilities.

	Reappropriation	Appropriation
Public Safety and Education Acct		30,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		30,000

**NEW SECTION. Sec. 140. FOR THE DEPARTMENT OF INFORMATION SERVICES**

**Washington higher education telecommunication system**

The appropriation in this section is subject to the following conditions and limitations: \$174,000 is provided solely for planning future expansion of the Washington higher education telecommunications system (WHETS). The plan shall include an analysis of the cost-effectiveness of the current system and the potential for expanding the system to other uses, such as regional universities, community colleges, public schools, and state agencies. In preparing the plan, the department shall coordinate with the office of financial management, which shall consult with the senate ways and means and the house of representatives capital facilities and financing committees.



	Reappropriation	Appropriation
St Bldg Constr Acct		174,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		174,000

**NEW SECTION. Sec. 141. FOR THE MILITARY DEPARTMENT**

Tacoma Armory rehabilitation phase 3 (86-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct	218,166	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,081,088		2,299,254

**NEW SECTION. Sec. 142. FOR THE MILITARY DEPARTMENT**

Constr watercraft supt training complex (86-1-003)

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

(1) The state building construction account appropriation is provided solely for the acquisition of a 50-year lease from the Port of Tacoma.

(2) The office of financial management shall not allot any portion of this appropriation unless it first determines that an agreement between the military department and the federal department of defense for the release of the property on Ruston Way in Tacoma provides that ownership of the property will be conveyed in fee simple to the state.

(3) It is the intent of the legislature that once the state owns the Ruston Way property, the property shall be available for sale in order to recover the cost of the 50-year lease.

	Reappropriation	Appropriation
General fund—Federal		6,885,000
St Bldg Constr Acct		1,300,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,640,000	5,500,000	15,324,000

**NEW SECTION. Sec. 143. FOR THE MILITARY DEPARTMENT**

Minor works: Support fed service agreement (86-1-004)

	Reappropriation	Appropriation
General fund—Federal		3,189,000
St Bldg Constr Acct		1,063,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	8,884,000	13,136,000

NEW SECTION. Sec. 144. FOR THE MILITARY DEPARTMENT  
Minor works (86-1-005)

	Reappropriation	Appropriation
St Bldg Constr Acct	100,000	425,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,099,000	1,100,000	3,724,000

NEW SECTION. Sec. 145. FOR THE MILITARY DEPARTMENT  
Small repairs and improvements (86-2-006)

	Reappropriation	Appropriation
St Bldg Constr Acct		375,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
812,000	1,150,000	2,337,000

NEW SECTION. Sec. 146. FOR THE MILITARY DEPARTMENT  
Construct Kent Armory (86-3-007)

	Reappropriation	Appropriation
General fund—Federal		600,000
St Bldg Constr Acct	488,013	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,000,987		4,089,000

NEW SECTION. Sec. 147. FOR THE MILITARY DEPARTMENT  
Life/Safety code compliance (88-1-005)

	Reappropriation	Appropriation
St Bldg Constr Acct		800,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	1,600,000	2,400,000

NEW SECTION. Sec. 148. FOR THE MILITARY DEPARTMENT  
Repair/replace leaking underground tanks (88-2-008)

	Reappropriation	Appropriation
St Bldg Constr Acct	205,000	345,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
82,000	430,000	1,062,000

NEW SECTION. Sec. 149. FOR THE MILITARY DEPARTMENT

Roof renovation (88-3-006)

	Reappropriation	Appropriation
St Bldg Constr Acct	125,000	700,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
575,000	900,000	2,300,000

NEW SECTION. Sec. 150. FOR THE MILITARY DEPARTMENT

Exterior painting of facilities (88-3-007)

	Reappropriation	Appropriation
St Bldg Constr Acct	5,000	258,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
253,000	500,000	1,016,000

NEW SECTION. Sec. 151. FOR THE MILITARY DEPARTMENT

Facility HVAC renovation (88-4-004)

	Reappropriation	Appropriation
St Bldg Constr Acct		280,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	434,000	714,000

NEW SECTION. Sec. 152. FOR THE MILITARY DEPARTMENT

Energy conservation projects (88-4-010)

	Reappropriation	Appropriation
St Bldg Constr Acct	125,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
951,000		1,076,000

NEW SECTION. Sec. 153. FOR THE MILITARY DEPARTMENT

Project preplanning (88-5-004)

	Reappropriation	Appropriation
St Bldg Constr Acct		198,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
174,000	341,000	713,000

PART 2

HUMAN RESOURCES

NEW SECTION. Sec. 201. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

Fire service training center—Minor works (87-4-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	145,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
26,000		171,000

NEW SECTION. Sec. 202. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

Capitalize development loan fund (88-2-002)

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

(1) No more than \$2,000,000 of the appropriations shall be made available for expenditure if the delinquency rate on loans outstanding is greater than ten percent. However, once the department demonstrates a delinquency rate of ten percent or less, the balance of this appropriation shall be made available for expenditure.

(2) "Delinquency" shall be defined as any loan more than ninety days past due where no formal loan workout agreement has been entered into between the borrower and the department.

(3) The department shall report to the legislature by January 8, 1990, on the number and types of loans awarded from the appropriation and the anticipated loan repayment rates on current and prior loans.

	Reappropriation	Appropriation
WA St Dev Loan Acct		2,000,000
St Bldg Constr Acct	1,100,000	1,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
7,970,000		10,970,000

NEW SECTION. Sec. 203. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

Endangered landmark buildings (88-2-009)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$600,000 is provided solely to be used by the department to purchase and hold for brief periods landmark buildings which might otherwise

be lost or altered, and to resell those buildings with the proceeds from the sale deposited in the endangered landmark preservation fund.

(2) This appropriation is contingent on an equal amount being provided from nonstate sources on a project by project basis.

(3) If legislation creating the landmarks preservation fund and establishing the endangered landmarks preservation program in statute is not adopted by the legislature by July 1, 1990, any moneys remaining from the appropriation in this section shall lapse.

	Reappropriation	Appropriation
St Bldg Constr Acct	600,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		600,000

**NEW SECTION. Sec. 204. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

**Grays Harbor dredging (88-3-006)**

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is provided solely for the state's share of costs for Grays Harbor dredging, dike construction, bridge relocation, and related expenses.

(2) Expenditure of moneys from this appropriation is contingent on \$40,000,000 from the United States army corps of engineers and \$10,000,000 from local government funds being provided for the project.

(3) Expenditure of moneys from this appropriation is contingent on a cost-sharing arrangement and the execution of a local cooperation agreement between the Port of Grays Harbor and the Army corps of engineers pursuant to Public Law 99-662, the federal water resources development act of 1986.

(4) The Port of Grays Harbor shall make the best possible effort to acquire additional project funding from sources other than those in subsection (2) of this section. Any money, up to \$10,000,000 provided from sources other than those in subsection (2) of this section, shall be used to reimburse or replace state building construction account money.

	Reappropriation	Appropriation
St Bldg Constr Acct	10,000,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		10,000,000

**NEW SECTION. Sec. 205. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

Capitalize housing trust fund (88-5-015)

The appropriation in this section is subject to the following conditions and limitations:

(1) No expenditures from this appropriation may be made until the department has completed the state-wide housing data study and the legislature has reviewed the results.

(2) \$15,000,000 of this appropriation may be expended solely for capital costs and \$1,000,000 may be expended solely for technical assistance and administrative costs pursuant to the purposes of the housing trust fund under RCW 43.185.050 and 43.185.070. The appropriation for capital costs is for loans or grants for capital projects state-wide that will provide housing for persons or families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located. At least thirty percent of the moneys used for loans or grants shall go to projects located in rural areas.

(3) The department shall to the maximum extent feasible use the appropriation to leverage other funds for capital costs associated with the purposes of the housing trust fund under chapter 43.185 RCW.

	Reappropriation	Appropriation
St Bldg Constr Acct	2,000,000	16,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	20,000,000	38,000,000

NEW SECTION. Sec. 206. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

Tacoma Union Station (88-5-016)

The appropriation in this section, in addition to funds appropriated for the 1987-89 biennium for this project, is subject to the following conditions and limitations:

(1) \$1,000,000 is provided solely to prevent further deterioration of the Tacoma Union Station building. This may include, but is not limited to, providing a fire detection system, removing safety hazards, and programming necessary to implement these works.

(2) A maximum of \$500,000 may be used for planning regarding future use of the Tacoma Union Station property to promote state economic development.

(3) The money in subsections (1) and (2) of this section is provided contingent upon a written legal agreement between the city of Tacoma and the state that (a) requires state approval of future uses and disposition of the Tacoma Union Station property and (b) gives the state the right of first

refusal to assume the city of Tacoma's option to purchase the Tacoma Union Station property currently owned by the Burlington Northern company.

(4) \$500,000 is provided solely for architectural plans and construction specifications for a state museum on the Union Station property.

(5) \$400,000 is provided solely for purchase of the Union Station property. Expenditure of this amount is contingent on a like amount being provided for this purpose from nonstate sources.

(6) \$2,000,000 is provided solely for restoration of the rotunda of the Union Station building. Expenditure of this amount is contingent on the city's agreement to exercise its option to purchase Union Station and the city's agreement to grant to the state the right of first refusal to assume the city's option to purchase the property should the city decide to withdraw from the project.

(7) Expenditure of the moneys in subsections (4), (5), and (6) of this section is contingent on a written legal agreement between the city of Tacoma and the state that:

(a) The city obtain the state's approval for all decisions with respect to:

(i) Determining final ownership of Union Station itself;

(ii) Identifying appropriate uses for the site; and

(iii) Selecting consultants retained by the city under its contract with the state;

(b) The city consult with the state and, unless prohibited from doing so by terms of the United States general services administration lease, follow the state's recommendations in other significant decisions concerning the development of the Union Station properties, including but not limited to:

(i) Planning the development and redevelopment of the site to accommodate appropriate uses;

(ii) Obtaining financing for acquisition, development, or redevelopment of the property; and

(iii) Acquiring, leasing, subleasing, and/or reselling the property;

(c) If the city finds that it is not possible to follow the state's recommendations, the city will advise the state and allow the state a reasonable opportunity to comment; and

(d) The city shall obtain a public access easement from the United States general services administration or any other owner or lessee that will allow public access through the rotunda to the facilities of any state agency, subject to such reasonable limitations as required by the federal courts for safe and efficient operation. In determining compatible state facilities to be located on the site, the state shall consult with the city and the federal government.

	Reappropriation	Appropriation
St Bldg Constr Acct		3,400,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,000,000		4,400,000

**NEW SECTION. Sec. 207. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

San Juan County Courthouse (88-5-017)

The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation is contingent on the provision of an equal amount of money from nonstate sources.

(2) If the appropriation in this section is not expended, or if the conditions and limitations in subsection (1) of this section are not met, by June 30, 1990, the appropriation in this section shall lapse.

	<u>Reappropriation</u>	<u>Appropriation</u>
St Bldg Constr Acct	100,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		100,000

**NEW SECTION. Sec. 208. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

Spokane public facilities (89-5-005)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is provided solely for the purposes of RCW 36-100.030 and 36.100.060.

(2) If the appropriation in this section is not expended by December 31, 1991, the appropriation in this section shall lapse.

(3) This appropriation shall lapse if an appropriation is enacted for the same purpose in Substitute Senate Bill No. 6074 prior to June 30, 1989.

	<u>Reappropriation</u>	<u>Appropriation</u>
St Bldg Constr Acct	500,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		500,000

**NEW SECTION. Sec. 209. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

Public works trust fund (90-2-001)

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for public



works projects recommended by the public works board and approved by the legislature under chapter 43.155 RCW.

	Reappropriation	Appropriation
Pub Works Asst Acct	61,627,871	78,241,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
32,446,397	168,562,493	327,623,873

**NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

Emergency management building minor renovation (90-2-003)

The appropriation in this section is subject to the following conditions and limitations: This appropriation shall be used solely to provide handicapped access and improve insulation.

	Reappropriation	Appropriation
St Bldg Constr Acct		80,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		80,000

**NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

Fire service training center minor works (90-2-004)

	Reappropriation	Appropriation
St Bldg Constr Acct		441,887
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		441,887

**NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

Tall ship tourist attraction

The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation shall be used for the Grays Harbor historical seaport authority to construct a tall ship tourist attraction.

(2) Expenditure of moneys from this appropriation is contingent on the expenditure for the same purpose of at least one dollar, including in-kind contributions, from nonstate sources for each dollar spent from this appropriation.

	Reappropriation	Appropriation
St Bldg Constr Acct		1,000,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,000,000

**\*NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

***Asian Counseling and Referral Service***

***The appropriation in this section is subject to the following conditions and limitations:***

***(1) This appropriation shall be used for building renovation costs only.***

***(2) This appropriation is contingent on the expenditure for the same purpose of at least two dollars from nonstate sources for each dollar spent from this appropriation.***

	<b><i>Reappropriation</i></b>	<b><i>Appropriation</i></b>
<b><i>St Bldg Constr Acct</i></b>		<b><i>100,000</i></b>
<b><u>Prior Biennia</u></b>	<b><u>Future Biennia</u></b>	<b><u>Total</u></b>
		<b><i>100,000</i></b>

**\*Sec. 213 was vetoed, see message at end of chapter.**

**NEW SECTION. Sec. 214. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

***Thorp Grist Mill restoration***

***The appropriation in this section is subject to the following conditions and limitations: Expenditure of moneys from this appropriation is contingent on the expenditure for the same purpose of at least two dollars from nonstate sources for each dollar spent from this appropriation.***

	<b><i>Reappropriation</i></b>	<b><i>Appropriation</i></b>
<b><i>St Bldg Constr Acct</i></b>		<b><i>30,000</i></b>
<b><u>Prior Biennia</u></b>	<b><u>Future Biennia</u></b>	<b><u>Total</u></b>
		<b><i>30,000</i></b>

**NEW SECTION. Sec. 215. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

***Nordic Heritage Museum: Building acquisition and improvements***

***The appropriation in this section is subject to the following conditions and limitations: This appropriation is contingent on the expenditure for the same purpose of at least two dollars from nonstate sources for each dollar spent from this appropriation.***

	<b><i>Reappropriation</i></b>	<b><i>Appropriation</i></b>
<b><i>St Bldg Constr Acct</i></b>		<b><i>200,000</i></b>

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		200,000

**NEW SECTION. Sec. 216. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

Columbia County Courthouse (89-4-004)

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

- (1) \$600,000 is provided solely to repair and restore the Columbia county courthouse.
- (2) The \$400,000 reappropriation shall be matched by \$700,000 in private donations and local funds from Columbia county.
- (3) The \$200,000 appropriation shall be matched by an equal amount of private donations and local funds from Columbia county.

	Reappropriation	Appropriation
St Bldg Constr Acct	400,000	200,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		600,000

**NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

Clark County cultural center—Planning

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided for a grant to Clark county for planning a cultural art/puppet center and theater.

	Reappropriation	Appropriation
St Bldg Constr Acct		25,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		25,000

**NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

Purchase of the Last Territorial Governor's House

The appropriation in this section is subject to the following conditions and limitations:

- (1) Expenditure of moneys from this appropriation is contingent on the expenditure for the same purpose of at least one dollar from nonstate sources, including in-kind contributions, for each four dollars spent from this appropriation.

(2) A nonprofit organization shall be formed for the purpose of spending this appropriation and operating the territorial governor's house.

(3) The purchase price shall not exceed an independently appraised value.

	Reappropriation	Appropriation
St Bldg Constr Acct		200,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		200,000

**NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

Marine science center construction

The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation is provided solely for a grant to the city of Poulsbo for construction of a marine science center to be operated by educational service district no. 114.

(2) Expenditure of this appropriation is contingent on site acquisition and at least \$300,000 of construction costs contributed from nonstate sources.

	Reappropriation	Appropriation
St Bldg Constr Acct		500,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		500,000

**NEW SECTION. Sec. 220. FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

Property acquisition, design and construct office facility (90-5-001)

	Reappropriation	Appropriation
L & I Constr Acct		63,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		63,000,000

**NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Lakeland Village: Construct habilitation center (79-1-009)

	Reappropriation	Appropriation
DSHS Constr Acct	450,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
5,965,662		6,415,662

**NEW SECTION, Sec. 222. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Rainier School: Renovate Evergreen Center (79-1-017)

	Reappropriation	Appropriation
St Bldg Constr Acct	4,400,000	
DSHS Constr Acct	150,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
983,824		5,533,824

**NEW SECTION, Sec. 223. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Referendum #37 (79-3-001)

The appropriation in this section is subject to the following conditions and limitations: In addition to previously approved projects, \$29,000 shall be used to construct an addition to a training center in Skamania county to serve up to ten more developmentally disabled children under four years old. This amount may be expended only if the final application for the project is submitted by December 31, 1989, and approved by March 31, 1990.

	Reappropriation	Appropriation
Handicap Fac Constr Acct	350,000	
Improve—DSHS Fac Acct	23,500	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,937,539		3,311,039

**NEW SECTION, Sec. 224. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

State mental health residences (79-3-002)

The appropriation in this section is subject to the following conditions and limitations: A maximum of \$40,000 of the funds provided may be spent for renovation or other costs necessary to establish a self-supporting day care center for children of state employees at Eastern State Hospital. A maximum of \$280,000 of the funds provided in this section is provided solely for participation by the department of social and health services in a project to construct a multipurpose child care center at the Everett community college.

	Reappropriation	Appropriation
Improve—DSHS Fac Acct	230,000	90,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
974,177		1,294,177

**NEW SECTION. Sec. 225. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Western State Hospital: Complete artwork (79-4-005)

	Reappropriation	Appropriation
DSHS Constr Acct	40,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
108,045		148,045

**NEW SECTION. Sec. 226. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Western State Hospital: Fire safety (83-1-006)

	Reappropriation	Appropriation
DSHS Constr Acct	25,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
189,203		214,203

**NEW SECTION. Sec. 227. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Frances Haddon Morgan Center: Renovate Marion School (83-1-015)

	Reappropriation	Appropriation
St Bldg Constr Acct	150,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,319,000		1,469,000

**NEW SECTION. Sec. 228. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Eastern State Hospital: Renovate wards, phase 1 (83-2-016)

	Reappropriation	Appropriation
DSHS Constr Acct	100,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,175,000		3,275,000

**NEW SECTION. Sec. 229. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Western State Hospital: Renovate wards, phase 2 (83-2-017)

	Reappropriation	Appropriation
DSHS Constr Acct	2,300,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
11,598,000		13,898,000

NEW SECTION. Sec. 230. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Mission Creek: Renovate main buildings (86-1-202)

	Reappropriation	Appropriation
St Fac Renew Acct	165,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,882,999		2,047,999

NEW SECTION. Sec. 231. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Fircrest Schools: Construct food service (86-1-403)

	Reappropriation	Appropriation
DSHS Constr Acct	200,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,896,302		4,096,302

NEW SECTION. Sec. 232. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Referendum 27 and 38 (86-2-099)

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for drought-related municipal and industrial water supply projects. Up to sixteen full-time equivalent staff per year may be funded from the reappropriation of Referendum 38 for the purpose of reviewing local water improvement accounts.

	Reappropriation	Appropriation
LIRA Water Supp Fac	22,000,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
23,134,000		45,134,000

NEW SECTION. Sec. 233. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

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Western State Hospital: Renovate wards, phase 3 (88-1-307)

	Reappropriation	Appropriation
St Bldg Constr Acct	375,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
210,900		585,900

**NEW SECTION. Sec. 234. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

CSTC: Renovate residences to high school (88-1-318)

	Reappropriation	Appropriation
St Bldg Constr Acct	160,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
165,000		325,000

**NEW SECTION. Sec. 235. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Western State Hospital: Sanitary sewer (88-2-400)

	Reappropriation	Appropriation
St Bldg Constr Acct	2,650,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,229,000		4,879,000

**NEW SECTION. Sec. 236. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor capital renewal: Fire safety (90-1-004)

	Reappropriation	Appropriation
CEP & RI Acct		600,000
St Bldg Constr Acct	810,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
335,000	1,200,000	2,945,000

**NEW SECTION. Sec. 237. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor capital renewal: Hazardous substance (90-1-005)

	Reappropriation	Appropriation
CEP & RI Acct		500,000
St Bldg Constr Acct	450,000	



<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
527,000	1,392,500	2,869,500

**NEW SECTION. Sec. 238. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Emergency capital repairs (90-1-007)

	Reappropriation	Appropriation
CEP & RI Acct		250,000
St Bldg Constr Acct	220,000	
St Fac Renew Acct	160,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
864,502	500,000	1,994,502

**NEW SECTION. Sec. 239. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Echo Glen: Renovate eleven living units (90-1-210)

	Reappropriation	Appropriation
St Bldg Constr Acct		2,964,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		2,964,000

**NEW SECTION. Sec. 240. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Western State Hospital: Ward renovations, phase 4 (90-1-312)

The appropriation in this section is subject to the following conditions and limitations: \$1,000,000 is intended for planning and design to accelerate the next phase of this renovation project.

	Reappropriation	Appropriation
St Bldg Constr Acct		6,192,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		6,192,000

**NEW SECTION. Sec. 241. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Eastern State Hospital: Ward renovations, phase 2 (90-1-339)

	Reappropriation	Appropriation
St Bldg Constr Acct		4,510,400

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		4,510,400

**NEW SECTION. Sec. 242. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor capital renewal: Utilities and facilities (90-2-001)

	Reappropriation	Appropriation
CEP & RI Acct		750,000
St Bldg Constr Acct	450,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
608,000	2,100,000	3,908,000

**NEW SECTION. Sec. 243. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor capital renewal: Roads and grounds (90-2-002)

	Reappropriation	Appropriation
CEP & RI Acct		500,000
St Bldg Constr Acct	500,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
122,000	1,200,000	2,322,000

**NEW SECTION. Sec. 244. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor capital renewal: Roofs (90-2-003)

	Reappropriation	Appropriation
St Bldg Constr Acct	200,000	700,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
940,000	2,000,000	3,840,000

**NEW SECTION. Sec. 245. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Small repairs and improvements (90-2-008)

	Reappropriation	Appropriation
CEP & RI Acct		190,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	415,000	605,000

**NEW SECTION. Sec. 246. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor projects: Bureau of Alcohol and Substance Abuse (90-2-010)

	Reappropriation	Appropriation
CEP & RI Acct		442,400
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	100,000	542,400

**NEW SECTION. Sec. 247. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor projects: Juvenile rehabilitation division (90-2-020)

	Reappropriation	Appropriation
CEP & RI Acct		270,100
St Bldg Constr Acct	340,000	
St Fac Renew Acct	650,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,375,000	300,000	3,935,100

**NEW SECTION. Sec. 248. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor projects: Mental health division, including renovation and expansion of bathroom facilities for the PORTAL program at the Northern State multi-service center (90-2-030)

	Reappropriation	Appropriation
St Bldg Constr Acct	200,000	650,000
St Fac Renew Acct	110,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,514,042	700,000	3,174,042

**NEW SECTION. Sec. 249. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor projects: Mental health division (2) (90-2-032)

	Reappropriation	Appropriation
CEP & RI Acct		75,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	250,000	325,000

**NEW SECTION. Sec. 250. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor projects: Developmental disabilities division (90-2-040)

	Reappropriation	Appropriation
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CEP & RI Acct		21,200
St Bldg Constr Acct	245,000	517,600
St Fac Renew Acct	80,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,078,999	550,000	3,492,799

**NEW SECTION. Sec. 251. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor projects: Health division (90-2-050)

	Reappropriation	Appropriation
CEP & RI Acct		358,900
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	100,000	358,900

**NEW SECTION. Sec. 252. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Lakeland Village: Steam plant replacement (90-2-425)

	Reappropriation	Appropriation
St Bldg Constr Acct		4,063,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		4,063,000

**NEW SECTION. Sec. 253. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Minor capital renewal, mental health division (90-2-060)

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for minor building renewal projects at Western and Eastern state hospitals, which may include up to \$75,000 for remodeling existing state buildings for use as employee child care facilities.

	Reappropriation	Appropriation
St Bldg Constr Acct		1,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,000,000

**NEW SECTION. Sec. 254. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Resource conservation (90-4-006)

Reappropriation	Appropriation
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St Bldg Constr Acct 150,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
165,045		315,045

**NEW SECTION. Sec. 255. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Preplanning (90-4-009)

	Reappropriation	Appropriation
CEP & RI Acct		191,400

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	329,500	520,900

**NEW SECTION. Sec. 256. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Food bank facility: Fircrest (90-5-011)

	Reappropriation	Appropriation
St Bldg Constr Acct		788,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		788,000

**NEW SECTION. Sec. 257. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Eastern State Hospital: Electrical System Replacement (90-2-345)

	Reappropriation	Appropriation
St Bldg Constr Acct		1,371,600

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,371,600

**NEW SECTION. Sec. 258. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Child care facilities

The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation is provided solely for the child care coordinating committee to award grants to state agencies, institutions of higher education, state employees, or groups of state employees for the purpose of making capital improvements to start or renovate child care centers for state employees.

(2) The child care coordinating committee shall adopt rules for awarding the grants that include an application process that encourages state agencies and employees to submit innovative and competitive proposals for the grants.

(3) The child care coordinating committee shall report to the legislature by January 8, 1991, describing the number and types of grants awarded under this appropriation and making recommendations for future child care facility grants.

	Reappropriation	Appropriation
St Bldg Constr Acct		600,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		600,000

**NEW SECTION. Sec. 259. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Mental health evaluation and treatment facility in Snohomish county

The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation is provided solely for a mental health evaluation and treatment facility in Snohomish county.

(2) No moneys from this appropriation may be expended until the department enters into a fifteen-year lease or lease/purchase agreement with Snohomish county or a group of counties for the facility. The payments under the agreement shall be either at least equal to the facility component of the state average rate-per-patient day paid by the department to community mental health providers for comparable services, or at least equal to the amount of this appropriation amortized over fifteen years.

(3) No moneys from this appropriation may be expended prior to adoption of a plan to provide mental health services through a regional support network as required by chapter 205, Laws of 1989.

(4) Other counties or regions that adopt plans for mental health services as required by chapter 205, Laws of 1989, shall be eligible for application to the state for future evaluation and treatment facility moneys under the same conditions as are provided in subsections (2) and (3) of this section, so long as no applicant receives appropriated moneys from state sources exceeding one million dollars.

	Reappropriation	Appropriation
St Bldg Constr Acct		1,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,000,000

**NEW SECTION. Sec. 260. FOR THE DEPARTMENT OF VETERANS' AFFAIRS**

Food services renovation (88-1-014)

	Reappropriation	Appropriation
CEP & RI Acct		282,700
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		282,700

**NEW SECTION. Sec. 261. FOR THE DEPARTMENT OF VETERANS' AFFAIRS**

Soldiers Home—Preplan a thirty bed Alzheimer's unit (88-5-020)

The appropriation in this section is subject to the following conditions and limitations:

(1) The department shall participate in the long-term care study to be conducted by the department of social and health services as required by Engrossed Substitute Senate Bill No. 5352.

(2) The department shall prepare a policy on admissions to the veterans' home and soldiers' home. The policy shall identify priority populations and establish procedures to ensure the highest priority group of veterans are served. The department shall report to the house of representatives capital facilities and operations committee and senate ways and means committee on the admission policy by December 1, 1989.

	Reappropriation	Appropriation
CEP & RI Acct		33,700
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	1,908,700	1,942,400

**NEW SECTION. Sec. 262. FOR THE DEPARTMENT OF VETERANS' AFFAIRS**

Minor projects—Asbestos (90-1-003)

	Reappropriation	Appropriation
CEP & RI Acct		300,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		300,000

**NEW SECTION. Sec. 263. FOR THE DEPARTMENT OF VETERANS' AFFAIRS**

Minor projects—Roads and walkways (90-1-005)

Reappropriation	Appropriation
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CEP & RI Acct		100,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		100,000

NEW SECTION. Sec. 264. FOR THE DEPARTMENT OF VETERANS' AFFAIRS

Air quality, Building 9 (90-1-009)

	Reappropriation	Appropriation
CEP & RI Acct		313,200
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		313,200

NEW SECTION. Sec. 265. FOR THE DEPARTMENT OF VETERANS' AFFAIRS

Small projects (90-1-011)

	Reappropriation	Appropriation
CEP & RI Acct		39,800
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		39,800

NEW SECTION. Sec. 266. FOR THE DEPARTMENT OF VETERANS' AFFAIRS

Minor projects—Building remodel (90-2-008)

	Reappropriation	Appropriation
CEP & RI Acct		256,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		256,000

NEW SECTION. Sec. 267. FOR THE DEPARTMENT OF VETERANS' AFFAIRS

Minor projects—Utilities and energy projects (90-4-006)

	Reappropriation	Appropriation
CEP & RI Acct		544,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		544,000

NEW SECTION. Sec. 268. FOR THE DEPARTMENT OF VETERANS' AFFAIRS



Minor projects—Building study (90-5-012)

	Reappropriation	Appropriation
CEP & RI Acct		35,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
		<u>Total</u>
		35,000

NEW SECTION. Sec. 269. FOR THE DEPARTMENT OF VETERANS' AFFAIRS

Steam distribution system (92-2-024)

	Reappropriation	Appropriation
CEP & RI Acct		22,200
	<u>Prior Biennia</u>	<u>Future Biennia</u>
		<u>Total</u>
	895,700	917,900

NEW SECTION. Sec. 270. FOR THE DEPARTMENT OF CORRECTIONS

The department of corrections shall develop a population management and facilities master plan that evaluates alternatives for accommodating increased correctional system population, reflecting updated office of financial management inmate population forecasts and any population increases resulting from legislation enacted during the 1989 legislative session. The plan shall assess and evaluate each alternative on the basis of its short-term and long-term programs and fiscal impacts and shall be submitted to the fiscal committees of the legislature by December 1, 1989.

NEW SECTION. Sec. 271. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center enlarge, remodel six hundred beds (83-3-029)

	Reappropriation	Appropriation
St Bldg Constr Acct	32,961	
	<u>Prior Biennia</u>	<u>Future Biennia</u>
		<u>Total</u>
	1,338,053	1,371,014

NEW SECTION. Sec. 272. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Reformatory facility improvements (83-3-048)

	Reappropriation	Appropriation
St Bldg Constr Acct	6,500,000	8,600,000
DSHS Constr Acct	500,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
8,033,303	16,000,000	39,633,303

**NEW SECTION. Sec. 273. FOR THE DEPARTMENT OF CORRECTIONS**

Washington State Penitentiary improve security, facilities, utilities (83-3-052)

	Reappropriation	Appropriation
St Bldg Constr Acct	400,000	5,898,000
DSHS Constr Acct	1,600,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
6,317,413	2,476,000	16,691,413

**NEW SECTION. Sec. 274. FOR THE DEPARTMENT OF CORRECTIONS**

McNeil Island Corrections Center renovation of utilities (86-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	4,000,000	1,261,000
St Fac Renew Acct	300,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,724,000	4,674,000	13,959,000

**NEW SECTION. Sec. 275. FOR THE DEPARTMENT OF CORRECTIONS**

McNeil Island Corrections Center repairs to transportation system, including parking and a materials forwarding facility at Western State Hospital (86-1-004)

	Reappropriation	Appropriation
St Bldg Constr Acct	985,000	3,522,000
St Fac Renew Acct	900,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,408,000	7,081,000	13,896,000

**NEW SECTION. Sec. 276. FOR THE DEPARTMENT OF CORRECTIONS**

McNeil Island Corrections Center building fire/safety (86-1-008)

	Reappropriation	Appropriation
St Bldg Constr Acct	2,500,000	2,183,000
St Fac Renew Acct	1,000,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,665,000	967,000	8,315,000

NEW SECTION. Sec. 277. FOR THE DEPARTMENT OF CORRECTIONS

State-wide minor projects (86-2-005)

	Reappropriation	Appropriation
St Bldg Constr Acct	1,000,000	
St Fac Renew Acct	300,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,879,000		4,179,000

NEW SECTION. Sec. 278. FOR THE DEPARTMENT OF CORRECTIONS

State-wide small repairs and improvements (86-2-006)

	Reappropriation	Appropriation
St Bldg Constr Acct	250,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
296,000		546,000

NEW SECTION. Sec. 279. FOR THE DEPARTMENT OF CORRECTIONS

Life safety code compliance (88-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	700,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
840,000		1,540,000

NEW SECTION. Sec. 280. FOR THE DEPARTMENT OF CORRECTIONS

State-wide wastewater system improvements (88-1-017)

	Reappropriation	Appropriation
St Bldg Constr Acct	440,000	605,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
268,000		1,313,000

NEW SECTION. Sec. 281. FOR THE DEPARTMENT OF CORRECTIONS

State-wide water system improvements (88-1-018)

	Reappropriation	Appropriation
St Bldg Constr Acct	250,000	939,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
172,000		1,361,000

**NEW SECTION. Sec. 282. FOR THE DEPARTMENT OF CORRECTIONS**

McNeil Island Corrections Center implement master plan (88-2-003)

The appropriation in this section is subject to the following conditions and limitations: Moneys in this appropriation shall not be expended until the master plan has been submitted to the legislative fiscal committees and the office of financial management has reported to the committees that satisfactory progress has been made on receiving approval of the environmental impact statement, selecting mainland parking facility, and selecting mainland ferry terminal.

	Reappropriation	Appropriation
St Bldg Constr Acct		4,377,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
621,000	28,000,000	32,998,000

**NEW SECTION. Sec. 283. FOR THE DEPARTMENT OF CORRECTIONS**

Pre-release facility relocation (88-2-004)

The appropriation in this section is subject to the following conditions and limitations: The department shall develop a siting policy, in conjunction with cities, counties, community groups, and the department of community development, for the establishment of additional prerelease facilities. The policy shall include at least the following elements:

- (1) Guidelines for appropriate site selection of prerelease facilities;
- (2) Requirements for notification to local government and community groups of intent to site a prerelease facility; and
- (3) Guidelines for effective relations between the prerelease program operation and the surrounding community.

	Reappropriation	Appropriation
St Bldg Constr Acct	4,200,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
262,000		4,462,000

**NEW SECTION. Sec. 284. FOR THE DEPARTMENT OF CORRECTIONS**

Eastern Washington prerelease, site preparation (88-2-005)

	Reappropriation	Appropriation
St Bldg Constr Acct	340,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
671,000		1,011,000

**NEW SECTION.** Sec. 285. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center for Women—Minor renovations (88-2-006)

	Reappropriation	Appropriation
St Bldg Constr Acct	460,000	1,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
155,000	5,800,000	7,415,000

**NEW SECTION.** Sec. 286. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center reroof building (88-3-019)

	Reappropriation	Appropriation
St Bldg Constr Acct	1,000,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
65,000		1,065,000

**NEW SECTION.** Sec. 287. FOR THE DEPARTMENT OF CORRECTIONS

State-wide asbestos removal/encapsulation (90-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		2,500,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	5,000,000	7,500,000

**NEW SECTION.** Sec. 288. FOR THE DEPARTMENT OF CORRECTIONS

Hazardous materials management (90-1-004)

	Reappropriation	Appropriation
St Bldg Constr Acct		879,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	604,000	1,483,000
<b><u>NEW SECTION.</u> Sec. 289. FOR THE DEPARTMENT OF CORRECTIONS</b>		
WCC and WCCW perimeter security upgrade (90-1-007)		
	Reappropriation	Appropriation
St Bldg Constr Acct		1,652,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	3,277,000	4,929,000
<b><u>NEW SECTION.</u> Sec. 290. FOR THE DEPARTMENT OF CORRECTIONS</b>		
State-wide minor projects (90-1-009)		
	Reappropriation	Appropriation
CEP & RI Acct		1,000,000
St Bldg Constr Acct		4,349,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	8,000,000	13,349,000
<b><u>NEW SECTION.</u> Sec. 291. FOR THE DEPARTMENT OF CORRECTIONS</b>		
State-wide small repairs and improvements (90-1-010)		
	Reappropriation	Appropriation
St Bldg Constr Acct		756,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		756,000
<b><u>NEW SECTION.</u> Sec. 292. FOR THE DEPARTMENT OF CORRECTIONS</b>		
State-wide emergency repairs projects (90-1-013)		
	Reappropriation	Appropriation
CEP & RI Acct		750,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	1,500,000	2,250,000
<b><u>NEW SECTION.</u> Sec. 293. FOR THE DEPARTMENT OF CORRECTIONS</b>		

Washington Corrections Center Reception Center upgrade (90-2-012)

	Reappropriation	Appropriation
CEP & RI Acct		26,000
St Bldg Constr Acct		236,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	14,400,000	14,662,000
		<u>Total</u>

NEW SECTION. Sec. 294. FOR THE DEPARTMENT OF CORRECTIONS

WSP—Expand medium security complex (MSC) industries building (90-2-016)

	Reappropriation	Appropriation
St Bldg Constr Acct		1,213,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
		1,213,000
		<u>Total</u>

NEW SECTION. Sec. 295. FOR THE DEPARTMENT OF CORRECTIONS

State-wide roof repair (90-3-011)

	Reappropriation	Appropriation
St Bldg Constr Acct		1,500,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
		1,500,000
		<u>Total</u>

NEW SECTION. Sec. 296. FOR THE DEPARTMENT OF CORRECTIONS

Community corrections cost analysis of state ownership options—  
Work release

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for a study to determine whether the department should own, contract with private providers for, or use a combination of ownership and contracting for work release facilities. Any recommendations resulting from the study shall be consistent with the siting policy requirements contained in chapter 89, Laws of 1989.

	Reappropriation	Appropriation
CEP & RI Acct		218,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	7,790,000	8,008,000
		<u>Total</u>

NEW SECTION. Sec. 297. FOR THE DEPARTMENT OF CORRECTIONS

Clallam Bay corrections center double-celling and program area renovations

	Reappropriation	Appropriation
St Bldg Constr Acct		4,071,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		4,071,000

PART 3

NATURAL RESOURCES

NEW SECTION. Sec. 301. FOR THE WASHINGTON STATE ENERGY OFFICE

Energy conservation projects (90-4-001)

The appropriation in this section is subject to the following conditions and limitations: The department shall contract with the following agencies for the amounts specified to undertake energy conservation projects. Each contract shall require the agencies listed below to deposit into the energy conservation account, hereby created in the state treasury, an amount equal to the contract amount. The payback period for the contracted amount shall be determined by the department, but shall not exceed six years.

(1) No more than \$1,033,000 shall be expended for energy conservation projects for Military Department facilities;

(2) No more than \$361,600 shall be expended for energy conservation projects for the department of social and health services;

(3) No more than \$552,000 shall be expended for energy conservation projects for The Evergreen State College.

	Reappropriation	Appropriation
St Bldg Constr Acct		1,946,600
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	2,199,000	4,145,600

NEW SECTION. Sec. 302. FOR THE DEPARTMENT OF ECOLOGY

Referendum 26—Waste disposal facilities; special program, state-wide (74-5-004)

The appropriation in this section is subject to the following conditions and limitations: In making grants or loans from this appropriation for waste



reduction and recycling projects, the department shall give priority to food and yard wastes projects.

	Reappropriation	Appropriation
LIRA—Waste Disp Fac	23,753,701	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
207,023,603		230,777,304

NEW SECTION. Sec. 303. FOR THE DEPARTMENT OF ECOLOGY

Referendum 27 and 38—Water supply facilities; special program, state-wide (74-5-006)

The appropriation in this section is subject to the following conditions and limitations: A maximum of \$75,000 of this reappropriation may be expended for modification of the gate on the Lake Osoyoos international water control structure authorized by chapter 76, Laws of 1982.

	Reappropriation	Appropriation
LIRA Water Sup Fac	29,423,518	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
25,812,996	11,764,121	67,000,635

NEW SECTION. Sec. 304. FOR THE DEPARTMENT OF ECOLOGY

State emergency water project revolving account; special program, state-wide (76-5-003)

	Reappropriation	Appropriation
St Emer Water Proj Rev	4,003,787	3,794,791
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
14,096,717	292,794	22,188,089

NEW SECTION. Sec. 305. FOR THE DEPARTMENT OF ECOLOGY

Padilla Bay Research Reserve—Land acquisition/special program (80-2-002)

	Reappropriation	Appropriation
General Fund—Federal	112,362	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,201,177		1,313,539

NEW SECTION. Sec. 306. FOR THE DEPARTMENT OF ECOLOGY

Referendum 39—Waste disposal facilities, 1980; special program, state-wide (82-5-005)

The appropriation in this section is subject to the following conditions and limitations:

(1) No expenditure from this appropriation shall be made for any grant valued over fifty million dollars to a city or county for solid waste disposal facilities unless the following conditions are met:

(a) The city or county agrees to comply with all the terms of the grant contract between the city or county and the department of ecology;

(b) The city or county agrees to implement curbside collection of recyclable materials as prescribed in the grant contract; and

(c) The city or county does not begin actual construction of the solid waste disposal facility until it has obtained a permit for prevention of significant deterioration as required by the federal clean air act.

(2) In making grants or loans from this appropriation for waste reduction and recycling projects, the department shall give priority to food and yard waste projects.

	Reappropriation	Appropriation
LIRA Waste Fac—1980	126,900,046	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
324,970,900		451,870,946

NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF ECOLOGY

Water quality account; special programs, state-wide (86-5-007)

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

(1) In awarding grants, extending grant payments, or making loans from this appropriation for facilities that discharge directly into marine waters, the department shall:

(a) Give first priority to secondary wastewater treatment facilities that are mandated by both federal and state law;

(b) Give second priority to projects that reduce combined sewer overflows; and

(c) Encourage economies that are derived from any simultaneous projects that achieve the purposes of both (a) and (b) of this subsection.

(2) The following limitations shall apply to the department's total distribution of funds appropriated under this section:

(a) Not more than fifty percent for water pollution control facilities which discharge directly into marine waters;

(b) Not more than twenty percent for water pollution control activities that prevent or mitigate pollution of underground waters and facilities that protect federally designated sole source aquifers with at least two-thirds for the Spokane-Rathdrum Prairie aquifer;

(c) Not more than ten percent for water pollution control activities that protect freshwater lakes and rivers including but not limited to Lake Chelan and the Yakima and Columbia rivers;

(d) Not more than ten percent for activities which control nonpoint source water pollution;

(e) Ten percent and such sums as may be remaining from the categories specified in (a) through (d) of this subsection for water pollution control activities or facilities as determined by the department.

(3) In determining compliance schedules for the greatest reasonable reduction of combined sewer overflows, the department shall consider the amount of grant or loan moneys available to assist local governments in the planning, design, acquisition, construction, and improvement of combined sewer overflow facilities.

	Reappropriation	Appropriation
Water Quality Acct	67,050,663	112,529,625
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
8,838,172	177,177,999	365,596,459

**NEW SECTION. Sec. 308. FOR THE STATE PARKS AND RECREATION COMMISSION**

Yakima Greenway acquisition (81-3-098)

	Reappropriation	Appropriation
ORA—State	75,272	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
17,795		93,067

**NEW SECTION. Sec. 309. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Water supply facilities (86-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	380,062	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
684,584		1,064,646

**NEW SECTION. Sec. 310. FOR THE STATE PARKS AND RECREATION COMMISSION**

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**State-wide—Sewage treatment facilities (86-1-003)**

	Reappropriation	Appropriation
LIRA Waste Fac—1980	309,103	
St Bldg Constr Acct	50,000	
ORA—Federal	23,049	
ORA—State	24,024	
		<u>Total</u>
<u>Prior Biennia</u>	<u>Future Biennia</u>	765,511
359,335		

**NEW SECTION. Sec. 311. FOR THE STATE PARKS AND RECREATION COMMISSION**

**State-wide—Boating repairs (86-1-020)**

	Reappropriation	Appropriation
St Bldg Constr Acct	12,000	
ORA—State	72,577	
		<u>Total</u>
<u>Prior Biennia</u>	<u>Future Biennia</u>	414,851
330,274		

**NEW SECTION. Sec. 312. FOR THE STATE PARKS AND RECREATION COMMISSION**

**State-wide—Boating renovation (86-1-021)**

	Reappropriation	Appropriation
St Bldg Constr Acct	2,901	
ORA—State	68,323	
		<u>Total</u>
<u>Prior Biennia</u>	<u>Future Biennia</u>	133,504
62,280		

**NEW SECTION. Sec. 313. FOR THE STATE PARKS AND RECREATION COMMISSION**

**Beacon Rock—Replace floats and piling, renovate shear boom (86-1-022)**

	Reappropriation	Appropriation
ORA—Federal	6,000	
ORA—State	46,651	
		<u>Total</u>
<u>Prior Biennia</u>	<u>Future Biennia</u>	288,160
235,509		

**NEW SECTION. Sec. 314. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Energy conservation and landscape repairs (86-1-026)

	Reappropriation	Appropriation
St Bldg Constr Acct	116,827	
ORA—State	3,479	
		<u>Total</u>
<u>Prior Biennia</u>	<u>Future Biennia</u>	
155,752		276,058

**NEW SECTION. Sec. 315. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Energy conservation and landscape renovation (86-1-027)

	Reappropriation	Appropriation
St Bldg Constr Acct	135,222	
		<u>Total</u>
<u>Prior Biennia</u>	<u>Future Biennia</u>	
351,998		487,220

**NEW SECTION. Sec. 316. FOR THE STATE PARKS AND RECREATION COMMISSION**

Iron Horse—Trail safety and bridge repair/acquisition (86-1-030)

The appropriations in this section are subject to the following conditions and limitations: Unless House Bill No. 1512 is enacted by June 30, 1989, with an initial appropriation for this project from the trust land purchase account, the reappropriation from the trust land purchase account in this section shall be null and void.

	Reappropriation	Appropriation
St Bldg Constr Acct	63,591	
Trust Land Pur Acct	200,000	
		<u>Total</u>
<u>Prior Biennia</u>	<u>Future Biennia</u>	
144,123		407,714

**NEW SECTION. Sec. 317. FOR THE STATE PARKS AND RECREATION COMMISSION**

Fort Worden—Point Wilson bank protection, phase 2 (86-1-032)

	Reappropriation	Appropriation
St Bldg Constr Acct	85,000	
ORA—Federal	73,663	
ORA—State	95,204	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
43,133	124,600	421,600

**NEW SECTION. Sec. 318. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Boating improvements (86-3-005)

	Reappropriation	Appropriation
ORA—Federal	36,700	
ORA—State	57,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
115,300		209,000

**NEW SECTION. Sec. 319. FOR THE STATE PARKS AND RECREATION COMMISSION**

Mount Spokane—Entrance road development (86-3-034)

	Reappropriation	Appropriation
Mot Veh Fund	8,003	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
169,830		177,833

**NEW SECTION. Sec. 320. FOR THE STATE PARKS AND RECREATION COMMISSION**

West Hylebos—Acquisition and development (86-4-013)

The appropriation in this section is subject to the following condition and limitation: This appropriation shall lapse if the necessary construction contract is not entered into by June 30, 1990.

	Reappropriation	Appropriation
St Bldg Constr Acct	195,595	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
177		195,772

**NEW SECTION. Sec. 321. FOR THE STATE PARKS AND RECREATION COMMISSION**

Illahee—Replace breakwater, ramps (87-1-024)

	Reappropriation	Appropriation
ORA—Federal	6,534	
ORA—State	15,289	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
196,355		218,178

**NEW SECTION. Sec. 322. FOR THE STATE PARKS AND RECREATION COMMISSION**

Sacajawea—Boat launch reconstruction (87-1-025)

	Reappropriation	Appropriation
ORA—State	14,207	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
127,513		141,720

**NEW SECTION. Sec. 323. FOR THE STATE PARKS AND RECREATION COMMISSION**

Lake Sylvia—Dam safety renovation and repair, phase 2 (87-1-028)

	Reappropriation	Appropriation
St Bldg Constr Acct	5,802	165,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
136,198		307,000

**NEW SECTION. Sec. 324. FOR THE STATE PARKS AND RECREATION COMMISSION**

Kopachuck—Shoreline protection (87-1-031)

	Reappropriation	Appropriation
ORA—State	43,889	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
58,000		101,889

**NEW SECTION. Sec. 325. FOR THE STATE PARKS AND RECREATION COMMISSION**

Moran—Mountain Lake CCC building renovation (87-1-049)

	Reappropriation	Appropriation
St Bldg Constr Acct	149,999	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
6,000		155,999

**NEW SECTION. Sec. 326. FOR THE STATE PARKS AND RECREATION COMMISSION**

Deception Pass—Renovate CCC buildings 2 and 3, Rosario (87-1-050)

The appropriation in this section is subject to the following condition and limitation: This appropriation shall lapse if the necessary construction contract is not entered into by December 31, 1989.

	Reappropriation	Appropriation
St Bldg Constr Acct	200,014	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
7,400		207,414

**NEW SECTION. Sec. 327. FOR THE STATE PARKS AND RECREATION COMMISSION**

Fort Worden—Phased weatherization of facilities (87-2-016)

	Reappropriation	Appropriation
St Bldg Constr Acct	160,088	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
289,912		450,000

**NEW SECTION. Sec. 328. FOR THE STATE PARKS AND RECREATION COMMISSION**

Flaming geyser—Bridge relocation and installation, phase 2 (87-2-029)

	Reappropriation	Appropriation
St Bldg Constr Acct		241,000
ORA—Federal	180,272	
ORA—State	171,897	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
10,728	625,000	1,228,897

**NEW SECTION. Sec. 329. FOR THE STATE PARKS AND RECREATION COMMISSION**

Covenant Beach—Acquisition and relocation (87-2-039)

	Reappropriation	Appropriation
St Bldg Constr Acct	94,520	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
169,416		263,936

**NEW SECTION. Sec. 330. FOR THE STATE PARKS AND RECREATION COMMISSION**



Auburn Game Farm—Completion of park development (87-3-012)

	Reappropriation	Appropriation
St Bldg Constr Acct	451,922	350,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
77,246		879,168

NEW SECTION. Sec. 331. FOR THE STATE PARKS AND RECREATION COMMISSION

Green River Gorge—Acquisition, phased project (87-5-010)

	Reappropriation	Appropriation
St Bldg Constr Acct	596,306	263,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
395,694		1,255,000

NEW SECTION. Sec. 332. FOR THE STATE PARKS AND RECREATION COMMISSION

State-wide—Potable water supply, omnibus facility contingency (88-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	65,085	
LIRA—Water Sup Fac	43,404	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
36,511		145,000

NEW SECTION. Sec. 333. FOR THE STATE PARKS AND RECREATION COMMISSION

State-wide—Potable water supply, omnibus minor projects (88-1-003)

	Reappropriation	Appropriation
St Bldg Constr Acct	366,115	
LIRA—Water Sup Fac	244,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
82,885		693,000

NEW SECTION. Sec. 334. FOR THE STATE PARKS AND RECREATION COMMISSION

Sequim Bay—Reservoir cover (88-1-004)

	Reappropriation	Appropriation
St Bldg Constr Acct	23,415	
LIRA—Water Sup Fac	23,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
85,585		132,000

**NEW SECTION. Sec. 335. FOR THE STATE PARKS AND RECREATION COMMISSION**

Sequim Bay—Renovate park water system (88-1-005)

	Reappropriation	Appropriation
St Bldg Constr Acct	45,517	
LIRA—Water Sup Fac	30,345	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
114,138		190,000

**NEW SECTION. Sec. 336. FOR THE STATE PARKS AND RECREATION COMMISSION**

Moran—Renovate potable water system (88-1-006)

The appropriation in this section is subject to the following condition and limitation: This appropriation shall lapse if the necessary construction contract is not entered into by December 31, 1989.

	Reappropriation	Appropriation
St Bldg Constr Acct	153,000	
LIRA—Water Sup Fac	101,358	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
28,642		283,000

**NEW SECTION. Sec. 337. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Sewer facilities, omnibus facility contingency (88-1-007)

	Reappropriation	Appropriation
LIRA Waste Fac—1980	153,657	
St Bldg Constr Acct	51,520	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
92,823		298,000

**NEW SECTION. Sec. 338. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Sewer facilities, omnibus minor projects (88-1-008)

	Reappropriation	Appropriation
LIRA Waste Fac—1980	225,998	
St Bldg Constr Acct	75,333	
<u>Prior Biennia</u>		<u>Total</u>
		34,669
		336,000

**NEW SECTION, Sec. 339. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Boat pumpout facilities (88-1-009)

The appropriation in this section is subject to the following conditions and limitations: If there is an appropriation for this purpose in Engrossed Substitute Senate Bill No. 5352, the \$1,000,000 appropriation in this section from the state building construction account shall lapse.

	Reappropriation	Appropriation
LIRA Waste Fac—1980	30,712	
St Bldg Constr Acct	440,235	1,000,000
<u>Prior Biennia</u>		<u>Total</u>
		78,053
		1,549,000

**NEW SECTION, Sec. 340. FOR THE STATE PARKS AND RECREATION COMMISSION**

Ocean City—Connect to municipal sewer system (88-1-010)

	Reappropriation	Appropriation
LIRA Waste Fac—1980	276,084	
St Bldg Constr Acct	93,000	
<u>Prior Biennia</u>		<u>Total</u>
		12,916
		382,000

**NEW SECTION, Sec. 341. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Boat traffic control markers and devices (88-1-013)

	Reappropriation	Appropriation
ORA—State	42,604	
<u>Prior Biennia</u>		<u>Total</u>
		67,396
		110,000

**NEW SECTION, Sec. 342. FOR THE STATE PARKS AND RECREATION COMMISSION**

St. Edward—Main electrical code compliance (88-1-027)

	Reappropriation	Appropriation
St Bldg Constr Acct	103,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
21,000		124,000

**NEW SECTION. Sec. 343. FOR THE STATE PARKS AND RECREATION COMMISSION**

Fort Worden—Electrical service renovation to 7,200 volts (88-1-030)

The appropriation in this section is subject to the following condition and limitation: This appropriation shall lapse if the necessary construction contract is not entered into by December 31, 1989.

	Reappropriation	Appropriation
St Bldg Constr Acct	299,036	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
25,964		325,000

**NEW SECTION. Sec. 344. FOR THE STATE PARKS AND RECREATION COMMISSION**

St Edward: Lighted entrance trail and comfort station (88-1-041)

	Reappropriation	Appropriation
St Bldg Constr Acct		222,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		222,000

**NEW SECTION. Sec. 345. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Boating facilities, omnibus facilities contingency (88-2-011)

	Reappropriation	Appropriation
ORA—State	176,846	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
44,154		221,000

**NEW SECTION. Sec. 346. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Boating facilities, omnibus minor projects (88-2-012)

	Reappropriation	Appropriation
ORA—State	647,581	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
321,419		969,000

**NEW SECTION. Sec. 347. FOR THE STATE PARKS AND RECREATION COMMISSION**

Centennial facilities—Contingency request (88-2-020)

	Reappropriation	Appropriation
LIRA, Pub Rec Fac	5,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
35,000		40,000

**NEW SECTION. Sec. 348. FOR THE STATE PARKS AND RECREATION COMMISSION**

Fort Columbia—Renovate historic buildings/Chinook displays (88-2-021)

	Reappropriation	Appropriation
LIRA, Pub Rec Fac	57,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
41,000		98,000

**NEW SECTION. Sec. 349. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Park facilities renovation, omnibus facilities contingency (88-2-025)

	Reappropriation	Appropriation
St Bldg Constr Acct	288,734	
LIRA, Pub Rec Fac	31,077	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
344,266		664,077

**NEW SECTION. Sec. 350. FOR THE STATE PARKS AND RECREATION COMMISSION**

Camp Wooten—Replace men's comfort station #23, add showers (88-2-041)

	Reappropriation	Appropriation
St Bldg Constr Acct		157,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	109,700	266,700

**NEW SECTION. Sec. 351. FOR THE STATE PARKS AND RECREATION COMMISSION**

Bogachiel—Campsite and day use renovation (88-2-058)

	Reappropriation	Appropriation
General Fund—Local/Private	11,560	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,440		15,000

**NEW SECTION. Sec. 352. FOR THE STATE PARKS AND RECREATION COMMISSION**

Fort Worden—Ballon Hanger, replace roof, renovate interior (88-3-023)

	Reappropriation	Appropriation
General Fund—Local/Private	213,000	
St Bldg Constr Acct	195,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
86,000		494,000

**NEW SECTION. Sec. 353. FOR THE STATE PARKS AND RECREATION COMMISSION**

Camano Island—Point Lowell road relocation (88-3-043)

	Reappropriation	Appropriation
St Bldg Constr Acct	157,513	
Mot Veh Fund		619,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
44,487		821,000

**NEW SECTION. Sec. 354. FOR THE STATE PARKS AND RECREATION COMMISSION**

Chief Timothy—Boat launch expansion (88-5-014)

	Reappropriation	Appropriation
ORA—State	207,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
23,000		230,000

**NEW SECTION. Sec. 355. FOR THE STATE PARKS AND RECREATION COMMISSION**

Moses Lake—Boat launch with parking and comfort station (88-5-016)

The appropriation in this section is subject to the following condition and limitation: This appropriation shall lapse if the necessary permits are not obtained by December 31, 1989.

	Reappropriation	Appropriation
ORA—State	181,000	
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	11,000	
		<u>Total</u>
		192,000

**NEW SECTION. Sec. 356. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Acquisition/dev. river access, phased project (88-5-017)

	Reappropriation	Appropriation
ORA—State	138,000	
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	73,128	
		<u>Total</u>
		211,128

**NEW SECTION. Sec. 357. FOR THE STATE PARKS AND RECREATION COMMISSION**

Maryhill—Development (88-5-035)

	Reappropriation	Appropriation
St Bldg Constr Acct	1,025,798	
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	50,202	
		<u>Total</u>
		1,076,000

**NEW SECTION. Sec. 358. FOR THE STATE PARKS AND RECREATION COMMISSION**

Ocean beaches—Acquisition of ocean beaches, phased project (88-5-036)

	Reappropriation	Appropriation
St Bldg Constr Acct	447,220	200,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	102,780	
		<u>Total</u>
		750,000

NEW SECTION. Sec. 359. FOR THE STATE PARKS AND RECREATION COMMISSION

Mount Spokane—Winter recreation facilities (88-5-041)

	Reappropriation	Appropriation
St Bldg Constr Acct	12,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
71,000		83,000

NEW SECTION. Sec. 360. FOR THE STATE PARKS AND RECREATION COMMISSION

Ft Worden: 30-unit campground (88-5-056)

	Reappropriation	Appropriation
St Bldg Constr Acct		380,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		380,000

NEW SECTION. Sec. 361. FOR THE STATE PARKS AND RECREATION COMMISSION

Crystal Falls—Acquisition and development phase 2 (88-5-057)

	Reappropriation	Appropriation
St Bldg Constr Acct	31,464	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
128,536	329,600	489,600

NEW SECTION. Sec. 362. FOR THE STATE PARKS AND RECREATION COMMISSION

Blake Island—Fire protection system, concession building (89-1-050)

	Reappropriation	Appropriation
St Bldg Constr Acct		119,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		119,000

NEW SECTION. Sec. 363. FOR THE STATE PARKS AND RECREATION COMMISSION

Omnibus minor projects—Water supply/irrigation at Lyon's Ferry, Crow Butte, Wallace Falls, Curlew Lake, Alta Lake, and Mount Spokane (89-1-101)



	Reappropriation	Appropriation
St Bldg Constr Acct		275,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		275,000

**NEW SECTION. Sec. 364. FOR THE STATE PARKS AND RECREATION COMMISSION**

Omnibus minor projects—Sanitary facilities at Yakima Sportsman, Lewis and Clark, Stuart Island, Sucia Island, Dash Point, and Blake Island (89-1-102)

	Reappropriation	Appropriation
St Bldg Constr Acct		152,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	193,900	345,900

**NEW SECTION. Sec. 365. FOR THE STATE PARKS AND RECREATION COMMISSION**

Omnibus minor projects—Electrical at Fay Bainbridge, Potholes, Fort Flagler, Central Ferry, Pacific Beach, Blake Island, and Alta Lake (89-1-103)

	Reappropriation	Appropriation
St Bldg Constr Acct		231,000
ORA—State		63,700
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		294,700

**NEW SECTION. Sec. 366. FOR THE STATE PARKS AND RECREATION COMMISSION**

Moran—Renovate mountain lake dam (89-1-110)

	Reappropriation	Appropriation
St Bldg Constr Acct		144,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		144,000

**NEW SECTION. Sec. 367. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Compliance with safe drinking water act (89-1-116)

	Reappropriation	Appropriation
St Bldg Constr Acct		441,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		441,000
<b><u>NEW SECTION. Sec. 368. FOR THE STATE PARKS AND RECREATION COMMISSION</u></b>		
Camp Wooten—Sewage renovation, phase 2 (89-1-122)		
	Reappropriation	Appropriation
St Bldg Constr Acct		138,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		138,000
<b><u>NEW SECTION. Sec. 369. FOR THE STATE PARKS AND RECREATION COMMISSION</u></b>		
Sacajawea—Modify river floats, revise piling anchorage system (89-1-129)		
	Reappropriation	Appropriation
ORA—State		192,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		192,000
<b><u>NEW SECTION. Sec. 370. FOR THE STATE PARKS AND RECREATION COMMISSION</u></b>		
State-wide—Asbestos removal—Forts Worden, Flagler, Columbia (89-1-134)		
	Reappropriation	Appropriation
St Bldg Constr Acct		150,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		150,000
<b><u>NEW SECTION. Sec. 371. FOR THE STATE PARKS AND RECREATION COMMISSION</u></b>		
State-wide—Omnibus minor projects—Boating/marine construction (89-2-106)		
	Reappropriation	Appropriation
St Bldg Constr Acct		179,250
ORA—State		674,050
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		853,300

**NEW SECTION. Sec. 372. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Omnibus minor projects—General construction (89-2-107)

	Reappropriation	Appropriation
St Bldg Constr Acct		560,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	858,000	1,418,000

**NEW SECTION. Sec. 373. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Omnibus minor projects—Specialized construction (89-2-109)

	Reappropriation	Appropriation
St Bldg Constr Acct		219,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		219,000

**NEW SECTION. Sec. 374. FOR THE STATE PARKS AND RECREATION COMMISSION**

Lake Sammamish—Boat launch repairs (89-2-139)

	Reappropriation	Appropriation
ORA—State		114,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		114,000

**NEW SECTION. Sec. 375. FOR THE STATE PARKS AND RECREATION COMMISSION**

Omnibus minor projects—Site/environment/protection at Conconully, Saltwater, Fort Worden, Alta Lake, and Fort Casey (89-3-104)

	Reappropriation	Appropriation
St Bldg Constr Acct		300,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		300,000

**NEW SECTION. Sec. 376. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Omnibus minor projects—Acquisition (89-3-105)

	Reappropriation	Appropriation
St Bldg Constr Acct		115,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	140,700	255,700

**NEW SECTION. Sec. 377. FOR THE STATE PARKS AND RECREATION COMMISSION**

State-wide—Omnibus minor projects—Weatherproofing (89-3-108)

	Reappropriation	Appropriation
St Bldg Constr Acct		167,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		167,000

**NEW SECTION. Sec. 378. FOR THE STATE PARKS AND RECREATION COMMISSION**

Fort Worden—Rebuild boat launch breakwater, dredge marina (89-3-135)

	Reappropriation	Appropriation
ORA—State		315,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		315,000

**NEW SECTION. Sec. 379. FOR THE STATE PARKS AND RECREATION COMMISSION**

Larabee—Acquisition of Clayton Beach (89-5-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	342,000	
ORA—Federal		140,540

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,258,000		1,740,540

**NEW SECTION. Sec. 380. FOR THE STATE PARKS AND RECREATION COMMISSION**

Hood Canal—Acquisition of property, phase 2 (89-5-111)

	Reappropriation	Appropriation
St Bldg Constr Acct	49,681	393,000
ORA—State		60,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
319		503,000

**NEW SECTION. Sec. 381. FOR THE STATE PARKS AND RECREATION COMMISSION**

Spokane Centennial Trail—Acquisition/initial development (89-5-112)

	Reappropriation	Appropriation
St Bldg Constr Acct		120,000
ORA—Federal		119,000
General Fund—Federal	3,589,620	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
10,380		3,839,000

**NEW SECTION. Sec. 382. FOR THE STATE PARKS AND RECREATION COMMISSION**

Fort Casey—Acquisition of keystone spit, phase 2 (89-5-113)

	Reappropriation	Appropriation
St Bldg Constr Acct	198,780	104,000
ORA—Federal		103,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
301,220		707,000

**NEW SECTION. Sec. 383. FOR THE STATE PARKS AND RECREATION COMMISSION**

Belfair—Acquisition of adjoining property, phase 2 (89-5-114)

	Reappropriation	Appropriation
St Bldg Constr Acct	29,000	193,000
ORA—Federal		27,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
21,000		270,000

**NEW SECTION. Sec. 384. FOR THE STATE PARKS AND RECREATION COMMISSION**

Fort Canby—Initial development, Beards Hollow (89-5-115)

	Reappropriation	Appropriation
St Bldg Constr Acct		289,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		289,000

**NEW SECTION. Sec. 385. FOR THE STATE PARKS AND RECREATION COMMISSION**

**Snohomish Centennial Trail**

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for the Snohomish County parks department to purchase and develop the railroad right-of-way from Snohomish to Arlington. No portion of this appropriation may be expended unless an amount from nonstate sources equal to the amount of this appropriation is provided for the project.

	Reappropriation	Appropriation
St Bldg Constr Acct		1,100,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
		<u>Total</u>
		1,100,000

**NEW SECTION. Sec. 386. FOR THE STATE PARKS AND RECREATION COMMISSION**

**Lake Isabella—Acquisition, phased (89-5-145)**

	Reappropriation	Appropriation
St Bldg Constr Acct		507,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
		<u>Total</u>
		507,000

**NEW SECTION. Sec. 387. FOR THE STATE PARKS AND RECREATION COMMISSION**

**Spokane Centennial Trail—Initial development "The Islands" (89-5-166)**

	Reappropriation	Appropriation
St Bldg Constr Acct		250,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
		<u>Total</u>
		250,000

**NEW SECTION. Sec. 388. FOR THE STATE PARKS AND RECREATION COMMISSION**

**Ocean Beach OBA—Comfort stations and parking at four locations (89-5-120)**

	Reappropriation	Appropriation
St Bldg Constr Acct		342,000
ORA—Federal		316,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		658,000
<b>NEW SECTION. Sec. 389. FOR THE STATE PARKS AND RECREATION COMMISSION</b>		
State-wide—Omnibus facility contingency request (90-1-001)		
	Reappropriation	Appropriation
St Bldg Constr Acct		464,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		464,000

<b>NEW SECTION. Sec. 390. FOR THE STATE PARKS AND RECREATION COMMISSION</b>		
Steamboat Rock—Random camp area, Jones Bay (95-2-182)		
	Reappropriation	Appropriation
St Bldg Constr Acct		150,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		150,000

<b>NEW SECTION. Sec. 391. FOR THE STATE PARKS AND RECREATION COMMISSION</b>		
Wishram Museum—Feasibility study		
The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided for a feasibility study for a water park and railroad museum and bridge access in Wishram.		
	Reappropriation	Appropriation
St Bldg Constr Acct		10,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		10,000

<b>*NEW SECTION. Sec. 392. FOR THE STATE PARKS AND RECREATION COMMISSION</b>		
<i>Ohme Gardens—Acquisition, safety, and irrigation improvements (89-5-169)</i>		
	<i>Reappropriation</i>	<i>Appropriation</i>
<i>St Bldg Constr Acct</i>		<i>750,000</i>

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		750,000

\*Sec. 392 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 393. FOR THE STATE PARKS AND RECREATION COMMISSION

Doug's Beach—Railroad safety crossing

	Reappropriation	Appropriation
St Bldg Constr Acct		120,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		120,000

NEW SECTION. Sec. 394. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Grants to public agencies' recreation projects (90-2-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		500,000
ORA—Federal	150,000	800,000
ORA—State	1,068,604	6,436,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
21,513,197	12,000,000	42,467,801

NEW SECTION. Sec. 395. FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

Community economic revitalization board (86-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct	5,340,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
19,025,928		24,365,928

NEW SECTION. Sec. 396. FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

Washington Technology Center (88-1-003)

The appropriation in this section shall be subject to the following conditions and limitations: The moneys from this appropriation shall be transferred to and administered by the University of Washington.

	Reappropriation	Appropriation
St Bldg Constr Acct	9,600,000	900,000



<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
5,302,000		15,802,000

**NEW SECTION. Sec. 397. FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT**

Washington State Agricultural Trade Center—Yakima (88-3-004)

The appropriation in this section is subject to the following conditions and limitations: Expenditures made under this appropriation shall equal seventy-five percent of the total project design and construction costs and shall not exceed \$6,500,000. The twenty-five percent of actual expenditures for design and construction costs shall be cash from nonstate sources.

	Reappropriation	Appropriation
St Bldg Constr Acct	2,300,000	
<u>Prior Biennia</u>		<u>Total</u>
4,200,000		6,500,000

**NEW SECTION. Sec. 398. FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT**

Agricultural Complex—Yakima (89-2-005)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,000,000 is provided solely for parking lot paving, lighting and landscaping.

(2) \$1,000,000 of this appropriation is contingent on a contribution of an equal amount of funds from nonstate sources.

	Reappropriation	Appropriation
St Bldg Constr Acct	750,000	2,000,000
<u>Prior Biennia</u>		<u>Total</u>
1,250,000		4,000,000

**NEW SECTION. Sec. 399. FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT**

Mt. St. Helens Road and Visitor Center (90-5-002)

The appropriation in this section is subject to the following conditions and limitations:

(1) Expenditures under this appropriation shall not exceed twenty-five percent of the total project cost.

(2) Expenditure of this appropriation is contingent on a contribution of at least \$300,000 by Cowlitz county for the project.

	Reappropriation	Appropriation
St Bldg Constr Acct		5,600,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		5,600,000

**NEW SECTION. Sec. 400. FOR THE STATE CONSERVATION COMMISSION**

Water quality projects (90-2-001)

	Reappropriation	Appropriation
Water Quality Acct	352,500	2,072,160
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,509,500	4,400,000	8,334,160

**PART 4**

**NATURAL RESOURCES – CONTINUED**

**NEW SECTION. Sec. 401. FOR THE DEPARTMENT OF FISHERIES**

Habitat—Salmon enhancement program (77-1-005)

	Reappropriation	Appropriation
Salmon Enhancement Acct	25,000	
St Bldg Constr Acct		921,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
4,284,687		5,230,687

**NEW SECTION. Sec. 402. FOR THE DEPARTMENT OF FISHERIES**

Replacements and alterations (77-2-004)

	Reappropriation	Appropriation
Fish Cap Proj Acct	2,243	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,996,688		3,998,931

**NEW SECTION. Sec. 403. FOR THE DEPARTMENT OF FISHERIES**

Puget Sound artificial reef construction (79-2-008)

	Reappropriation	Appropriation
ORA—Federal	8,300	
ORA—State	16,600	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
420,550		445,450
<b><u>NEW SECTION.</u> Sec. 404. FOR THE DEPARTMENT OF FISHERIES</b>		

Hood Canal Bridge—Public fishing access (79-2-011)

	Reappropriation	Appropriation
St Bldg Constr Acct	52,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
442,000		494,000
<b><u>NEW SECTION.</u> Sec. 405. FOR THE DEPARTMENT OF FISHERIES</b>		

Oakland Bay tideland access design and construction (81-5-014)

The appropriations in this section are subject to the following conditions and limitations: If not obligated by June 30, 1990, the appropriations in this section shall lapse.

	Reappropriation	Appropriation
St Bldg Constr Acct	11,000	
ORA—Federal	90,000	
ORA—State	79,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		180,000

**NEW SECTION. Sec. 406. FOR THE DEPARTMENT OF FISHERIES**

Health, safety and code compliance (86-1-020)

	Reappropriation	Appropriation
St Bldg Constr Acct	78,000	850,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
371,000	500,000	1,799,000

**NEW SECTION. Sec. 407. FOR THE DEPARTMENT OF FISHERIES**

Towhead Island public access—Renovation (86-2-028)

The appropriations in this section are subject to the following conditions and limitations: The appropriations shall lapse if construction has not begun by June 30, 1990.

	Reappropriation	Appropriation
ORA—Federal	20,000	
ORA—State	191,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		211,000

NEW SECTION. Sec. 408. FOR THE DEPARTMENT OF FISHERIES

Issaquah Hatchery Interpretative Center (86-2-029)

The appropriations in this section are subject to the following conditions and limitations: The appropriations shall lapse if construction has not begun by December 31, 1989.

	Reappropriation	Appropriation
St Bldg Constr Acct	42,000	
ORA—Federal	53,000	
ORA—State	17,800	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
17,200		130,000

NEW SECTION. Sec. 409. FOR THE DEPARTMENT OF FISHERIES

Minor capital projects—Salmon (86-3-022)

The appropriation in this section is subject to the following conditions and limitations: If not expended by June 30, 1990, the appropriation in this section shall lapse.

	Reappropriation	Appropriation
St Bldg Constr Acct	116,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
306,000		422,000

NEW SECTION. Sec. 410. FOR THE DEPARTMENT OF FISHERIES

Minor capital projects—Shellfish (86-3-023)

	Reappropriation	Appropriation
St Bldg Constr Acct	71,240	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
376,400		447,640

NEW SECTION. Sec. 411. FOR THE DEPARTMENT OF FISHERIES

Paving and maintenance—Asphalt ponds (86-3-024)

	Reappropriation	Appropriation
St Bldg Constr Acct	10,000	
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	285,401	<u>Total</u>
		295,401

NEW SECTION. Sec. 412. FOR THE DEPARTMENT OF FISHERIES

Bremerton public fishing pier—Design and construction (86-3-027)

The appropriations in this section are subject to the following conditions and limitations: If not expended by June 30, 1990, the appropriations in this section shall lapse.

	Reappropriation	Appropriation
St Bldg Constr Acct	89,000	
ORA—Federal	410,000	
ORA—State	285,000	
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	36,000	<u>Total</u>
		820,000

NEW SECTION. Sec. 413. FOR THE DEPARTMENT OF FISHERIES

Willapa Hatchery—New main pipeline (86-3-030)

	Reappropriation	Appropriation
St Bldg Constr Acct	12,640	
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	373,000	<u>Total</u>
		385,640

NEW SECTION. Sec. 414. FOR THE DEPARTMENT OF FISHERIES

Patrol seized gear storage (86-3-033)

	Reappropriation	Appropriation
St Bldg Constr Acct	5,000	
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	93,000	<u>Total</u>
		98,000

NEW SECTION. Sec. 415. FOR THE DEPARTMENT OF FISHERIES

## Hood Canal boat access development (86-3-035)

The appropriations in this section are subject to the following conditions and limitations: If not expended by June 30, 1990, the appropriations in this section shall lapse.

	Reappropriation	Appropriation
ORA—Federal	30,000	
ORA—State	270,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		300,000

NEW SECTION. Sec. 416. FOR THE DEPARTMENT OF FISHERIES

## Hood Canal Smelt Beach acquisition (86-3-036)

The appropriations in this section are subject to the following conditions and limitations: If not expended by June 30, 1990, the appropriations in this section shall lapse.

	Reappropriation	Appropriation
ORA—Federal	150,000	
ORA—State	150,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		300,000

NEW SECTION. Sec. 417. FOR THE DEPARTMENT OF FISHERIES

## Point Whitney Beach access acquisition (86-3-037)

	Reappropriation	Appropriation
St Bldg Constr Acct		250,000
ORA—Federal	128,000	250,000
ORA—State	127,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	150,000	905,000

NEW SECTION. Sec. 418. FOR THE DEPARTMENT OF FISHERIES

## Knappton public access (86-3-038)

The appropriations in this section are subject to the following conditions and limitations: If not expended by June 30, 1990, the appropriations in this section shall lapse.

	Reappropriation	Appropriation
ORA—Federal	54,000	
ORA—State	55,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		109,000

**NEW SECTION. Sec. 419. FOR THE DEPARTMENT OF FISHERIES**

McAllister—Improvements (88-2-003)

	Reappropriation	Appropriation
St Bldg Constr Acct	226,300	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
32,700		259,000

**NEW SECTION. Sec. 420. FOR THE DEPARTMENT OF FISHERIES**

Minor capital projects—Salmon north (88-2-005)

	Reappropriation	Appropriation
St Bldg Constr Acct	8,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
432,000		440,000

**NEW SECTION. Sec. 421. FOR THE DEPARTMENT OF FISHERIES**

Minor capital projects—Salmon south (88-2-006)

The appropriations in this section are subject to the following condition and limitation: The appropriations shall lapse if construction has not begun by December 31, 1989.

	Reappropriation	Appropriation
General Fund—Federal	853,000	
St Bldg Constr Acct	362,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
36,000		1,251,000

**NEW SECTION. Sec. 422. FOR THE DEPARTMENT OF FISHERIES**

Minor capital projects—Salmon coast (88-2-007)

Reappropriation	Appropriation
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St Bldg Constr Acct		26,000	
	<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	166,200		192,200
<u>NEW SECTION.</u> Sec. 423. FOR THE DEPARTMENT OF FISHERIES			

Salmon culture—Repair and replacement (88-2-008)

	Reappropriation	Appropriation
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St Bldg Constr Acct		150,000	
	<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	155,000		305,000
<u>NEW SECTION.</u> Sec. 424. FOR THE DEPARTMENT OF FISHERIES			

Concrete ponds—Repair and replacement (88-2-009)

	Reappropriation	Appropriation
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St Bldg Constr Acct		96,000	
	<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	707,000		803,000
<u>NEW SECTION.</u> Sec. 425. FOR THE DEPARTMENT OF FISHERIES			

Small repairs and improvements (88-2-019)

	Reappropriation	Appropriation
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General Fund—Federal		159,000	
	<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
			159,000
<u>NEW SECTION.</u> Sec. 426. FOR THE DEPARTMENT OF FISHERIES			

Clam and Oyster Beach enhancement (88-5-002)

	Reappropriation	Appropriation
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St Bldg Constr Acct		1,181,000	1,200,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	32,000	1,200,000	2,413,000
<u>NEW SECTION.</u> Sec. 427. FOR THE DEPARTMENT OF FISHERIES			



Fish protection facilities (88-5-012)

	Reappropriation	Appropriation
St Bldg Constr Acct	50,000	235,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
154,000	400,000	839,000

NEW SECTION. Sec. 428. FOR THE DEPARTMENT OF FISHERIES

Columbia River—Fishing access (88-5-014)

The appropriation in this section is subject to the following condition and limitation: The appropriation shall lapse if necessary permits have not been obtained by December 31, 1989.

	Reappropriation	Appropriation
St Bldg Constr Acct	186,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
129,000		315,000

NEW SECTION. Sec. 429. FOR THE DEPARTMENT OF FISHERIES

Coast and Puget Sound Salmon enhancement (88-5-016)

	Reappropriation	Appropriation
Salmon Enhancement Acct	2,632,000	
St Bldg Constr Acct		2,500,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,388,000	3,750,000	7,770,000

NEW SECTION. Sec. 430. FOR THE DEPARTMENT OF FISHERIES

Shorefishing access development (88-5-018)

The appropriation in this section is subject to the following condition and limitation: The appropriation shall lapse if construction has not begun by December 31, 1989.

	Reappropriation	Appropriation
St Bldg Constr Acct	623,000	450,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
250,000	1,273,000	2,596,000

NEW SECTION. Sec. 431. FOR THE DEPARTMENT OF FISHERIES

## South Sound net pen support facility (90-2-007)

	Reappropriation	Appropriation
St Bldg Constr Acct		343,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		343,000

NEW SECTION. Sec. 432. FOR THE DEPARTMENT OF FISHERIES

## Humtulpips upgrade intake dam (90-2-010)

	Reappropriation	Appropriation
St Bldg Constr Acct		213,100
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		213,100

NEW SECTION. Sec. 433. FOR THE DEPARTMENT OF FISHERIES

## Salmon culture minor works projects (90-2-011)

The appropriation in this section is subject to the following condition and limitation: The appropriation shall lapse if construction has not begun by December 31, 1989.

	Reappropriation	Appropriation
St Bldg Constr Acct		655,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		655,000

NEW SECTION. Sec. 434. FOR THE DEPARTMENT OF FISHERIES

## Habitat management shop building (90-2-012)

	Reappropriation	Appropriation
St Bldg Constr Acct		435,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		435,000

NEW SECTION. Sec. 435. FOR THE DEPARTMENT OF FISHERIES

## Field services—Minor works (90-2-015)

The appropriation in this section is subject to the following condition and limitation: The appropriation shall lapse if construction has not begun by June 30, 1990.

	Reappropriation	Appropriation
St Bldg Constr Acct		235,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	100,000	335,000

NEW SECTION. Sec. 436. FOR THE DEPARTMENT OF FISHERIES

Salmon culture—Minor capital (90-2-017)

The appropriation in this section is subject to the following condition and limitation: The appropriation shall lapse if construction has not begun by December 31, 1989.

	Reappropriation	Appropriation
St Bldg Constr Acct		668,700
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	1,350,000	2,018,700

NEW SECTION. Sec. 437. FOR THE DEPARTMENT OF FISHERIES

George Adams, water supply (90-2-019)

	Reappropriation	Appropriation
St Bldg Constr Acct		175,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		175,000

NEW SECTION. Sec. 438. FOR THE DEPARTMENT OF FISHERIES

Ilwaco boat access expansion (90-2-023)

	Reappropriation	Appropriation
ORA—State		300,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		300,000

NEW SECTION. Sec. 439. FOR THE DEPARTMENT OF FISHERIES

## Bonneville pool access expansion (90-2-028)

	Reappropriation	Appropriation
ORA—State		100,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	100,000	200,000

NEW SECTION. Sec. 440. FOR THE DEPARTMENT OF FISHERIES

## Property acquisition (90-3-009)

	Reappropriation	Appropriation
St Bldg Constr Acct		330,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		330,000

NEW SECTION. Sec. 441. FOR THE DEPARTMENT OF FISHERIES

## Shellfish surveys and Point Whitney repairs (90-3-013)

	Reappropriation	Appropriation
St Bldg Constr Acct		175,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	350,000	525,000

NEW SECTION. Sec. 442. FOR THE DEPARTMENT OF FISHERIES

## Point Whitney—Property acquisition (90-3-014)

	Reappropriation	Appropriation
St Bldg Constr Acct		150,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		150,000

NEW SECTION. Sec. 443. FOR THE DEPARTMENT OF FISHERIES

## Strait of Juan De Fuca shoreline acquisition (90-5-025)

	Reappropriation	Appropriation
ORA—State		350,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	200,000	550,000

NEW SECTION. Sec. 444. FOR THE DEPARTMENT OF FISHERIES

Kingston boat launch development (90-5-027)

	Reappropriation	Appropriation
ORA—State		100,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		100,000

NEW SECTION. Sec. 445. FOR THE DEPARTMENT OF WILDLIFE

Chehalis Valley HMA acquisition (83-5-021)

	Reappropriation	Appropriation
Wildlife Acct—State	346,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		346,000

NEW SECTION. Sec. 446. FOR THE DEPARTMENT OF WILDLIFE

Lake Goodwin redevelopment (86-2-021)

	Reappropriation	Appropriation
ORA—State	77,297	
Wildlife Acct—State	8,588	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		85,885

NEW SECTION. Sec. 447. FOR THE DEPARTMENT OF WILDLIFE

Satsop river: Acquisition and redevelopment (86-2-029)

	Reappropriation	Appropriation
ORA—State	75,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
8,000		83,000

NEW SECTION. Sec. 448. FOR THE DEPARTMENT OF WILDLIFE

Mineral Lake—Site improvements (86-3-028)

	Reappropriation	Appropriation
ORA—State	40,346	

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	<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	71,163		111,509
<b><u>NEW SECTION.</u> Sec. 449. FOR THE DEPARTMENT OF WILDLIFE</b>			
Pipe Lake—Public fishing access (86-4-027)			
		Reappropriation	Appropriation
ORA—State		83,250	
	<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
			83,250
<b><u>NEW SECTION.</u> Sec. 450. FOR THE DEPARTMENT OF WILDLIFE</b>			
State-wide boating access development (88-5-014)			
		Reappropriation	Appropriation
Wildlife Acct—Federal		231,375	
	<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	268,625		500,000
<b><u>NEW SECTION.</u> Sec. 451. FOR THE DEPARTMENT OF WILDLIFE</b>			
Aberdeen Fish Hatchery expansion (89-5-017)			
		Reappropriation	Appropriation
Game Spec Wildlife Acct		740,000	
	<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	79,000		819,000
<b><u>NEW SECTION.</u> Sec. 452. FOR THE DEPARTMENT OF WILDLIFE</b>			
Asbestos abatement health safety and code compliance, phase 1 (90-1-001)			
		Reappropriation	Appropriation
St Bldg Constr Acct			600,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,200,000	1,800,000
<b><u>NEW SECTION.</u> Sec. 453. FOR THE DEPARTMENT OF WILDLIFE</b>			

Public fishing access minor works repair (90-1-014)

	Reappropriation	Appropriation
Wildlife Acct—Federal		500,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	1,300,000	<u>Total</u>
		1,800,000

NEW SECTION. Sec. 454. FOR THE DEPARTMENT OF WILDLIFE

Emergency repair and replacement (90-2-002)

	Reappropriation	Appropriation
Wildlife Acct—State	50,000	300,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	253,000	<u>Total</u>
	900,000	1,503,000

NEW SECTION. Sec. 455. FOR THE DEPARTMENT OF WILDLIFE

Facility maintenance small repair and improvements (90-2-003)

	Reappropriation	Appropriation
Wildlife Acct—State		500,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	629,000	<u>Total</u>
	1,100,000	2,229,000

NEW SECTION. Sec. 456. FOR THE DEPARTMENT OF WILDLIFE

Hatchery renovation and improvement (90-2-004)

	Reappropriation	Appropriation
St Bldg Constr Acct		1,150,000
Wildlife Acct—Federal	576,774	1,100,000
Wildlife Acct—State		1,000,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	400,000	<u>Total</u>
	13,000,000	17,226,774

NEW SECTION. Sec. 457. FOR THE DEPARTMENT OF WILDLIFE

Redevelopment of public fishing access sites (IAC) (90-2-007)

	Reappropriation	Appropriation
ORA—State		1,126,000

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<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	2,115,000	3,241,000

**NEW SECTION. Sec. 458. FOR THE DEPARTMENT OF WILDLIFE**

Development of public fishing access sites (IAC) (90-2-008)

	Reappropriation	Appropriation
St Bldg Constr Acct		294,000
ORA—State		136,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	300,000	730,000

**NEW SECTION. Sec. 459. FOR THE DEPARTMENT OF WILDLIFE**

Wildlife area repair and development (90-2-016)

	Reappropriation	Appropriation
Wildlife Acct—State		250,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	500,000	750,000

**NEW SECTION. Sec. 460. FOR THE DEPARTMENT OF WILDLIFE**

Wells wildlife area repair and improvements (90-2-018)

	Reappropriation	Appropriation
Game Spec Wildlife Acct	92,000	50,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
8,000	100,000	250,000

**NEW SECTION. Sec. 461. FOR THE DEPARTMENT OF WILDLIFE**

Vancouver well (90-2-022)

	Reappropriation	Appropriation
Wildlife Acct—State	167,203	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		167,203

**NEW SECTION. Sec. 462. FOR THE DEPARTMENT OF WILDLIFE**



State-wide fencing repair and replacement (90-3-015)

	Reappropriation	Appropriation
Wildlife Acct—State		1,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
368,000	2,000,000	3,368,000
<u>NEW SECTION.</u> Sec. 463. FOR THE DEPARTMENT OF WILDLIFE		

Migratory waterfowl habitat acquisition (90-5-005)

	Reappropriation	Appropriation
Wildlife Acct—State	333,285	350,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
62,715	700,000	1,446,000
<u>NEW SECTION.</u> Sec. 464. FOR THE DEPARTMENT OF WILDLIFE		

Acquisition of critical habitat (90-5-006)

	Reappropriation	Appropriation
Wildlife Acct—State		250,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	500,000	750,000
<u>NEW SECTION.</u> Sec. 465. FOR THE DEPARTMENT OF WILDLIFE		

Acquisition of critical water oriented access (IAC) (90-5-009)

	Reappropriation	Appropriation
ORA—State		20,250
Wildlife Acct—Federal		100,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		120,250
<u>NEW SECTION.</u> Sec. 466. FOR THE DEPARTMENT OF WILDLIFE		

Acquisition of wildlife habitat (90-5-012)

The appropriation in this section is subject to the following conditions and limitations: No moneys may be expended from this appropriation without first selling state-owned land of equal or greater value.

	Reappropriation	Appropriation
Wildlife Acct—State		600,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	800,000	1,400,000
<u>NEW SECTION.</u> Sec. 467. FOR THE DEPARTMENT OF WILDLIFE		

Migratory waterfowl habitat development (90-5-017)

	Reappropriation	Appropriation
Wildlife Acct—State	150,000	300,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
212,000	700,000	1,362,000
<u>NEW SECTION.</u> Sec. 468. FOR THE DEPARTMENT OF WILDLIFE		

Habitat enhancement fund (90-5-019)

	Reappropriation	Appropriation
Wildlife Acct—Private/local		500,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	1,000,000	1,500,000
<u>NEW SECTION.</u> Sec. 469. FOR THE DEPARTMENT OF WILDLIFE		

Regional Office Facilities Relocation—Purchase or Construct (90-2-021)

	Reappropriation	Appropriation
Wildlife Acct—State		425,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		425,000

PART 5

NATURAL RESOURCES – CONTINUED

NEW SECTION. Sec. 501. FOR THE DEPARTMENT OF NATURAL RESOURCES

Right-of-way acquisition (86-3-001)

	Reappropriation	Appropriation
For Dev Acct		213,000
Res Mgmt Cost Acct		577,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,646,000	950,000	3,386,000
<u>NEW SECTION.</u> Sec. 502. FOR THE DEPARTMENT OF NATURAL RESOURCES		

Unforeseen emergency repairs, irrigation (86-3-002)

	<u>Reappropriation</u>	<u>Appropriation</u>
Res Mgmt Cost Acct		200,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
492,000	400,000	1,092,000

NEW SECTION. Sec. 503. FOR THE DEPARTMENT OF NATURAL RESOURCES

Commercial development and electronics (86-3-004)

	<u>Reappropriation</u>	<u>Appropriation</u>
Res Mgmt Cost Acct		420,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
20,000	400,000	840,000

NEW SECTION. Sec. 504. FOR THE DEPARTMENT OF NATURAL RESOURCES

Recreation sites renovation (86-3-018)

	<u>Reappropriation</u>	<u>Appropriation</u>
ORV Acct	64,200	
ORA—State	259,300	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
399,500		723,000

NEW SECTION. Sec. 505. FOR THE DEPARTMENT OF NATURAL RESOURCES

Aquatic land enhancement (86-3-020)

	<u>Reappropriation</u>	<u>Appropriation</u>
Aquatic Lands Acct	1,295,000	4,154,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
962,000	14,400,000	21,697,000

NEW SECTION. Sec. 506. FOR THE DEPARTMENT OF NATURAL RESOURCES

Land bank (86-4-003)

	Reappropriation	Appropriation
Res Mgmt Cost Acct		12,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
11,440,000	30,000,000	53,440,000

**NEW SECTION. Sec. 507. FOR THE DEPARTMENT OF NATURAL RESOURCES**

State-wide emergency repairs (88-1-002)

	Reappropriation	Appropriation
For Dev Acct		8,600
Res Mgmt Cost Acct		32,300
St Bldg Constr Acct		18,300
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
54,000	135,900	249,100

**NEW SECTION. Sec. 508. FOR THE DEPARTMENT OF NATURAL RESOURCES**

State-wide nonemergency repairs (88-2-010)

	Reappropriation	Appropriation
For Dev Acct		8,700
Res Mgmt Cost Acct		32,900
St Bldg Constr Acct		18,700
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
55,000	138,500	253,800

**NEW SECTION. Sec. 509. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Commercial development/L.I.D. (88-2-020)

	Reappropriation	Appropriation
Res Mgmt Cost Acct		710,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
745,000	1,420,000	2,875,000

**NEW SECTION. Sec. 510. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Timber—Fish—Wildlife (88-2-021)

The appropriation in this section is subject to the following condition and limitation: This appropriation shall lapse if the orphan roads are not

identified by September 30, 1989, and construction begun by December 31, 1989.

	Reappropriation	Appropriation
St Bldg Constr Acct	262,500	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
37,500		300,000

**NEW SECTION. Sec. 511. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Area office space construction and improvements (88-2-030)

	Reappropriation	Appropriation
For Dev Acct		174,000
Res Mgmt Cost Acct		448,000
St Bldg Constr Acct		26,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	267,000	915,000

**NEW SECTION. Sec. 512. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Natural resources conservation areas (88-2-060)

	Reappropriation	Appropriation
Conservation Area Acct	3,500,000	942,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
4,400,000		8,842,000

**NEW SECTION. Sec. 513. FOR THE DEPARTMENT OF NATURAL RESOURCES**

NAP property purchases (88-2-061)

The appropriations in this section are subject to the following conditions and limitations: \$1,000,000 of the state building and construction account appropriation and \$471,000 of the conservation area account appropriation are provided solely for the purpose of purchasing property or a less-than-fee interest in property under chapter 79.70 RCW. Moneys from this appropriation may not be expended unless for every two dollars to be expended from this appropriation at least one dollar is spent from privately raised funds, contributions of real property or interest in real property, or services necessary to achieve the purpose of this section.

	Reappropriation	Appropriation
Conservation Area Acct	890,000	471,000

St Bldg Constr Acct		1,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,110,000		5,471,000
<u>NEW SECTION.</u> Sec. 514. FOR THE DEPARTMENT OF NATURAL RESOURCES		
Hawks Prairie sewer hookup (88-5-045)		
	Reappropriation	Appropriation
Res Mgmt Cost Acct	100,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
100,000		200,000
<u>NEW SECTION.</u> Sec. 515. FOR THE DEPARTMENT OF NATURAL RESOURCES		
Seed orchard irrigation (89-2-006)		
	Reappropriation	Appropriation
For Dev Acct		19,500
Res Mgmt Cost Acct		45,500
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
165,000	160,000	390,000
<u>NEW SECTION.</u> Sec. 516. FOR THE DEPARTMENT OF NATURAL RESOURCES		
Management roads (89-2-008)		
	Reappropriation	Appropriation
Res Mgmt Cost Acct	122,400	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
233,000		355,400
<u>NEW SECTION.</u> Sec. 517. FOR THE DEPARTMENT OF NATURAL RESOURCES		
Communication site maintenance (89-2-009)		
	Reappropriation	Appropriation
Res Mgmt Cost Acct		150,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
177,000	300,000	627,000
<u>NEW SECTION.</u> Sec. 518. FOR THE DEPARTMENT OF NATURAL RESOURCES		

Real estate improved property minor works (89-2-010)

	Reappropriation	Appropriation
For Dev Acct		25,000
Res Mgmt Cost Acct		365,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	250,000	780,000
		<u>Total</u>
		1,420,000

NEW SECTION. Sec. 519. FOR THE DEPARTMENT OF NATURAL RESOURCES

Recreation site renovation (89-3-001)

The appropriations in this section are subject to the following conditions and limitations: If not expended by June 30, 1990, the appropriations in this section shall lapse.

	Reappropriation	Appropriation
St Bldg Constr Acct	550,100	
ORA—State	561,100	
	<u>Prior Biennia</u>	<u>Future Biennia</u>
	36,800	
		<u>Total</u>
		1,148,000

NEW SECTION. Sec. 520. FOR THE DEPARTMENT OF NATURAL RESOURCES

Wharf demolition/dock renovation (90-1-403)

	Reappropriation	Appropriation
Res Mgmt Cost Acct		200,000
	<u>Prior Biennia</u>	<u>Future Biennia</u>
		<u>Total</u>
		200,000

NEW SECTION. Sec. 521. FOR THE DEPARTMENT OF NATURAL RESOURCES

Asbestos surveys/removal (90-1-703)

The appropriation in this section is subject to the following condition and limitation: This appropriation shall lapse if construction has not begun by June 30, 1990.

	Reappropriation	Appropriation
For Dev Acct		35,700
Res Mgmt Cost Acct		49,200
St Bldg Constr Acct		30,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		114,900
<b><u>NEW SECTION.</u> Sec. 522. FOR THE DEPARTMENT OF NATURAL RESOURCES</b>		

Environmental cleanup (90-1-704)

The appropriation in this section is subject to the following condition and limitation: This appropriation shall lapse if construction has not begun by June 30, 1990.

	Reappropriation	Appropriation
For Dev Acct		75,900
Res Mgmt Cost Acct		273,500
St Bldg Constr Acct		235,600

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	554,900	1,139,900

**NEW SECTION. Sec. 523. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Environmental protection (90-1-706)

The appropriation in this section is subject to the following condition and limitation: This appropriation shall lapse if construction has not begun by June 30, 1990.

	Reappropriation	Appropriation
For Dev Acct		13,700
Res Mgmt Cost Acct		119,300
St Bldg Constr Acct		151,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	284,000	568,000

**NEW SECTION. Sec. 524. FOR THE DEPARTMENT OF NATURAL RESOURCES**

NE city code compliance (90-1-708)

	Reappropriation	Appropriation
Res Mgmt Cost Acct		31,500
St Bldg Constr Acct		15,500

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		47,000

**NEW SECTION. Sec. 525. FOR THE DEPARTMENT OF NATURAL RESOURCES**



Regional cold storage (90-2-310)

	Reappropriation	Appropriation
For Dev Acct		150,000
Res Mgmt Cost Acct		362,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	142,000	654,000

NEW SECTION. Sec. 526. FOR THE DEPARTMENT OF NATURAL RESOURCES

Irrigation pipeline replacement (90-2-311)

	Reappropriation	Appropriation
Res Mgmt Cost Acct		532,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	400,000	932,000

NEW SECTION. Sec. 527. FOR THE DEPARTMENT OF NATURAL RESOURCES

Administration sites repairs (90-2-312)

	Reappropriation	Appropriation
Res Mgmt Cost Acct		65,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	130,000	195,000

NEW SECTION. Sec. 528. FOR THE DEPARTMENT OF NATURAL RESOURCES

Bridge and road replacement (90-2-503)

	Reappropriation	Appropriation
ORV Acct		15,000
For Dev Acct		15,000
Res Mgmt Cost Acct		35,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	2,240,000	3,512,000

NEW SECTION. Sec. 529. FOR THE DEPARTMENT OF NATURAL RESOURCES

Compound replacement planning (90-2-705)

	Reappropriation	Appropriation
St Bldg Constr Acct		50,000

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Res Mgmt Cost Acct		39,000
For Dev Acct		11,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		100,000

**NEW SECTION. Sec. 530. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Woodard Bay NRCA fencing dev. (90-3-103)

	Reappropriation	Appropriation
St Bldg Constr Acct		200,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		200,000

**NEW SECTION. Sec. 531. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Dishman Hills protection dev. (90-3-104)

	Reappropriation	Appropriation
St Bldg Constr Acct		100,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		100,000

**NEW SECTION. Sec. 532. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Natural area preserves management (90-3-105)

	Reappropriation	Appropriation
St Bldg Constr Acct		150,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	200,000	350,000

**NEW SECTION. Sec. 533. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Construct and improve recreation sites (90-5-201)

The appropriation in this section is subject to the following condition and limitation: This appropriation shall lapse if the recreational projects are not identified and construction begun by June 30, 1990.

	Reappropriation	Appropriation
ORV Acct		117,000
St Bldg Constr Acct		363,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		480,000
<u>NEW SECTION.</u> Sec. 534. FOR THE DEPARTMENT OF NATURAL RESOURCES		

Seattle waterfront phase 1 dev. (90-5-202)

	Reappropriation	Appropriation
ORA—State		750,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	750,000	1,500,000

NEW SECTION. Sec. 535. FOR THE DEPARTMENT OF NATURAL RESOURCES

Woodard Bay health and safety dev. (90-5-203)

	Reappropriation	Appropriation
St Bldg Constr Acct		250,000
ORA—Federal		250,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		500,000

NEW SECTION. Sec. 536. FOR THE DEPARTMENT OF NATURAL RESOURCES

Long Lake phase 2 dev. (90-5-204)

	Reappropriation	Appropriation
ORV Acct		150,000
ORA—State		205,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		355,000

NEW SECTION. Sec. 537. FOR THE DEPARTMENT OF NATURAL RESOURCES

Geoduck Hatchery (90-5-402)

	Reappropriation	Appropriation
Res Mgmt Cost Acct		333,927

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		333,927

NEW SECTION. Sec. 538. FOR THE DEPARTMENT OF NATURAL RESOURCES

Spencer Island wetlands acquisition

The appropriation in this section is subject to the following conditions and limitations: Expenditure of moneys from this appropriation is contingent on the expenditure for the same purpose of at least one dollar from other sources for each dollar spent from this appropriation.

	Reappropriation	Appropriation
St Bldg Constr Acct		300,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		300,000

***\*NEW SECTION. Sec. 539. FOR THE DEPARTMENT OF NATURAL RESOURCES***

***Dredging of Cedar River delta***

***The appropriation in this section is subject to the following conditions and limitations: The department of natural resources shall assist local governmental authorities in seeking financial assistance on this project from federal, local governmental, and private sources. If desirable to facilitate such assistance, the department may lease the subject state lands to a local governmental authority. To the extent that financial assistance is received, moneys from this appropriation shall not be expended.***

	<b><i>Reappropriation</i></b>	<b><i>Appropriation</i></b>
St Bldg Constr Acct		<b><i>800,000</i></b>
<b><i><u>Prior Biennia</u></i></b>	<b><i><u>Future Biennia</u></i></b>	<b><i><u>Total</u></i></b>
		<b><i>800,000</i></b>

***\*Sec. 539 was vetoed, see message at end of chapter.***

***NEW SECTION. Sec. 540. FOR THE STATE CONVENTION AND TRADE CENTER***

***Washington State Convention and Trade Center (83-5-001)***

	Reappropriation	Appropriation
Conv Cntr Acct	1,000,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
35,618,000		36,618,000

***NEW SECTION. Sec. 541. FOR THE STATE CONVENTION AND TRADE CENTER***

***Project reserves and contingency funds (89-5-001)***

Reappropriation	Appropriation
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Conv Cntr Acct 3,000,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,765,000		4,765,000

**NEW SECTION. Sec. 542. FOR THE STATE CONVENTION AND TRADE CENTER**

Conversion of retail space to meeting rooms (89-5-002)

Reappropriation Appropriation

Conv Cntr Acct 12,250,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
750,000		13,000,000

**NEW SECTION. Sec. 543. FOR THE STATE CONVENTION AND TRADE CENTER**

Expansion of the nine hundred level (89-5-003)

Reappropriation Appropriation

Conv Cntr Acct 12,750,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
550,000		13,300,000

**NEW SECTION. Sec. 544. FOR THE STATE CONVENTION AND TRADE CENTER**

Purchase of McKay parcel (89-5-004)

Reappropriation Appropriation

Conv Cntr Acct 10,400,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		10,400,000

**NEW SECTION. Sec. 545. FOR THE STATE CONVENTION AND TRADE CENTER**

Eagles building: Exterior cleanup and repair (89-5-005)

Reappropriation Appropriation

Conv Cntr Acct 300,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		300,000

## PART 6

## TRANSPORTATION

NEW SECTION. Sec. 601. FOR THE WASHINGTON STATE PATROL

Crime laboratory renovation—Seattle (90-2-003)

	Reappropriation	Appropriation
St Bldg Constr Acct		441,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
15,000		456,000

NEW SECTION. Sec. 602. FOR THE WASHINGTON STATE PATROL

Expand and renovate laboratory—Tacoma (90-2-005)

	Reappropriation	Appropriation
St Bldg Const Acct		165,200
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
6,000		171,200

NEW SECTION. Sec. 603. FOR THE WASHINGTON STATE PATROL

Crime laboratory renovation—Spokane (90-2-008)

	Reappropriation	Appropriation
St Bldg Constr Acct		80,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
10,000		90,000

NEW SECTION. Sec. 604. FOR THE WASHINGTON STATE PATROL

Construct district headquarters—Everett (90-2-018)

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for the design and construction of a crime lab facility as part of the new district headquarters.

	Reappropriation	Appropriation
St Bldg Constr Acct		470,100
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		470,100

NEW SECTION. Sec. 605. FOR THE DEPARTMENT OF TRANSPORTATION

Acquisition of dredge spoils sites (83-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct	2,369,430	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,420,000		4,789,430

NEW SECTION. Sec. 606. FOR THE DEPARTMENT OF TRANSPORTATION

Retention dam: Green/Toutle River site acquisition (87-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct	5,387,043	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
13,289,430		18,676,473

NEW SECTION. Sec. 607. FOR THE DEPARTMENT OF TRANSPORTATION

Freight rail assistance and banking (90-5-001)

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

(1) \$2,300,000 from the essential rail assistance account appropriation is provided solely for distribution to county rail districts and port districts for the purposes of acquiring, maintaining, or improving branch lines as authorized by chapter 47.76 RCW.

(2) \$1,100,000 from the essential rail bank account appropriation is provided solely for the purchase of unused rail rights-of-way as authorized by chapter 47.76 RCW.

(3) Expenditures from the essential rail bank account appropriation shall not be made until the department consults with the chairs and ranking minority members of the house of representatives and senate transportation committees, house of representatives capital facilities committee, and senate ways and means committee, concerning specific railroad rights-of-way that the department proposes to acquire or assist local governments in acquiring, and as required by Substitute House Bill No. 1825.

	Reappropriation	Appropriation
Ess Rail Assis Acct		2,300,000
Ess Rail Bank Acct		1,100,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		3,400,000

PART 7

EDUCATION

NEW SECTION. Sec. 701. FOR THE STATE BOARD OF EDUCATION

Public school building construction: 1979 (79-3-002)

	Reappropriation	Appropriation
Common School Constr Fund	500	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
66,425		66,925

NEW SECTION. Sec. 702. FOR THE STATE BOARD OF EDUCATION

Public school building construction: 1983 (83-3-001)

	Reappropriation	Appropriation
Common School Constr Fund	600,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,000,000		1,600,000

NEW SECTION. Sec. 703. FOR THE STATE BOARD OF EDUCATION

Public school building construction: 1985-87 (86-4-001)

	Reappropriation	Appropriation
Common School Constr Fund	2,500,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
29,500,000		32,000,000

NEW SECTION. Sec. 704. FOR THE STATE BOARD OF EDUCATION

Planning grants: 1985-87 (86-4-007)

	Reappropriation	Appropriation
Common School Constr Fund	60,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
292,275		352,275



NEW SECTION. Sec. 705. FOR THE STATE BOARD OF EDUCATION

Artwork grants: 1985-87 (86-4-008)

	Reappropriation	Appropriation
Common School Constr Fund	180,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
114,000		294,000

NEW SECTION. Sec. 706. FOR THE STATE BOARD OF EDUCATION

Public school building construction: 1987 (88-2-001)

	Reappropriation	Appropriation
Common School Constr Fund	87,500,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
120,762,000		208,262,000

NEW SECTION. Sec. 707. FOR THE STATE BOARD OF EDUCATION

Darrington school district: New elementary and middle school (89-2-004)

	Reappropriation	Appropriation
Common School Constr Fund	3,000,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		3,000,000

NEW SECTION. Sec. 708. FOR THE STATE BOARD OF EDUCATION

Public school building construction: 1989 (90-2-001)

The appropriation in this section is subject to the following conditions and limitations:

- (1) A maximum of \$1,050,000 may be spent for state administration of school construction funding.
- (2) \$66,136,000 is provided solely for modernization projects previously approved by the state board of education.
- (3) The appropriation in this section includes proceeds of the issuance of bonds authorized for deposit in the common school construction fund by chapter 3, Laws of 1987 1st ex. sess., and ten million dollars in additional state bonds authorized by chapter \_\_, Laws of 1989 (HB 1484). Of the proceeds of bonds authorized by chapter \_\_, Laws of 1989 (HB 1484),

\$8,000,000, or as much thereof as may be necessary, shall be compensation to the common school construction fund for the sale of timber from common school trust lands sold to the parks and recreation commission pursuant to RCW 43.51.270, and authorized for sale by the legislature prior to January 1, 1989.

(4) The state board shall review current rules and administrative procedures, and shall amend or revise these rules and procedures to address the following concerns:

(a) The discrepancy between the forecasted enrollments used for determining state funding for school construction, and the state-wide growth trends predicted by the office of financial management;

(b) The infrequency of cooperative use of surplus space available in neighboring districts;

(c) The creation of new construction needs by school districts by selling or demolishing schools, or by redesignating grade space or administrative use of school buildings;

(d) The incentive to condemn useable schools to secure state funding, rather than awaiting uncertain support for modernization;

(e) Greater needs for replacement of decaying schools caused by deferral of modernization, at a higher long-term cost to the state and local districts;

(f) The potential of district boundary changes for the purpose of achieving more efficient use of facilities; and

(g) The potential of the state to recover its share of the value of sold school buildings that were built with state matching moneys.

Prior to September 15, 1989, the state board of education shall report to the capital facilities and financing committee of the house of representatives and the ways and means committee of the senate on the actions taken or rules adopted by the board to address these concerns.

	Reappropriation	Appropriation
Common School Constr Fund		252,097,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		252,097,000

**NEW SECTION. Sec. 709. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

**School housing emergencies**

The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation is provided solely to provide portable classrooms for school districts that have experienced an unanticipated school housing emergency. Portable classrooms provided under this section shall be leased

by the superintendent of public instruction to school districts, and the lease payments shall be deposited into the common school construction fund. School districts may qualify for assistance under this section only as a result of events barring students from occupying a school or a portion of a school, and portables shall not be provided under this section to address needs attributable to enrollment growth. The superintendent of public instruction shall provide assistance to a school district under this section only if satisfied that the district has considered other available options and that portable classrooms are the most feasible solution to school housing needs.

(2) Districts receiving assistance under this section shall submit a plan to replace or reopen their closed facilities prior to the end of the lease period, and shall certify that resources are available to meet all terms of the lease.

(3) For the purposes of this section, the term "lease" includes a lease with option to purchase.

	Reappropriation	Appropriation
Common School Constr Fund		650,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		650,000

NEW SECTION. Sec. 710. FOR THE STATE BOARD OF EDUCATION

Common school disbursement limit

The appropriations in sections 701 through 709 of this act are subject to the following conditions and limitations: A maximum of \$254,900,000 from the total of these appropriations may be disbursed during the 1989-91 biennium.

NEW SECTION. Sec. 711. FOR THE WASHINGTON INSTITUTE OF APPLIED TECHNOLOGY

Vocational Technology Center (88-2-003)

	Reappropriation	Appropriation
St Bldg Constr Acct	475,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
5,525,000		6,000,000

NEW SECTION. Sec. 712. FOR THE STATE SCHOOL FOR THE BLIND

Automatic sliding doors—Irwin education building (90-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		14,580

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<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		14,580

NEW SECTION. Sec. 713. FOR THE STATE SCHOOL FOR THE BLIND

Asbestos abatement (90-1-006)

	Reappropriation	Appropriation
St Bldg Constr Acct		324,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		324,000

NEW SECTION. Sec. 714. FOR THE STATE SCHOOL FOR THE BLIND

Replace heating and ventilation system and roof repairs: Irwin building (90-2-002)

	Reappropriation	Appropriation
St Bldg Constr Acct		130,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		130,000

NEW SECTION. Sec. 715. FOR THE STATE SCHOOL FOR THE BLIND

Driveway/parking lot repaving (90-2-003)

	Reappropriation	Appropriation
St Bldg Constr Acct		21,270

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		21,270

NEW SECTION. Sec. 716. FOR THE STATE SCHOOL FOR THE DEAF

Remove and replace three transformers/clerk (90-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct		36,500

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		36,500

NEW SECTION. Sec. 717. FOR THE STATE SCHOOL FOR THE DEAF

Asbestos abatement (90-1-005)

	Reappropriation	Appropriation
St Bldg Constr Acct		245,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		245,000

NEW SECTION. Sec. 718. FOR THE STATE SCHOOL FOR THE DEAF

Wheelchair lifts—Clark Hall, vocational, Northrup School (90-2-003)

	Reappropriation	Appropriation
St Bldg Constr Acct		147,100
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		147,100

NEW SECTION. Sec. 719. FOR THE STATE SCHOOL FOR THE DEAF

Roof repair (91-2-002)

	Reappropriation	Appropriation
St Bldg Constr Acct		50,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		50,000

NEW SECTION. Sec. 720. HIGHER EDUCATION

The legislature finds that the state's institutions of higher education are facing unsurpassed capital needs. The legislature further finds that higher education institutions play a special and vitally important role in economic development by creating new ideas, products, and industries. Therefore, the institutions should aggressively solicit private and business financial support to assist in meeting the capital needs of higher education.

NEW SECTION. Sec. 721. FOR THE UNIVERSITY OF WASHINGTON

Roberts Hall renovation (83-1-012)

	Reappropriation	Appropriation
H Ed Reimb S/T Bonds Acct	400,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
5,355,794		5,755,794

**NEW SECTION. Sec. 722. FOR THE UNIVERSITY OF WASHINGTON**

Safety—Fire code, PCB and life safety (86-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct	4,000,000	
UW Bldg Acct		8,600,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,707,000	14,000,000	29,507,000

**NEW SECTION. Sec. 723. FOR THE UNIVERSITY OF WASHINGTON**

Safety—Asbestos removal (86-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	2,200,000	
UW Bldg Acct	350,000	5,500,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,450,000	20,000,000	29,500,000

**NEW SECTION. Sec. 724. FOR THE UNIVERSITY OF WASHINGTON**

Safety—General (86-1-003)

	Reappropriation	Appropriation
St Bldg Constr Acct	750,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
250,000		1,000,000

**NEW SECTION. Sec. 725. FOR THE UNIVERSITY OF WASHINGTON**

Minor works—Building renewal (86-1-004)

	Reappropriation	Appropriation
St Bldg Constr Acct	2,600,000	
UW Bldg Acct	1,740,000	9,733,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
4,274,325	26,000,000	50,077,090

**NEW SECTION. Sec. 726. FOR THE UNIVERSITY OF WASHINGTON**

Fisheries repairs and expansion (86-1-014)

	Reappropriation	Appropriation
St H Ed Constr Acct	2,600,000	
<u>Prior Biennia</u>		<u>Total</u>
3,090,805		5,690,805

NEW SECTION. Sec. 727. FOR THE UNIVERSITY OF WASHINGTON

HSC G Court, H Wing and I Court addition (86-2-021)

	Reappropriation	Appropriation
St Bldg Constr Acct	20,400,000	24,692,000
UW Bldg Acct	3,500,000	
<u>Prior Biennia</u>		<u>Total</u>
776,000		49,368,000

NEW SECTION. Sec. 728. FOR THE UNIVERSITY OF WASHINGTON

Minor works—Program renewal (86-3-005)

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

	Reappropriation	Appropriation
UW Bldg Acct	2,700,000	9,000,000
<u>Prior Biennia</u>		<u>Total</u>
9,921,000	42,270,000	70,914,527

NEW SECTION. Sec. 729. FOR THE UNIVERSITY OF WASHINGTON

Energy conservation (86-4-023)

	Reappropriation	Appropriation
St Bldg Constr Acct	900,000	
H Ed Constr Acct	300,000	
<u>Prior Biennia</u>		<u>Total</u>
663,566		1,863,566

NEW SECTION. Sec. 730. FOR THE UNIVERSITY OF WASHINGTON

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Pavilion roof (88-1-009)

	Reappropriation	Appropriation
St Bldg Constr Acct	652,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
80,000		732,000

NEW SECTION. Sec. 731. FOR THE UNIVERSITY OF WASHINGTON

Electrical distribution system (88-1-011)

	Reappropriation	Appropriation
St Bldg Constr Acct	1,000,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
500,000	5,139,000	6,639,000

NEW SECTION. Sec. 732. FOR THE UNIVERSITY OF WASHINGTON

Power plant chiller (88-1-012)

	Reappropriation	Appropriation
St Bldg Constr Acct	750,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
250,000		1,000,000

NEW SECTION. Sec. 733. FOR THE UNIVERSITY OF WASHINGTON

Power plant stack replacement (88-1-023)

	Reappropriation	Appropriation
UW Bldg Acct	1,050,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
450,000		1,500,000

NEW SECTION. Sec. 734. FOR THE UNIVERSITY OF WASHINGTON

Suzzallo Library addition (88-2-013)

	Reappropriation	Appropriation
St Bldg Constr Acct	20,600,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
11,310,104		34,583,000



NEW SECTION. Sec. 735. FOR THE UNIVERSITY OF WASHINGTON

Communications building renovation (88-2-014)

	Reappropriation	Appropriation
St Bldg Constr Acct	4,480,000	1,015,000
UW Bldg Acct		1,167,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
75,000		6,737,000

NEW SECTION. Sec. 736. FOR THE UNIVERSITY OF WASHINGTON

H wing renovation (88-2-015)

	Reappropriation	Appropriation
St Bldg Constr Acct	715,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
18,000		733,000

NEW SECTION. Sec. 737. FOR THE UNIVERSITY OF WASHINGTON

Power plant boiler (88-2-022)

	Reappropriation	Appropriation
St Bldg Constr Acct	490,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
203,000		693,000

NEW SECTION. Sec. 738. FOR THE UNIVERSITY OF WASHINGTON

Science and engineering planning (88-2-044)

	Reappropriation	Appropriation
UW Bldg Acct	250,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
750,000		1,000,000

NEW SECTION. Sec. 739. FOR THE UNIVERSITY OF WASHINGTON

Power plant boiler retrofit (88-4-024)

	Reappropriation	Appropriation
UW Bldg Acct	2,050,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
250,000		2,300,000

NEW SECTION. Sec. 740. FOR THE UNIVERSITY OF WASHINGTON

Emergency power generation (90-2-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		11,110,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		11,110,000

NEW SECTION. Sec. 741. FOR THE UNIVERSITY OF WASHINGTON

Physics (90-2-009)

The appropriation in this section is subject to the following conditions and limitations: The project shall be constructed on campus.

	Reappropriation	Appropriation
St Bldg Constr Acct		4,155,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		4,155,000

NEW SECTION. Sec. 742. FOR THE UNIVERSITY OF WASHINGTON

Chemistry I (90-2-011)

The appropriation in this section is subject to the following conditions and limitations: The project shall be constructed on campus.

	Reappropriation	Appropriation
St Bldg Constr Acct		39,152,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		39,152,000

NEW SECTION. Sec. 743. FOR THE UNIVERSITY OF WASHINGTON

Electrical engineering building addition (90-2-013)

The appropriation in this section is subject to the following conditions and limitations: The project shall be constructed on campus.

	Reappropriation	Appropriation
St Bldg Constr Acct		3,111,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		3,111,000

NEW SECTION. Sec. 744. FOR THE UNIVERSITY OF WASHINGTON

Computer sciences building (92-2-024)

The appropriation in this section is subject to the following conditions and limitations: The project shall be constructed on campus.

	Reappropriation	Appropriation
St Bldg Constr Acct		1,000,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,000,000

NEW SECTION. Sec. 745. FOR WASHINGTON STATE UNIVERSITY

Chemistry building, phase 2 (86-1-003)

	Reappropriation	Appropriation
H Ed Constr Acct	1,932,000	
WSU Bldg Acct	1,000,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
11,860,000		14,792,000

NEW SECTION. Sec. 746. FOR WASHINGTON STATE UNIVERSITY

Food—Human nutrition facility—Equipment (86-1-004)

	Reappropriation	Appropriation
WSU Bldg Acct	1,502,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,915,435		4,417,435

NEW SECTION. Sec. 747. FOR WASHINGTON STATE UNIVERSITY

McCoy Hall capital renewal (86-1-005)

	Reappropriation	Appropriation
H Ed Constr Acct	78,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,162,537		2,240,537

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NEW SECTION. Sec. 748. FOR WASHINGTON STATE UNIVERSITY

Science Hall renewal, phase 2 (86-1-006)

	Reappropriation	Appropriation
H Ed Constr Acct	3,603,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
8,151,395		11,754,395

NEW SECTION. Sec. 749. FOR WASHINGTON STATE UNIVERSITY

Neill Hall renewal (86-1-007)

	Reappropriation	Appropriation
WSU Bldg Acct	3,569,500	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		3,569,500

NEW SECTION. Sec. 750. FOR WASHINGTON STATE UNIVERSITY

Minor capital improvement (88-1-001)

	Reappropriation	Appropriation
WSU Bldg Acct	1,896,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,827,000		4,723,000

NEW SECTION. Sec. 751. FOR WASHINGTON STATE UNIVERSITY

Minor capital renewal (88-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	2,109,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,593,000		5,702,000

NEW SECTION. Sec. 752. FOR WASHINGTON STATE UNIVERSITY

Preplanning (88-1-004)

	Reappropriation	Appropriation
WSU Bldg Acct	107,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		107,000
<u>NEW SECTION.</u> Sec. 753. FOR WASHINGTON STATE UNIVERSITY		
Todd Hall addition (88-1-011)		
	Reappropriation	Appropriation
St Bldg Constr Acct	4,904,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
428,000		5,332,000
<u>NEW SECTION.</u> Sec. 754. FOR WASHINGTON STATE UNIVERSITY		
Fine arts mechanical renovation (88-1-012)		
	Reappropriation	Appropriation
WSU Bldg Acct	240,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,713,000		2,953,000
<u>NEW SECTION.</u> Sec. 755. FOR WASHINGTON STATE UNIVERSITY		
Carpenter Hall renewal (88-2-005)		
	Reappropriation	Appropriation
H Ed Constr Acct	3,029,400	
WSU Bldg Acct	2,685,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
485,600		6,200,000
<u>NEW SECTION.</u> Sec. 756. FOR WASHINGTON STATE UNIVERSITY		
Dairy forage facility (88-3-007)		
	Reappropriation	Appropriation
WSU Bldg Acct	1,100,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
82,000		1,182,000
<u>NEW SECTION.</u> Sec. 757. FOR WASHINGTON STATE UNIVERSITY		

Veterinary research diagnostic center (88-5-006)

	Reappropriation	Appropriation
St Bldg Constr Acct	225,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
25,000	3,172,600	3,422,600

NEW SECTION. Sec. 758. FOR WASHINGTON STATE UNIVERSITY

Minor capital improvements (90-1-001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

	Reappropriation	Appropriation
WSU Bldg Acct		5,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		8,233,000

NEW SECTION. Sec. 759. FOR WASHINGTON STATE UNIVERSITY

Hazardous, pathological, radioactive waste handling facilities (90-1-004)

	Reappropriation	Appropriation
WSU Bldg Acct		152,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	11,000,000	11,152,000

NEW SECTION. Sec. 760. FOR WASHINGTON STATE UNIVERSITY

Nuclear radiation center study (90-1-011)

	Reappropriation	Appropriation
WSU Bldg Acct		53,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	4,000,000	4,053,000

NEW SECTION. Sec. 761. FOR WASHINGTON STATE UNIVERSITY

Expansion of east campus electrical substation (90-1-014)

	Reappropriation	Appropriation
WSU Bldg Acct		533,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		533,000

NEW SECTION. Sec. 762. FOR WASHINGTON STATE UNIVERSITY

Smith Gym electrical system renewal (90-1-018)

	Reappropriation	Appropriation
WSU Bldg Acct		648,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		648,000

NEW SECTION. Sec. 763. FOR WASHINGTON STATE UNIVERSITY

Holland Library addition (90-2-013)

	Reappropriation	Appropriation
St Bldg Constr Acct		33,400,000
WSU Bldg Acct	184,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
87,000		33,671,000

NEW SECTION. Sec. 764. FOR WASHINGTON STATE UNIVERSITY

Veterinary Teaching Hospital (90-2-016)

	Reappropriation	Appropriation
St Bldg Constr Acct		1,300,000
WSU Bldg Acct		200,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
327,000	29,438,000	31,265,000

NEW SECTION. Sec. 765. FOR WASHINGTON STATE UNIVERSITY

Food—Human nutrition building, phase 2 (90-2-020)

	Reappropriation	Appropriation
General Fund—Federal		12,688,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		12,688,000

NEW SECTION. Sec. 766. FOR WASHINGTON STATE UNIVERSITY

Minor capital renewal (90-3-002)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

	Reappropriation	Appropriation
St Bldg Constr Acct		5,000,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		5,000,000

NEW SECTION. Sec. 767. FOR WASHINGTON STATE UNIVERSITY

Todd Hall renewal (90-3-003)

	Reappropriation	Appropriation
WSU Bldg Acct		182,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		182,000

NEW SECTION. Sec. 768. FOR WASHINGTON STATE UNIVERSITY

WSU Tri-Cities University Center (90-5-901)

	Reappropriation	Appropriation
St Bldg Constr Acct	420,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
300,000		720,000

NEW SECTION. Sec. 769. FOR EASTERN WASHINGTON UNIVERSITY

Mathematical science and technology remodel (81-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	74,000	82,900



<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
273,000	5,789,700	6,219,600
<u>NEW SECTION.</u> Sec. 770. FOR EASTERN WASHINGTON UNIVERSITY		

Science building addition/remodel (83-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct	6,250,000	6,784,500

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,778,000	2,952,600	18,765,100
<u>NEW SECTION.</u> Sec. 771. FOR EASTERN WASHINGTON UNIVERSITY		

Electrical system renewal (86-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	1,905,000	
St Fac Renew Acct	709,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
813,000		3,427,000
<u>NEW SECTION.</u> Sec. 772. FOR EASTERN WASHINGTON UNIVERSITY		

Roof replacement (86-1-003)

	Reappropriation	Appropriation
St Bldg Constr Acct		500,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
915,000	1,500,000	2,915,000
<u>NEW SECTION.</u> Sec. 773. FOR EASTERN WASHINGTON UNIVERSITY		

Water storage and distribution (86-1-004)

	Reappropriation	Appropriation
St H Ed Constr Acct	207,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
963,000		1,170,000
<u>NEW SECTION.</u> Sec. 774. FOR EASTERN WASHINGTON UNIVERSITY		

Minor works projects (86-1-010)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

	Reappropriation	Appropriation
EWU Cap Proj Acct	403,000	2,100,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,497,000	8,536,000	12,536,000
<u>NEW SECTION.</u> Sec. 775. FOR EASTERN WASHINGTON UNIVERSITY		

Small repairs projects (86-1-011)

	Reappropriation	Appropriation
EWU Cap Proj Acct	155,000	1,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
478,000	3,200,000	4,833,000
<u>NEW SECTION.</u> Sec. 776. FOR EASTERN WASHINGTON UNIVERSITY		

Energy conservation (86-2-006)

	Reappropriation	Appropriation
St H Ed Constr Acct	424,000	
St Bldg Constr Acct	30,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
102,000		556,000
<u>NEW SECTION.</u> Sec. 777. FOR EASTERN WASHINGTON UNIVERSITY		

Life/safety and code compliance: Asbestos (88-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		1,900,000
EWU Cap Proj Acct	170,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
513,000	4,000,000	6,583,000
<u>NEW SECTION.</u> Sec. 778. FOR EASTERN WASHINGTON UNIVERSITY		

Fire suppression (88-1-005)

	Reappropriation	Appropriation
St Bldg Constr Acct	215,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
361,000	2,158,000	2,734,000

NEW SECTION. Sec. 779. FOR EASTERN WASHINGTON UNIVERSITY

Kennedy Library addition/HVAC—Preplanning (90-5-003)

	Reappropriation	Appropriation
EWU Cap Proj Acct		165,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		165,000

NEW SECTION. Sec. 780. FOR EASTERN WASHINGTON UNIVERSITY

Telecommunications cable replacement (90-2-005)

	Reappropriation	Appropriation
EWU Cap Proj Acct		1,080,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,080,000

NEW SECTION. Sec. 781. FOR CENTRAL WASHINGTON UNIVERSITY

Energy savings projects (86-2-005)

	Reappropriation	Appropriation
CWU Cap Proj Acct	725,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
183,818		908,818

NEW SECTION. Sec. 782. FOR CENTRAL WASHINGTON UNIVERSITY

Nicholson Pavilion, Phase I (86-3-001)

	Reappropriation	Appropriation
H Ed Constr Acct	9,500	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
959,506		969,006

NEW SECTION. Sec. 783. FOR CENTRAL WASHINGTON UNIVERSITY

Small repairs and improvements (86-3-013)

	Reappropriation	Appropriation
CWU Cap Proj Acct	30,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
503,000		533,000

NEW SECTION. Sec. 784. FOR CENTRAL WASHINGTON UNIVERSITY

Life safety-Code compliance (88-1-004)

	Reappropriation	Appropriation
St Bldg Constr Acct	509,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,248,000		1,757,000

NEW SECTION. Sec. 785. FOR CENTRAL WASHINGTON UNIVERSITY

Handicap modifications (88-1-007)

	Reappropriation	Appropriation
CWU Cap Proj Acct	625,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
90,000		715,000

NEW SECTION. Sec. 786. FOR CENTRAL WASHINGTON UNIVERSITY

Nicholson Pavilion phase 2 (88-2-001)

	Reappropriation	Appropriation
St Bldg Constr Acct	3,600,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
263,000		3,863,000

NEW SECTION. Sec. 787. FOR CENTRAL WASHINGTON UNIVERSITY

Life/safety (90-1-030)

	Reappropriation	Appropriation
St Bldg Constr Acct		831,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	1,000,000	1,831,000
<u>NEW SECTION.</u> Sec. 788. FOR CENTRAL WASHINGTON UNIVERSITY		
Asbestos abatement (90-1-040)		
	Reappropriation	Appropriation
St Bldg Constr Acct		1,000,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,735,000	1,000,000	3,735,000
<u>NEW SECTION.</u> Sec. 789. FOR CENTRAL WASHINGTON UNIVERSITY		
Psychology animal research facility (90-1-060)		
	Reappropriation	Appropriation
St Bldg Constr Acct		1,547,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,547,000
<u>NEW SECTION.</u> Sec. 790. FOR CENTRAL WASHINGTON UNIVERSITY		
Barge Hall renovation (90-2-001)		
	Reappropriation	Appropriation
St Bldg Constr Acct		600,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	7,744,800	8,344,800
<u>NEW SECTION.</u> Sec. 791. FOR CENTRAL WASHINGTON UNIVERSITY		
Telecommunications system—Phase 2 (90-2-003)		
	Reappropriation	Appropriation
CWU Cap Proj Acct	1,732,000	1,443,600
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
68,000		3,243,600
<u>NEW SECTION.</u> Sec. 792. FOR CENTRAL WASHINGTON UNIVERSITY		

## Shaw/Smyser Hall remodel (90-2-005)

	Reappropriation	Appropriation
St Bldg Constr Acct		2,405,900
CWU Cap Proj Acct		1,300,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		3,705,900

NEW SECTION. Sec. 793. FOR CENTRAL WASHINGTON UNIVERSITY

## Minor works projects group I (90-2-050)

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

	Reappropriation	Appropriation
CWU Cap Proj Acct	800,000	3,856,600
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,212,958	10,450,000	17,319,558

## PART 8

## EDUCATION - CONTINUED

NEW SECTION. Sec. 801. FOR THE EVERGREEN STATE COLLEGE

## Life safety—Code compliance (88-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct	172,000	819,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,012,000		2,003,000

NEW SECTION. Sec. 802. FOR THE EVERGREEN STATE COLLEGE

## Energy audit compliance (88-2-016)

	Reappropriation	Appropriation
St Bldg Constr Acct	60,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
145,000		205,000

NEW SECTION. Sec. 803. FOR THE EVERGREEN STATE COLLEGE

Campus recreation center, Phase II: Gym (88-5-015)

	Reappropriation	Appropriation
St Bldg Constr Acct	474,572	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
6,298,428		6,773,000

NEW SECTION. Sec. 804. FOR THE EVERGREEN STATE COLLEGE

Asbestos removal (90-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		60,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	443,000	503,000

NEW SECTION. Sec. 805. FOR THE EVERGREEN STATE COLLEGE

Failed systems (90-2-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		544,070
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		544,070

NEW SECTION. Sec. 806. FOR THE EVERGREEN STATE COLLEGE

Minor works (90-2-003)

	Reappropriation	Appropriation
St Bldg Constr Acct		178,720
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		178,720

NEW SECTION. Sec. 807. FOR THE EVERGREEN STATE COLLEGE

Emergency repairs (90-2-022)

	Reappropriation	Appropriation
TESC Cap Proj Acct		81,000

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<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		81,000
<b><u>NEW SECTION.</u> Sec. 808. FOR THE EVERGREEN STATE COLLEGE</b>		

Small repairs and improvements (90-2-023)

	Reappropriation	Appropriation
TESC Cap Proj Acct		162,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		162,000

**NEW SECTION. Sec. 809. FOR WESTERN WASHINGTON UNIVERSITY**

Const Tech Bldg/remodel Art Tech building phase 2 (84-3-001)

	Reappropriation	Appropriation
St Bldg Constr Acct	100,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
9,809,055		9,909,055

**NEW SECTION. Sec. 810. FOR WESTERN WASHINGTON UNIVERSITY**

Construct/equip science facility phase 1 (90-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		20,730,700
WWU Cap Proj Acct	1,082,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
168,000		21,980,700

**NEW SECTION. Sec. 811. FOR WESTERN WASHINGTON UNIVERSITY**

Asbestos abatement—Multiple buildings (90-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct		3,000,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		3,000,000

**NEW SECTION. Sec. 812. FOR WESTERN WASHINGTON UNIVERSITY**

Minor works request/small repairs and improvements (90-1-004)



The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.

	Reappropriation	Appropriation
WWU Cap Proj Acct	2,503,000	3,900,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
8,948,481	12,000,000	27,351,481

NEW SECTION. Sec. 813. FOR WESTERN WASHINGTON UNIVERSITY

Science facility, phase 2 (design) (90-1-005)

	Reappropriation	Appropriation
St Bldg Constr Acct		887,300

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	19,332,800	20,220,100

NEW SECTION. Sec. 814. FOR WESTERN WASHINGTON UNIVERSITY

Institute of Wildlife Toxicology—Facility acquisition (90-2-003)

	Reappropriation	Appropriation
WWU Cap Proj Acct		1,500,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,500,000

NEW SECTION. Sec. 815. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Addition to air conditioning (86-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	206,000	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
125,000		331,000

NEW SECTION. Sec. 816. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Museum interior remodeling (88-3-004)

Reappropriation	Appropriation
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St Bldg Constr Acct 1,937,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
305,000		2,242,000

**NEW SECTION. Sec. 817. FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

Small improvement project to extend building's useful life (90-3-006)

	Reappropriation	Appropriation
St Bldg Constr Acct		151,500

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		151,500

**NEW SECTION. Sec. 818. FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

New exhibition center at Union Station: Phase I (90-5-005)

The appropriation in this section is subject to the following conditions and limitations:

(1) These funds shall be used for land acquisition, design and engineering, and final planning.

(2) This appropriation is contingent on the expenditure for the same purpose of at least three dollars from nonstate sources for each seven dollars spent from this appropriation. It is the intent of the legislature that future appropriations for this project will require the same thirty percent nonstate matching ratio up to a maximum of \$18,000,000 from state moneys, including all costs for land, design, construction, and exhibits.

	Reappropriation	Appropriation
St Bldg Constr Acct		3,080,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		3,080,000

**NEW SECTION. Sec. 819. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY**

Campbell House—Restoration (86-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct		200,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
343,000		543,000

**NEW SECTION. Sec. 820. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY**

Cheney Cowles Museum—Repair roof and heating/cooling (89-2-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		80,100
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		80,100

**NEW SECTION. Sec. 821. FOR THE STATE CAPITAL HISTORICAL ASSOCIATION**

Minor works State Museum Olympia (90-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	9,000	27,100
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
91,000	48,000	175,100

**NEW SECTION. Sec. 822. FOR THE STATE CAPITAL HISTORICAL ASSOCIATION**

Energy efficiency agency headquarters—Olympia (91-1-004)

	Reappropriation	Appropriation
St Bldg Constr Acct	15,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,000		16,000

**NEW SECTION. Sec. 823. FOR THE STATE CAPITAL HISTORICAL ASSOCIATION**

Capital museum and parking facility preplanning (90-5-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		230,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		230,000

**\*NEW SECTION. Sec. 824. FOR THE COMMUNITY COLLEGE SYSTEM**

*It is the intent of the legislature that the 1989-1995 six-year state facilities and capital plan continue the commitment of sixty-five million dollars per biennium to the community college system.*

\*Sec. 824 was vetoed, see message at end of chapter.

**NEW SECTION. Sec. 825. FOR THE COMMUNITY COLLEGE SYSTEM**

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Minor capital improvements (83-2-002)

	Reappropriation	Appropriation
H Ed Constr Acct	4,745	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
17,969		22,714

**NEW SECTION. Sec. 826. FOR THE COMMUNITY COLLEGE SYSTEM**

HVAC repairs (83-2-007)

	Reappropriation	Appropriation
St H Ed Constr Acct	42,140	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
46,208		88,348

**NEW SECTION. Sec. 827. FOR THE COMMUNITY COLLEGE SYSTEM**

Minor works request (RMI) (86-1-001)

	Reappropriation	Appropriation
H Ed Reimb S/T Bonds Acct	97,857	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
742,708		840,565

**NEW SECTION. Sec. 828. FOR THE COMMUNITY COLLEGE SYSTEM**

Critical repair projects (86-1-003)

	Reappropriation	Appropriation
H Ed Reimb S/T Bonds Acct	473,630	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
613,391		1,087,021

**NEW SECTION. Sec. 829. FOR THE COMMUNITY COLLEGE SYSTEM**

General repair projects (86-1-004)

	Reappropriation	Appropriation
St Fac Renew—Acct	684,883	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,366,982		4,051,865

**NEW SECTION. Sec. 830. FOR THE COMMUNITY COLLEGE SYSTEM**

Energy conservation projects (86-1-005)

	Reappropriation	Appropriation
St Fac Renew Acct	337,208	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,042,729		1,379,937

**NEW SECTION. Sec. 831. FOR THE COMMUNITY COLLEGE SYSTEM**

Prior hall renovation (86-1-018)

	Reappropriation	Appropriation
H Ed Constr Acct	5,945	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
847,554		853,499

**NEW SECTION. Sec. 832. FOR THE COMMUNITY COLLEGE SYSTEM**

Food service building: Olympic (86-3-019)

	Reappropriation	Appropriation
St H Ed Constr Acct	159,581	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,161,290		2,320,871

**NEW SECTION. Sec. 833. FOR THE COMMUNITY COLLEGE SYSTEM**

Minor renovations (86-2-006)

	Reappropriation	Appropriation
St Fac Renew Acct	228,366	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,440,542		3,668,908

**NEW SECTION. Sec. 834. FOR THE COMMUNITY COLLEGE SYSTEM**

Minor remodel projects (86-2-007)

	Reappropriation	Appropriation
St Fac Renew Acct	96,717	

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<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
802,701		899,418

**NEW SECTION. Sec. 835. FOR THE COMMUNITY COLLEGE SYSTEM**

Program/plan/construct: Library/student Center, Everett (86-2-031)

	Reappropriation	Appropriation
St Bldg Constr Acct	864,029	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
7,312,318		8,176,347

**NEW SECTION. Sec. 836. FOR THE COMMUNITY COLLEGE SYSTEM**

Construct main storage building—Clark (86-3-009)

	Reappropriation	Appropriation
St H Ed Constr Acct	1,626	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
175,971		177,597

**NEW SECTION. Sec. 837. FOR THE COMMUNITY COLLEGE SYSTEM**

Minor improvements (86-3-011)

	Reappropriation	Appropriation
St H Ed Constr Acct	26,092	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
877,028		903,120

**NEW SECTION. Sec. 838. FOR THE COMMUNITY COLLEGE SYSTEM**

Edison North renovation II: Seattle central (86-3-013)

	Reappropriation	Appropriation
St H Ed Constr Acct	32,663	
St Bldg Constr Acct	1,753,859	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
6,129,790		7,916,312

**NEW SECTION. Sec. 839. FOR THE COMMUNITY COLLEGE SYSTEM**

Construct core facility and instructional space: Whatcom (86-3-015)

	Reappropriation	Appropriation
St H Ed Constr Acct	24,099	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,195,868		1,219,967

**NEW SECTION. Sec. 840. FOR THE COMMUNITY COLLEGE SYSTEM**

Replace relocatable buildings: Pierce (86-3-017)

	Reappropriation	Appropriation
St H Ed Constr Acct	46,613	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
880,787		927,400

**NEW SECTION. Sec. 841. FOR THE COMMUNITY COLLEGE SYSTEM**

Vocational science facility: Wenatchee (86-3-020)

	Reappropriation	Appropriation
St H Ed Constr Acct	159,342	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,083,657		2,242,999

**NEW SECTION. Sec. 842. FOR THE COMMUNITY COLLEGE SYSTEM**

Gaspard Extension Facility: Puyallup (86-3-021)

	Reappropriation	Appropriation
St Bldg Constr Acct	5,263,973	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
315,176		5,579,149

**NEW SECTION. Sec. 843. FOR THE COMMUNITY COLLEGE SYSTEM**

Tech building and related remodeling: Skagit Valley (86-3-022)

	Reappropriation	Appropriation
St Bldg Constr Acct	54,999	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,545,001		3,600,000

**NEW SECTION. Sec. 844. FOR THE COMMUNITY COLLEGE SYSTEM**

Heavy equipment building: Grays Harbor (86-3-023)

	Reappropriation	Appropriation
St Bldg Constr Acct	32,851	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
745,149		778,000

**NEW SECTION. Sec. 845. FOR THE COMMUNITY COLLEGE SYSTEM**

Learning Resource Center: South Puget Sound CC (86-3-025)

	Reappropriation	Appropriation
St Bldg Constr Acct	2,278,211	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
4,955,789		7,234,000

**NEW SECTION. Sec. 846. FOR THE COMMUNITY COLLEGE SYSTEM**

Heavy equipment building: South Seattle (86-3-026)

	Reappropriation	Appropriation
St Bldg Constr Acct	594,006	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
4,018,994		4,613,000

**NEW SECTION. Sec. 847. FOR THE COMMUNITY COLLEGE SYSTEM**

Preplanning for 1987-89 major projects (86-4-999)

	Reappropriation	Appropriation
St H Ed Constr Acct	12,921	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
164,068		176,989

**NEW SECTION. Sec. 848. FOR THE COMMUNITY COLLEGE SYSTEM**

Minor works (RMI) (88-2-001)

	Reappropriation	Appropriation
St Bldg Constr Acct	1,331,193	



<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,168,807		3,500,000

**NEW SECTION. Sec. 849. FOR THE COMMUNITY COLLEGE SYSTEM**

Repairs—Exterior walls (88-3-003)

	Reappropriation	Appropriation
St Bldg Constr Acct	1,273,171	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
2,990,829		4,264,000

**NEW SECTION. Sec. 850. FOR THE COMMUNITY COLLEGE SYSTEM**

Repairs—Mechanical/HVAC (88-3-004)

	Reappropriation	Appropriation
St Bldg Constr Acct	2,149,189	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,925,811		4,075,000

**NEW SECTION. Sec. 851. FOR THE COMMUNITY COLLEGE SYSTEM**

Minor improvements (88-3-005)

	Reappropriation	Appropriation
St Bldg Constr Acct	5,288,563	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
8,475,437		13,764,000

**NEW SECTION. Sec. 852. FOR THE COMMUNITY COLLEGE SYSTEM**

Repairs—Electrical (88-3-006)

	Reappropriation	Appropriation
St Bldg Constr Acct	743,042	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
648,958		1,392,000

**NEW SECTION. Sec. 853. FOR THE COMMUNITY COLLEGE SYSTEM**

## Repairs—Sites and interiors (88-3-007)

	Reappropriation	Appropriation
St Bldg Constr Acct	402,427	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
1,523,573		1,926,000

NEW SECTION. Sec. 854. FOR THE COMMUNITY COLLEGE SYSTEM

## Agricultural technology building (Walla Walla) (88-3-008)

	Reappropriation	Appropriation
St Bldg Constr Acct	166,325	2,946,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
50,478		3,162,803

NEW SECTION. Sec. 855. FOR THE COMMUNITY COLLEGE SYSTEM

## Vocational shop (Wenatchee Valley) (88-3-010)

	Reappropriation	Appropriation
St Bldg Constr Acct	60,274	880,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
21,726		962,000

NEW SECTION. Sec. 856. FOR THE COMMUNITY COLLEGE SYSTEM

## Computer facility (Edmonds) (88-3-011)

	Reappropriation	Appropriation
St Bldg Constr Acct	123,480	3,624,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
124,522		3,872,002

NEW SECTION. Sec. 857. FOR THE COMMUNITY COLLEGE SYSTEM

## Learning Resource Center (Clark) (88-3-012)

	Reappropriation	Appropriation
St Bldg Constr Acct	113,758	6,077,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
233,242		6,424,000

NEW SECTION. Sec. 858. FOR THE COMMUNITY COLLEGE SYSTEM

Extension center (Yakima Valley) (88-3-013)

	Reappropriation	Appropriation
St Bldg Constr Acct	62,699	1,586,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
61,827		1,710,526

NEW SECTION. Sec. 859. FOR THE COMMUNITY COLLEGE SYSTEM

Math/science building (Spokane Falls) (88-3-015)

	Reappropriation	Appropriation
St Bldg Constr Acct	112,990	5,510,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
203,648		5,826,638

NEW SECTION. Sec. 860. FOR THE COMMUNITY COLLEGE SYSTEM

LRC (Spokane) (88-3-016)

	Reappropriation	Appropriation
St Bldg Constr Acct	52,067	5,270,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
287,506		5,609,573

NEW SECTION. Sec. 861. FOR THE COMMUNITY COLLEGE SYSTEM

Construct Clarkston Extension Center: (Walla Walla) (88-3-017)

	Reappropriation	Appropriation
St Bldg Constr Acct	83,172	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
3,392,471		3,475,643

NEW SECTION. Sec. 862. FOR THE COMMUNITY COLLEGE SYSTEM

Tacoma Computer Center: TCC (88-3-018)

	Reappropriation	Appropriation
St Bldg Constr Acct	1,848,278	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
709,722		2,558,000

**NEW SECTION. Sec. 863. FOR THE COMMUNITY COLLEGE SYSTEM**

Preplanning for 1989-93 major projects (88-4-014)

	Reappropriation	Appropriation
St Bldg Constr Acct	103,159	

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
393,841		497,000

**NEW SECTION. Sec. 864. FOR THE COMMUNITY COLLEGE SYSTEM**

Whidbey LRC/instruc. (Skagit Valley) (88-5-020)

	Reappropriation	Appropriation
St Bldg Constr Acct		108,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
37,000	1,927,000	2,072,000

**NEW SECTION. Sec. 865. FOR THE COMMUNITY COLLEGE SYSTEM**

Science/fine arts/PE (South Puget Sound) (88-5-021)

	Reappropriation	Appropriation
St Bldg Constr Acct		256,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
72,000	5,494,000	5,822,000

**NEW SECTION. Sec. 866. FOR THE COMMUNITY COLLEGE SYSTEM**

Early childhood education (Shoreline) (88-5-022)

	Reappropriation	Appropriation
St Bldg Constr Acct		78,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
41,000	1,258,000	1,377,000

**NEW SECTION. Sec. 867. FOR THE COMMUNITY COLLEGE SYSTEM**

Library remodel (Columbia Basin) (88-5-023)

	Reappropriation	Appropriation
St Bldg Constr Acct		113,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
48,000	1,893,000	2,054,000

NEW SECTION. Sec. 868. FOR THE COMMUNITY COLLEGE SYSTEM

Vocational shops (Centralia) (88-5-024)

	Reappropriation	Appropriation
St Bldg Constr Acct		95,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
43,000	2,089,000	2,227,000

NEW SECTION. Sec. 869. FOR THE COMMUNITY COLLEGE SYSTEM

LRC addition/remodel (Tacoma) (88-5-025)

	Reappropriation	Appropriation
St Bldg Constr Acct		90,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
34,000	1,720,000	1,844,000

NEW SECTION. Sec. 870. FOR THE COMMUNITY COLLEGE SYSTEM

Vocational food addition (Lower Columbia) (88-5-026)

	Reappropriation	Appropriation
St Bldg Constr Acct		140,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
42,000	2,934,000	3,116,000

NEW SECTION. Sec. 871. FOR THE COMMUNITY COLLEGE SYSTEM

Business education building (Spokane) (88-5-027)

	Reappropriation	Appropriation
St Bldg Constr Acct		245,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
76,000	6,398,000	6,719,000

NEW SECTION. Sec. 872. FOR THE COMMUNITY COLLEGE SYSTEM

Student activity/PE (Seattle Central) (88-5-028)

	Reappropriation	Appropriation
St Bldg Constr Acct		400,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
107,000		507,000

NEW SECTION. Sec. 873. FOR THE COMMUNITY COLLEGE SYSTEM

WSU Education Center: Clark (89-5-019)

	Reappropriation	Appropriation
St Bldg Constr Acct	1,759,438	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
40,562		1,800,000

NEW SECTION. Sec. 874. FOR THE COMMUNITY COLLEGE SYSTEM

Multipurpose Child Care Center: Everett (89-5-020)

	Reappropriation	Appropriation
St Bldg Constr Acct	557,608	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
42,392		600,000

NEW SECTION. Sec. 875. FOR THE COMMUNITY COLLEGE SYSTEM

Fire/security repairs (7) (90-1-004)

	Reappropriation	Appropriation
St Bldg Constr Acct		947,610
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		947,610

NEW SECTION. Sec. 876. FOR THE COMMUNITY COLLEGE SYSTEM

Asbestos repairs (4) (90-1-008)

	Reappropriation	Appropriation
St Bldg Constr Acct		1,217,200

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		1,217,200

NEW SECTION. Sec. 877. FOR THE COMMUNITY COLLEGE SYSTEM

Roof/structural repairs (20) (90-2-002)

	Reappropriation	Appropriation
St Bldg Constr Acct		3,658,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		3,658,000

NEW SECTION. Sec. 878. FOR THE COMMUNITY COLLEGE SYSTEM

HVAC/mechanical repairs (15) (90-2-003)

	Reappropriation	Appropriation
St Bldg Constr Acct		2,972,830

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		2,972,830

NEW SECTION. Sec. 879. FOR THE COMMUNITY COLLEGE SYSTEM

Electrical repairs (4) (90-2-005)

	Reappropriation	Appropriation
St Bldg Constr Acct		371,240

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		371,240

NEW SECTION. Sec. 880. FOR THE COMMUNITY COLLEGE SYSTEM

Small repairs and improvements (90-3-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		4,200,000

<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		4,200,000

NEW SECTION. Sec. 881. FOR THE COMMUNITY COLLEGE SYSTEM

## LARC (Centralia) (90-3-006)

	Reappropriation	Appropriation
St Bldg Constr Acct	61,239	4,012,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
190,731		4,263,970

NEW SECTION. Sec. 882. FOR THE COMMUNITY COLLEGE SYSTEM

## Facility repairs (18) (90-3-007)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment or for other expenses that normally would be funded from the state operating budget.

	Reappropriation	Appropriation
St Bldg Constr Acct		3,848,180
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		3,848,180

NEW SECTION. Sec. 883. FOR THE COMMUNITY COLLEGE SYSTEM

## Technology labs (Highline) (90-3-023)

	Reappropriation	Appropriation
St Bldg Constr Acct	140,196	2,595,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
62,942		2,798,138

\*NEW SECTION. Sec. 884. FOR THE COMMUNITY COLLEGE SYSTEM

## Minor improvements (50) (90-5-009)

*The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for minor repairs, fixtures, and improvements to state buildings and facilities and shall not be used for computer equipment, land acquisition, or for other expenses that normally would be funded from the state operating budget.*

	Reappropriation	Appropriation
St Bldg Constr Acct		13,292,940



<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		13,292,940

\*Sec. 884 was partially vetoed, see message at end of chapter. Shows partial veto as corrected by Governor in transmittal to Secretary of State on June 15, 1989, which corrected his inadvertent boxing of entire section. See page 3004.

NEW SECTION. Sec. 885. FOR THE COMMUNITY COLLEGE SYSTEM

Technology center (Whatcom) (90-5-010)

	Reappropriation	Appropriation
St Bldg Constr Acct		63,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	185,000	248,000

NEW SECTION. Sec. 886. FOR THE COMMUNITY COLLEGE SYSTEM

PE facility (North Seattle) (90-5-011)

	Reappropriation	Appropriation
St Bldg Constr Acct		45,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	165,000	210,000

NEW SECTION. Sec. 887. FOR THE COMMUNITY COLLEGE SYSTEM

Applied arts building (Spokane Falls) (90-5-012)

	Reappropriation	Appropriation
St Bldg Constr Acct		68,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	190,000	258,000

NEW SECTION. Sec. 888. FOR THE COMMUNITY COLLEGE SYSTEM

Industrial technology building (Spokane) (90-5-013)

	Reappropriation	Appropriation
St Bldg Constr Acct		64,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	204,000	268,000

NEW SECTION. Sec. 889. FOR THE COMMUNITY COLLEGE SYSTEM

Vocational art facility (Shoreline) (90-5-014)

	Reappropriation	Appropriation
St Bldg Constr Acct		51,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	125,000	176,000

NEW SECTION. Sec. 890. FOR THE COMMUNITY COLLEGE SYSTEM

Business education building (Clark) (90-5-015)

	Reappropriation	Appropriation
St Bldg Constr Acct		73,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	231,000	304,000

NEW SECTION. Sec. 891. FOR THE COMMUNITY COLLEGE SYSTEM

Student center (South Seattle) (90-5-016)

	Reappropriation	Appropriation
St Bldg Constr Acct		59,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	185,000	244,000

NEW SECTION. Sec. 892. FOR THE COMMUNITY COLLEGE SYSTEM

Library addition (Skagit Valley) (90-5-017)

	Reappropriation	Appropriation
St Bldg Constr Acct		44,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
	1,879,000	1,923,000

PART 9

MISCELLANEOUS

\*NEW SECTION. Sec. 901. FOR SPECIAL APPROPRIATION TO THE GOVERNOR

Puyallup tribal settlement (90-5-001)

The appropriation in this section is subject to the following conditions and limitations: No portion of this appropriation may be spent, released, transferred, or placed into escrow until all of the following have occurred:

(1) The United States Congress has passed (and the President of the United States has signed, if necessary) legislation providing approximately \$77,250,000 to the Puyallup Indian Tribe (the "tribe") as described in the "Agreement between the Puyallup Tribe of Indians, local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners," dated August 27, 1988 (the "agreement").

(2) The local governments of Pierce county, the city of Tacoma, the city of Fife, the city of Puyallup, and the Port of Tacoma have among them agreed to pay approximately \$52,134,000 to the tribe according to the terms of the agreement.

(3) A lease has been executed between the Port of Tacoma and the Washington state military department under conditions as required by the United States Army Corps of Engineers for property suitable for a watercraft training facility for the military department's use.

***(4) Either Engrossed Substitute House Bill No. 1165 or Substitute Senate Bill No. 5648 has been enacted into law without veto.***

(5) The chief clerk of the house of representatives and the secretary of the senate have certified that the Port of Tacoma, in consultation with the Port of Seattle, has reported to the legislature on a plan to cooperate with other port districts and other governments in the state in maintaining and increasing the state's share of international trade.

	Reappropriation	Appropriation
St Bldg Constr Acct		9,417,000
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		9,417,000

\*Sec. 901 was partially vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 902. (1) The capitol campus design advisory committee is established as an advisory group to the capitol committee and the department of general administration to review plans, design, landscaping, and life-cycle costs of state capitol facilities and grounds and to make recommendations that will contribute to the attainment of appropriate and cost-effective architectural, aesthetic, and functional design and maintenance of capital facilities on campus and in neighboring communities.

(2) The advisory committee shall consist of the following persons who shall be appointed by and serve at the pleasure of the governor:

- (a) Two architects;
- (b) A landscape architect; and
- (c) An urban planner.

From among these members, the governor shall appoint the chair and vice-chair of the committee from among the members specified in this subsection. The department of general administration shall provide the staff and resources necessary for the operation of the committee. The committee shall meet at least quarterly or at the call of the chair.

(3) The advisory committee shall also include the secretary of state and two members of the house of representatives, one from each caucus, who shall be appointed by the speaker of the house of representatives, and two members of the senate, one from each caucus, who shall be appointed by the president of the senate.

(4) Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.220 and 44.04.120.

NEW SECTION. Sec. 903. The following lease development projects are authorized for the period ending June 30, 1991:

(1) State Board for Community Colleges:

(a) Improvements to existing leased facility at Bellevue Community College

(b) Daycare facility close to Clark Community College

(c) Educational training center at Green River Community College

(d) Education extension center at Peninsula Community College

(e) Small business building at Highline Community College

(f) Instructional Center at Highline Community College

(g) Daycare facility close to Green River Community College

(h) Parking space near Green River Community College

(2) Department of General Administration: Central Stores warehouse

(3) Department of Ecology: Agency headquarters building

(4) Department of Social and Health Services: Office space at the state public health lab.

NEW SECTION. Sec. 904. FOR THE ARTS COMMISSION—  
ART WORK ALLOWANCE POOLING

The appropriations in this act are subject to the following conditions and limitations: One-half of one percent of moneys appropriated in this act are provided solely for the purposes of RCW 28A.58.055, 28B.10.027, and 43.17.200.

NEW SECTION. Sec. 905. The amounts shown under the headings "Prior Biennia," "Future Biennia," and "Total" in this act are for informational purposes only and do not constitute legislative approval of these amounts.

NEW SECTION. Sec. 906. "Reappropriations" in this act are appropriations and, unless the context clearly provides otherwise, are subject to

the relevant conditions and limitations applicable to appropriations. Reappropriations shall be limited to the unexpended balances remaining June 30, 1989, in the current appropriation for each project.

**NEW SECTION.** Sec. 907. To 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. 908. In order to provide for consistent and comparable asbestos survey data, and to ensure that the chain-of-evidence requirements for asbestos samples and survey data are met in regard to pending asbestos manufacturer litigation:

(1) No state agency shall expend new funds appropriated in the 1989-91 biennium for asbestos surveys prior to approval by the department of general administration of the agency's asbestos survey policies and procedures. At the completion of each survey, state agencies shall submit the findings to the department in a format to be determined by the department.

(2) The department of general administration shall distribute to all state agencies chain-of-evidence requirements, as developed by the department and the office of the attorney general. State agencies expending appropriated funds for asbestos survey and abatement projects shall make every effort to conform with chain-of-evidence requirements.

**\*NEW SECTION.** Sec. 909. (1) The office of financial management shall coordinate the efforts of the department of natural resources, the department of social and health services, and the department of general administration to inventory and record all lands and other capital assets acquired or dedicated for the care of blind or deaf or otherwise disabled youth, for juvenile offenders, and for persons who are mentally ill or developmentally disabled. The inventory shall be completed by December 15, 1989.

(2) The legislature intends to contract with an independent consultant to identify strategies for more aggressive management of these lands and facilities to maximize the funds acquired through the use of these lands.

**(3) *No land or other capital assets described in this section may be sold, given, traded, or encumbered by a new or renewed agreement for any period of time beyond June 30, 1991, unless such agreement is specifically authorized by the legislature.***

\*Sec. 919 was partially vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 910. As part of the annual six-year update to the State Facilities and Capital Plan, agencies shall provide information on lease development and lease purchase projects to the office of financial management.

**NEW SECTION.** Sec. 911. 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. 912. Any appropriation in this act that involves appropriated and nonappropriated funds shall comply with RCW 43.88.150. The office of financial management shall report to the legislature by January 1990 all instances where compliance with RCW 43.88.150 has delayed or precluded the completion of any capital project included in this act.

**NEW SECTION.** Sec. 913. Notwithstanding any other provisions of law, for the 1989-91 biennium, transfers of reimbursement by the state treasurer to the general fund from the community college capital projects account for debt service payments made under 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. 914. State agencies, departments, and institutions moving into new or existing office space or other facilities shall, if practical and feasible, make use of the agencies' existing furnishings and equipment and shall minimize purchases of new furnishings and equipment.

**NEW SECTION.** Sec. 915. State agencies, departments, and institutions receiving appropriations under this act for unanticipated or emergency repairs shall submit to the fiscal committees of the legislature by January 2, 1990, a description of each expenditure made from the appropriation during the prior eighteen months.

**NEW SECTION.** Sec. 916. 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. 917. 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.

For the purposes of this section, the governor may find that an amount is in excess of the amount required for the completion of a project only if (1) the project as defined in the notes to the budget document is substantially complete and there are funds remaining or (2) bids have been let on a project and it appears to a substantial certainty that the project as defined in the notes to the budget document can be completed within the biennium for less than the amount appropriated herein.

For the purposes of this section, the legislature intends that each project be defined as proposed to the legislature in the governor's budget document, unless it clearly appears from the legislative history that the legislature intended to define the scope of a project in a different way.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the director of financial management within thirty days of the date the transfer is effected.

**NEW SECTION.** Sec. 918. (1) The legislature finds:

(a) Estimates of capital project costs are prepared in a manner to ensure sufficient funds are available for the completion of projects.

(b) Actual project costs are influenced by variations in cost factors, changing unit price levels, available inventories, inflation rates, gross construction volume at the time of project bid, and other factors that cannot be predicted at the time of estimating capital project costs.

(c) Due to funding limitations, necessary capital projects are deferred to ensuing biennia.

(d) The deferral of capital projects results in increased project costs due to the effects of inflation and increased deterioration of facilities.

(e) No statutory authority currently exists to allow project cost savings to be used to implement necessary capital projects that were deferred to ensuing biennia due to lack of funds.

(2) There is hereby authorized a capital projects cost control incentive program for the 1989-91 biennium.

(3) Appropriations not required by an agency to complete capital projects authorized in this act, may be expended to implement, in priority sequence, those capital projects of the agency listed in the Governor's Six-Year Capital and Facility Plan for the 1991-93 Biennium, as that list exists in the Governor's final 1990 update of the six-year plan. Expenditures under this section are subject to the following conditions:

(a) No expenditure may be made without the prior allotment approval of the office of financial management.

(b) The office of financial management shall notify the senate ways and means and the house capital facilities and financing committees prior to authorizing any project for implementation under this section.

(c) No project may be authorized under this section by the office of financial management unless sufficient funds are available to complete a project's design phase, construction phase, or both.

(d) Appropriations in this act for a capital project shall not be expended under this section unless:

(i) All contracts associated with the performance of the project have been completed and accepted by the state of Washington;

(ii) The statutory thirty-day lien period for each project has expired;

(iii) All claims of lien against project contracts have been satisfied;

(iv) There are no outstanding claims against the state of Washington by any contracted party to the project construction contract; and

(v) Any and all negotiated settlements or settlements arising from the findings of an arbitration board or court of jurisdiction have been satisfied.

**NEW SECTION.** Sec. 919. The department of information services will act as lead agency in coordinating video telecommunications services for state agencies. As lead agency, the department shall develop standards and common specifications for leased and purchased telecommunications equipment and assist state agencies in developing a video telecommunications expenditure plan. No agency may spend any portion of any appropriation in this act for new video telecommunication equipment, new video telecommunication transmission, or new video telecommunication programming, or for expanding current video telecommunication systems without first complying with chapter 43.105 RCW, including but not limited to RCW 43.105.041(2), and without first submitting a video telecommunications expenditure plan, in accordance with the policies of the department of information services, for review and assessment by the department of information services under RCW 43.105.052. Prior to any such expenditure by a public school, a video telecommunications expenditure plan shall be approved by the superintendent of public instruction. The office of the superintendent of public instruction shall submit the plans to the department of information services in a form prescribed by the department. The office of the superintendent of public instruction shall coordinate the use of video telecommunications in public schools by providing educational information to local school districts and shall assist local school districts and educational service districts in telecommunications planning and curriculum development. Prior to any such expenditure by a public institution of postsecondary education, a telecommunications expenditure plan shall be approved by the higher education coordinating board. The higher education coordinating board shall coordinate the use of video telecommunications for instruction and instructional support in postsecondary education, including the review and approval of instructional telecommunications course offerings.



**NEW SECTION.** Sec. 920. To ensure that major construction projects are carried out in accordance with legislative and executive intent, capital projects for renovation or additional space contained in this act that exceed two million five hundred thousand dollars for which a program document is not completed prior to September 1, 1988, shall not expend funds for planning and construction until the office of financial management has reviewed the agency's programmatic document and approved continuation of the project. The program document shall include but not be limited to projected workload, site conditions, user requirements, current space available, and an overall budget and cost estimate breakdown.

**NEW SECTION.** Sec. 921. The appropriations contained in this act are maximum expenditure authorizations. Pursuant to RCW 43.88.037, moneys disbursed from the treasury on the basis of a formalized loan agreement with another governmental entity shall be treated as a loan and are to be recorded as loans receivable and not as expenditures for accounting purposes. To the extent that moneys are disbursed on a loan basis, the corresponding appropriation shall be reduced by the amount of loan moneys disbursed from the treasury during the 1989-91 biennium.

**NEW SECTION.** Sec. 922. 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. 923. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate May 10, 1989.

Passed the House May 10, 1989.

Approved by the Governor June 1, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State June 1, 1989.

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

"I am returning herewith, without my approval as to sections 213, 392, 539, 824, 884, 901(4), and 909(3), Substitute Senate Bill No. 5521, entitled:

"AN ACT Adopting the capital budget."

My reasons for vetoing these sections are as follows:

**Section 213, page 20, Asian Counseling and Referral Service**

This section provides \$100,000 of state contribution toward the cost of a lease development project for the Asian Counseling and Referral Service, a local non-profit agency. This agency provides, among other services, counseling for the mentally ill within the local Asian community through contract with the Department of Social and Health Services. The state Constitution prohibits the gift of public funds to any individual, association, company, or corporation. This direct appropriation, which would provide improvements to a privately owned facility to be leased by the Asian Counseling and Referral Service, appears to violate this section of the Constitution.

Also, this appropriation would, to a certain extent, duplicate the Department of Social and Health Services contract which currently provides funding for the cost of facilities. Finally, this appropriation lacks language requiring a payback of the appropriated amount through a reimbursement reduction. This is inconsistent with conditions placed on the funding of a mental health evaluation and treatment facility in Snohomish County in section 259.

Section 392, page 58, Ohme Gardens

This section provides \$750,000 for the acquisition and improvement of a Japanese botanical garden in Wenatchee. The project was not requested by the Parks and Recreation Commission. Additionally, I have received no information to justify the project in terms of local economic development or as a destination recreational facility. The facility is presently operated under private ownership.

Section 539, page 81, Cedar River Delta

This section provides \$800,000 for the dredging of a sand bar on the Cedar River delta. While the language directs the Department of Natural Resources to assist local government in acquiring additional funding for the project, there is no indication that the state will receive any assistance from non-state sources, nor does the project have any specific matching requirements. Additionally, there has been no information put forward on the environmental impact of dredging the sand bar, or where the dredge spoils will be deposited.

Section 824, page 107, Community College System

This section defines legislative intent regarding the level of capital funding for the community college system in the 1989-95, six-year state facilities and capital plan. Since the six-year plan is an executive policy document, this section unduly limits the planning processes ability to respond to changing circumstances.

Section 884, page 117, Community Colleges - Minor Improvements

This section, in addition to making an appropriation to the community college system for minor capital improvements, also restricts the funds from being expended for computer equipment, land acquisition, or other items normally funded in the operating budget. I agree that capital funds should not pay for operating expenses and that computer equipment may not be suitable in a minor works appropriation. It is preferable that land acquisition be displayed as a separate appropriation item, and OFM will instruct agencies to do so in future budget submittals. However, within this appropriation are several site acquisition projects which appear to be proper uses of state funds. This language would penalize the colleges for simply placing the projects under the wrong project title.

Section 901(4), page 119, Puyallup Tribal Settlement

Subsection 4 requires that Substitute Senate Bill 5648 be enacted without veto prior to the encumbrance or expenditure of the \$9.4 million in capital funds for the Puyallup tribal settlement. SSB 5648, which dealt with cooperation among ports to enhance trade opportunities, was partially vetoed. The veto in no way affects the State's position relative to the settlement, and should not hinder its execution.

Section 909(3), page 122, Trust Lands

Subsection 3 prohibits the state from selling, giving, trading or encumbering by new or renewed agreement beyond June 30, 1991, land and other capital assets acquired or dedicated for the care of blind or deaf or otherwise disabled youth, for juvenile offenders, and for persons who are mentally ill or developmentally disabled. This places an unnecessary restriction on the State's ability to manage its resources and would prevent a number of worthwhile projects.

With the exception of sections 213, 392, 539, 824, 884, 901(4), and 909(3), Substitute Senate Bill No. 5521 is approved."

## CHAPTER 13

[House Bill No. 1182]

## LOCAL GOVERNMENT—HAZARDOUS WASTE ZONES—DESIGNATION

AN ACT Relating to local government roles in hazardous waste siting; and amending RCW 70.105.225 and 70.105.210.

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

Sec. 1. Section 7, chapter 448, Laws of 1985 and RCW 70.105.225 are each amended to read as follows:

(1) Each local government, or combination of contiguous local governments, is directed to: (a) Demonstrate to the satisfaction of the department that existing zoning allows designated zone facilities as permitted uses; or (b) designate land use zones within its jurisdiction in which designated zone facilities are permitted uses. The zone designations shall be consistent with the state siting criteria adopted in accordance with RCW 70.105.210, except as may be approved by the department in accordance with subsection (6) of this section.

(2) Local governments shall not prohibit the processing or handling of hazardous waste in zones in which the processing or handling of hazardous substances is not prohibited. This subsection does not apply in residential zones.

(3) The department shall prepare guidelines, as appropriate, for the designation of zones under this section. The guidelines shall be prepared in consultation with local governments and shall be completed by December 31, 1986.

(4) The initial designation of zones shall be completed or revised, and submitted to the department (~~(by June 30, 1988)~~) within eighteen months after the enactment of siting criteria in accordance with RCW 70.105.210. Local governments that do not comply with this submittal deadline shall be subject to the preemptive provisions of RCW 70.105.240(4) until such time as zone designations are completed and approved by the department. Local governments may from time to time amend their designated zones.

(5) Local governments without land use zoning provisions shall designate eligible geographic areas within their jurisdiction, based on siting criteria adopted in accordance with RCW 70.105.210. The area designation shall be subject to the same requirements as if they were zone designations.

(6) Each local government, or combination of contiguous local governments, shall submit its designation of zones or amendments thereto to the department. The department shall approve or disapprove zone designations or amendments within ninety days of submission. The department shall approve eligible zone designations if it determines that the proposed zone designations are consistent with this chapter, the applicable siting criteria, and

guidelines for developing designated zones: PROVIDED, That the department shall consider local zoning in place as of January 1, 1985, or other special situations or conditions which may exist in the jurisdiction. If approval is denied, the department shall state within ninety days from the date of submission the facts upon which that decision is based and shall submit the statement to the local government together with any other comments or recommendations it deems appropriate. The local government shall have ninety days after it receives the statement from the department to make modifications designed to eliminate the inconsistencies and resubmit the designation to the department for approval. Any designations shall take effect when approved by the department.

(7) The department may exempt a local government from the requirements of this section if:

(a) Regulated quantities of hazardous waste have not been generated within the jurisdiction during the two calendar years immediately preceding the calendar year during which the exemption is requested; and

(b) The local government can demonstrate to the satisfaction of the department that no significant portion of land within the jurisdiction can meet the siting criteria adopted in accordance with RCW 70.105.210.

Sec. 2. Section 5, chapter 448, Laws of 1985 and RCW 70.105.210 are each amended to read as follows:

By (~~December 31, 1986~~) May 31, 1990, the department shall develop and adopt criteria for the siting of hazardous waste management facilities. These criteria will be part of the state hazardous waste management plan as described in RCW 70.105.200. To the extent practical, these criteria shall be designed to minimize the short-term and long-term risks and costs that may result from hazardous waste management facilities. These criteria may vary by type of facilities and may consider natural site characteristics and engineered protection. Criteria may be established for:

- (1) Geology;
- (2) Surface and groundwater hydrology;
- (3) Soils;
- (4) Flooding;
- (5) Climatic factors;
- (6) Unique or endangered flora and fauna;
- (7) Transportation routes;
- (8) Site access;
- (9) Buffer zones;
- (10) Availability of utilities and public services;
- (11) Compatibility with existing uses of land;
- (12) Shorelines and wetlands;
- (13) Sole-source aquifers;
- (14) Natural hazards; and

(15) Other factors as determined by the department.

Passed the House May 5, 1989.

Passed the Senate May 6, 1989.

Approved by the Governor June 1, 1989.

Filed in Office of Secretary of State June 1, 1989.

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## CHAPTER 14

[Substitute House Bill No. 1484]

### GENERAL OBLIGATION BONDS—AUTHORIZATION TO ISSUE

AN ACT Relating to state general obligation bonds and related accounts; amending RCW 43.83A.020, 43.99E.015, 43.99F.020, 43.99G.020, 43.99G.102, 75.48.020, 39.42.030, 39.42.060, 43.99G.030, 43.99G.040, 43.99G.050, 43.99G.070, 43.99G.104, and 43.99G.112; adding a new section to chapter 43.88 RCW; adding a new chapter to Title 43 RCW; repealing RCW 43.99G.106 and 43.99G.110; providing an effective date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion two hundred twenty-seven million dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1989–1991 fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto, and to provide for reimbursement of bond-funded accounts from the 1987–1989 fiscal biennium.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance, letters of credit, or other credit enhancements and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

**NEW SECTION.** Sec. 2. Bonds issued under section 1 of this act are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion two hundred twenty-seven million dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1989-91 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects, and to provide for reimbursement of bond-funded accounts from the 1987-89 fiscal biennium. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Thirty million dollars to the state and local improvements revolving account—waste disposal facilities, created by RCW 43.83A.030, to be used for the purposes described in RCW 43.83A.020;

(2) Five million three hundred thousand dollars to the salmon enhancement construction account created by RCW 75.48.030;

(3) One hundred twenty million dollars to the state and local improvements revolving account—waste disposal facilities, 1980 created by RCW 43.99F.030, to be used for the purposes described in RCW 43.99F.020;

(4) Forty million dollars to the common school construction account as referenced in RCW 28A.40.100;

(5) Three million two hundred thousand dollars to the state higher education construction account created by RCW 28B.10.851;

(6) Six hundred seventy-four million dollars to the state building construction account created by RCW 43.83.020;

(7) Nine hundred fifty thousand dollars to the higher education reimbursable short-term bond account created by RCW 43.99G.020(6);

(8) Three million two hundred thirty thousand dollars to the outdoor recreation account created by RCW 43.99.060;

(9) Sixty million dollars to the state and local improvements revolving account—water supply facilities, created by RCW 43.83B.030 to be used for the purposes described in chapter 43.99E RCW;

(10) Seven million dollars to the state social and health services construction account created by RCW 43.83H.030;

(11) Two hundred fifty thousand dollars to the fisheries capital projects account created by RCW 43.83I.166;

(12) Four million nine hundred thousand dollars to the state facilities renewal account created by RCW 43.99G.020(5);

(13) Two million three hundred thousand dollars to the essential rail assistance account created by RCW 47.76.030;

(14) One million one hundred thousand dollars to the essential rail bank account hereby created in the state treasury;

(15) Seventy-three million dollars to the east capitol campus construction account hereby created in the state treasury;

(16) Eight million dollars to the higher education construction account created in RCW 28B.14D.040;

(17) Sixty-three million two hundred thousand dollars to the labor and industries construction account hereby created in the state treasury; and

(18) Seventy-five million dollars to the University of Washington building account created by RCW 43.79.080.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation.

Bonds authorized for the purposes of subsection (17) of this section shall be issued only after the director of the department of labor and industries has certified, based on reasonable estimates, that sufficient revenues will be available from the accident fund created in RCW 51.44.010 and the medical aid fund created in RCW 51.44.020 to meet the requirements of section 6(4) of this act during the life of the bonds.

Bonds authorized for the purposes of subsection (18) of this section shall be issued only after the board of regents of the University of Washington has certified, based on reasonable estimates, that sufficient revenues will be available from nonappropriated local funds to meet the requirements of section 6(4) of this act during the life of the bonds.

NEW SECTION. Sec. 3. Both principal of and interest on the bonds issued for the purposes specified in section 2 (1) through (14) of this act shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. 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, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

NEW SECTION. Sec. 4. (1) Both principal of and interest on the bonds issued for the purposes of section 2(16) of this act shall be payable from the higher education bond retirement fund of 1979. The state finance

committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. 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, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(2) Both principal of and interest on the bonds issued for the purposes of section 2(15) of this act shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. 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, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(3) Both principal of and interest on the bonds issued for the purposes of section 2(17) of this act shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. 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, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(4) Both principal of and interest on the bonds issued for the purposes of section 2(18) of this act shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year



in accordance with the provisions of the bond proceedings. 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, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

**NEW SECTION.** Sec. 5. Bonds issued under section 1 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. 6. (1) For bonds issued for the purposes of section 2(16) of this act, on each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of Washington State University shall cause the amount computed in section 4(1) of this act 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.

(2) For bonds issued for the purposes of section 2(15) of this act, on each date on which any interest or principal and interest payment is due, the state treasurer shall transfer the amount computed in section 4(2) of this act from the capitol campus reserve account, hereby created in the state treasury, to the general fund of the state treasury. At the time of sale of the bonds issued for the purposes of section 2(15) of this act, and on or before June 30th of each succeeding year while such bonds remain outstanding, the state finance committee shall determine, based on current balances and estimated receipts and expenditures from the capitol campus reserve account, that portion of principal and interest on such section 2(15) bonds which will, by virtue of payments from the capitol campus reserve account, be reimbursed from sources other than "general state revenues" as that term is defined in Article VIII, section 1 of the state Constitution. The amount so determined by the state finance committee, as from time to time adjusted in accordance with this subsection, shall not constitute indebtedness for purposes of the limitations set forth in RCW 39.42.060.

(3) For bonds issued for the purposes of section 2(17) of this act, on each date on which any interest or principal and interest payment is due, the director of the department of labor and industries shall cause fifty percent of the amount computed in section 4(3) of this act to be transferred from the accident fund created in RCW 51.44.010 and fifty percent of the amount computed in section 4(3) of this act to be transferred from the

medical aid fund created in RCW 51.44.020, to the general fund of the state treasury.

(4) For bonds issued for the purposes of section 2(18) of this act, on each date on which any interest or principal and interest payment is due, the board of regents of the University of Washington shall cause the amount computed in section 4(4) of this act to be paid out of the University of Washington building account to the state treasurer for deposit into the general fund of the state treasury.

**NEW SECTION.** Sec. 7. In addition to any other charges authorized by law and to assist in the reimbursement of principal and interest payments on bonds issued for the purposes of section 2(15) of this act, the following revenues may be collected:

(1) The director of general administration may assess a charge against each state board, commission, agency, office, department, activity, or other occupant of the facility or building constructed with bonds issued for the purposes of section 2(15) of this act for payment of a proportion of costs for each square foot of floor space assigned to or occupied by the entity. Payment of the amount billed to the entity for such occupancy shall be made quarterly during each fiscal year. The director of general administration shall deposit the payment in the capitol campus reserve account.

(2) The director of general administration may pledge a portion of the parking rental income collected by the department of general administration from parking space developed as a part of the facility constructed with bonds issued for the purposes of section 2(15) of this act. The pledged portion of this income shall be deposited in the capitol campus reserve account. The unpledged portion of this income shall continue to be deposited in the state capitol vehicle parking account.

(3) The state treasurer shall transfer four million dollars from the capitol building construction account to the capitol campus reserve account each fiscal year from 1990 to 1995. Beginning in fiscal year 1996, the director of general administration, in consultation with the state finance committee, shall determine the necessary amount for the state treasurer to transfer from the capitol building construction account to the capitol campus reserve account for the purpose of repayment of the general fund of the costs of the bonds issued for the purposes of section 2(15) of this act.

(4) Any remaining balance in the state building and parking bond redemption account after the final debt service payment shall be transferred to the capitol campus reserve account.

**NEW SECTION.** Sec. 8. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 1 of this act, and sections 3 and 4 of this act shall not be deemed to provide an exclusive method for the payment.

**NEW SECTION.** Sec. 9. The bonds authorized in section 1 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.

Sec. 10. Section 2, chapter 127, Laws of 1972 ex. sess. as amended by section 1, chapter 242, Laws of 1977 ex. sess. and RCW 43.83A.020 are each amended to read as follows:

For the purpose of providing funds for the planning, acquisition, construction, and improvement of public waste disposal facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of ~~((two))~~ one hundred ~~((twenty=~~ five)) ninety-five million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. As used in this section the phrase "public waste disposal facilities" shall not include the acquisition of equipment used to collect, carry, and transport garbage. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold.

Sec. 11. Section 2, chapter 234, Laws of 1979 ex. sess. and RCW 43.99E.015 are each amended to read as follows:

For the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of ~~((one hundred twenty=~~ sixty- five million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto. 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. No bonds authorized by this chapter may be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold.

Sec. 12. Section 2, chapter 159, Laws of 1980 as amended by section 2, chapter 436, Laws of 1987 and RCW 43.99F.020 are each amended to read as follows:

For the purpose of providing funds to public bodies for the planning, design, acquisition, construction, and improvement of public waste disposal and management facilities, or for purposes of assisting a public body to obtain an ownership interest in waste disposal and management facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70.150-.060, in this state, the state finance committee is authorized to issue ~~((, at any time prior to January 1, 1990,))~~ general obligation bonds of the state of

Washington in the sum of (~~four~~) three hundred (~~fifty~~) thirty million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto. The department may not use or permit the use of any funds derived from the sale of bonds authorized by this chapter for: (1) the support of a solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available to persons within that locale from private enterprise; or (2) the construction of municipal wastewater facilities unless said facilities have been approved by a general purpose unit of local government in accordance with chapter 36.94 RCW, chapter 35.67 RCW, or RCW 56.08.020. These bonds shall be paid and discharged within thirty years of the date of issuance. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold.

Sec. 13. Section 2, chapter 4, Laws of 1985 ex. sess. as last amended by section 22, chapter 36, Laws of 1988 and RCW 43.99G.020 are each amended to read as follows:

Bonds issued under RCW 43.99G.010 are subject to the following conditions and limitations:

(1) General obligation bonds of the state of Washington in the sum of thirty-eight million fifty-four thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for grants and loans to local governments and subdivisions of the state for capital projects through the community economic revitalization board and for the department of general administration, military department, parks and recreation commission, and department of corrections to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of general administration, subject to legislative appropriation.

(2) General obligation bonds of the state of Washington in the sum of four million six hundred thirty-five thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the planning, design, acquisition, construction, and improvement of a

Washington state agricultural trade center, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

(3) General obligation bonds of the state of Washington in the sum of ~~((thirty-eight))~~ twenty-five million ~~((seven hundred sixty-two thousand))~~ dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the department of social and health services and the department of corrections to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, and grounds, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the social and health services construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of social and health services, subject to legislative appropriation.

(4) ~~((General obligation bonds of the state of Washington in the sum of three million two hundred thirty thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the department of ecology, parks and recreation commission, department of fisheries, department of wildlife, and the department of natural resources to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the outdoor recreation account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued~~

for the purposes of this subsection, and shall be administered by the interagency committee for outdoor recreation, subject to legislative appropriation:

~~((5))~~ (5) General obligation bonds of the state of Washington in the sum of ~~((three))~~ one million ~~((three hundred fifty-nine thousand))~~ dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the department of fisheries to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the fisheries capital projects account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of fisheries, subject to legislative appropriation.

~~((6))~~ (5) General obligation bonds of the state of Washington in the sum of ~~((fifty-nine))~~ fifty-three million ~~((six hundred thirty thousand))~~ dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for state agencies and the institutions of higher education, including the community colleges, to perform capital renewal projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state facilities renewal account hereby created in the state treasury, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

~~((7))~~ (6) General obligation bonds of the state of Washington in the sum of ~~((twenty-three))~~ twenty-two million ~~((six hundred forty-three thousand))~~ dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the University of Washington and the state community colleges to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, improving, furnishing, and equipping of state buildings, structures, utilities, roads,

grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the higher education reimbursable short-term bond account hereby created in the state treasury, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the University of Washington, subject to legislative appropriation.

~~((8))~~ (7) General obligation bonds of the state of Washington in the sum of ~~((thirty-three))~~ twenty-eight million ~~((nine hundred twenty-eight thousand))~~ dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the higher education construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by Washington State University, subject to legislative appropriation.

~~((9))~~ (8) General obligation bonds of the state of Washington in the sum of ~~((eighty))~~ seventy-five million ~~((six hundred ten thousand))~~ dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education, including facilities for the community college system, to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection, 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 in the state treasury and shall be used exclusively for

the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection.

Sec. 14. Section 2, chapter 3, Laws of 1987 1st ex. sess. and RCW 43.99G.102 are each amended to read as follows:

Bonds issued under RCW 43.99G.100 are subject to the following conditions and limitations:

~~((+))~~ General obligation bonds of the state of Washington in the sum of four hundred four million four hundred thousand dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1987-1989 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited as follows:

~~((a) Thirty million dollars in the common school construction fund created in RCW 28A.40.101;~~

~~(b) Three)~~ One hundred ~~((sixty-two))~~ forty million ~~((seven))~~ five hundred thousand dollars in the state building construction account created in RCW 43.83.020.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the office of financial management, subject to legislative appropriation.

~~((2) General obligation bonds of the state of Washington in the sum of three million two hundred thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for Washington State University to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the higher education construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued~~



~~for the purposes of this subsection, and shall be administered by Washington State University, subject to legislative appropriation.))~~

Sec. 15. Section 2, chapter 308, Laws of 1977 ex. sess. as last amended by section 10, chapter 4, Laws of 1985 ex. sess. and RCW 75.48.020 are each amended to read as follows:

For the purpose of providing funds for the planning, acquisition, construction, and improvement of salmon hatcheries, other salmon propagation facilities including natural production sites, and necessary supporting facilities within the state, the state finance committee may issue general obligation bonds of the state of Washington in the sum of ~~((thirty-four))~~ twenty-nine million ((five)) two hundred thousand dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within thirty years. No bonds authorized by this chapter may be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold.

Sec. 16. Section 3, chapter 184, Laws of 1971 ex. sess. as amended by section 104, chapter 167, Laws of 1983 and RCW 39.42.030 are each amended to read as follows:

The state finance committee shall ~~((by resolution))~~ determine by resolution the amount, date or dates, terms, conditions, covenants, denominations, ((maximum)) interest rate or rates(;) (which may be fixed or variable), maturity or maturities, redemption rights, ~~((registration privileges,))~~ manner of execution and authentication, manner and price of sale(; ~~covenants,))~~ and form(~~(; including bearer or registered as provided in RCW 39.46.030;))~~ of all bonds, notes, or other evidences of indebtedness ((including the funding or refunding of any existing indebtedness)).

Such bonds, notes, or other evidences of indebtedness shall be payable either to the bearer or to the registered owner as provided in RCW 39.46.030. The resolution may provide for the deposit in trust with any qualified public depository of all or any part of the proceeds of the bonds, notes, or other evidences of indebtedness or money set aside for the payment thereof.

The state finance committee shall also determine by resolution whether interest on all or any part of the bonds is to be payable periodically during the term of such bonds or only at the maturity of the bonds. For purposes of the limitations on the amount of bonds authorized to be issued contained in the acts authorizing their issuance, the amount of bonds which pay interest only at maturity shall be equal to the price, exclusive of accrued interest, at which the bonds are initially offered to the public.

The state finance committee may issue, under chapter 39.53 RCW and this chapter, bonds, notes, or other evidences of indebtedness to refund at or prior to maturity any outstanding state bonds, notes, or other evidences of indebtedness.

The state finance committee may obtain bond insurance, letters of credit or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidences of indebtedness, and may authorize the execution and delivery of agreements, promissory notes, and other related instruments.

Sec. 17. Section 6, chapter 184, Laws of 1971 ex. sess. as last amended by section 1, chapter 36, Laws of 1983 1st ex. sess. and RCW 39.42.060 are each amended to read as follows:

No bonds, notes, or other evidences of indebtedness for borrowed money shall be issued by the state which will cause the aggregate debt contracted by the state to exceed that amount for which payments of principal and interest in any fiscal year would require the state to expend more than seven percent of the arithmetic mean of its general state revenues, as defined in section 1(c) of Article VIII of the Washington state Constitution for the three immediately preceding fiscal years as certified by the treasurer in accordance with RCW 39.42.070. It shall be the duty of the state finance committee to compute annually the amount required to pay principal of and interest on outstanding debt. In making such computation, the state finance committee shall include all borrowed money represented by bonds, notes, or other evidences of indebtedness which are secured by the full faith and credit of the state or are required to be paid, directly or indirectly, from general state revenues and which are incurred by the state, any department, authority, public corporation or quasi public corporation of the state, any state university or college, or any other public agency created by the state but not by counties, cities, towns, school districts, or other municipal corporations, and shall include debt incurred pursuant to section 3 of Article VIII of the Washington state Constitution, but shall exclude the following:

(1) Obligations for the payment of current expenses of state government;

(2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;

(3) Principal of and interest on bond anticipation notes;

(4) Any indebtedness which has been refunded; ~~((and))~~

(5) Indebtedness incurred pursuant to statute heretofore or hereafter enacted which requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from money other than general state revenues or from the special excise tax imposed pursuant to chapter 67.40 RCW.

To the extent necessary because of the constitutional or statutory debt limitation, priorities with respect to the issuance or guaranteeing of bonds, notes, or other evidences of indebtedness by the state shall be determined by the state finance committee; and

(6) Any agreement, promissory note, or other instrument entered into by the state finance committee under RCW 39.42.030 in connection with its

acquisition of bond insurance, letters of credit, or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidence of indebtedness.

**NEW SECTION.** Sec. 18. A new section is added to chapter 43.88 RCW to read as follows:

In order to comply with the provisions of the federal tax reform act of 1986, construction accounts that receive bond proceeds are exempt from RCW 43.88.050, 43.88.110, and 43.88.260 and may incur seasonal cash deficits pending the sale of bonds or bond anticipation notes subject to the following conditions:

- (1) The respective account has unexpended appropriation authority.
- (2) There are authorized unissued bonds available for sale by the state finance committee under direction to deposit the proceeds of the sale in the respective account.
- (3) The bonds are of an amount that would remedy the cash deficit if the bonds were sold.

Sec. 19. Section 3, chapter 4, Laws of 1985 ex. sess. and RCW 43.99G.030 are each amended to read as follows:

Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99G.020 (1) through ~~((7))~~ (6) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. 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, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

Sec. 20. Section 4, chapter 4, Laws of 1985 ex. sess. and RCW 43.99G.040 are each amended to read as follows:

Both principal of and interest on the bonds issued for the purposes of RCW 43.99G.020~~((8))~~(7) shall be payable from the higher education bond retirement fund of 1979. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. 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, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

Sec. 21. Section 5, chapter 4, Laws of 1985 ex. sess. and RCW 43.99G.050 are each amended to read as follows:

Both principal of and interest on the bonds issued for the purposes of RCW 43.99G.020(~~((9))~~)(8) shall be payable from the state higher education bond retirement fund of 1977. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. 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, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

Sec. 22. Section 7, chapter 4, Laws of 1985 ex. sess. and RCW 43.99G.070 are each amended to read as follows:

On or before June 30th of each year and in accordance with the provisions of the bond proceedings the state finance committee shall determine the relative shares of the principal and interest payments determined pursuant to RCW 43.99G.040, exclusive of deposit interest credit, attributable to each of the institutions of higher education in proportion to the principal amount of bonds issued for the purposes of RCW 43.99G.020(~~((8))~~)(7) for 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.

Sec. 23. Section 3, chapter 3, Laws of 1987 1st ex. sess. and RCW 43.99G.104 are each amended to read as follows:

Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99G.102(~~((1))~~) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. 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, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

Sec. 24. Section 7, chapter 3, Laws of 1987 1st ex. sess. and RCW 43.99G.112 are each amended to read as follows:

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.100(;) and ((RCW)) 43.99G.104 ((and 43.99G.106)) shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. Sec. 25. The following acts or parts of acts are each repealed:

(1) Section 4, chapter 3, Laws of 1987 1st ex. sess. and RCW 43.99G.106; and

(2) Section 6, chapter 3, Laws of 1987 1st ex. sess. and RCW 43.99G.110.

NEW SECTION. Sec. 26. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 27. Sections 1 through 9 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 28. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989, except for section 18 of this act which shall take effect immediately.

Passed the House May 1, 1989.

Passed the Senate May 7, 1989.

Approved by the Governor June 1, 1989.

Filed in Office of Secretary of State June 1, 1989.

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## CHAPTER 15

[House Bill No. 1512]

### CAPITAL PROJECTS—APPROPRIATIONS FOR 1987-89 BIENNIUM

AN ACT Relating to capital appropriations; amending section 518, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 837, chapter 6, Laws of 1987 1st ex. sess. (uncodified); adding new sections to chapter 6, Laws of 1987 1st ex. sess. (uncodified); and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 6, Laws of 1987 1st ex. sess. to read as follows:

### FOR THE STATE PARKS AND RECREATION COMMISSION

To purchase trust lands from the department of natural resources for the extension of Iron Horse state parks into the John Wayne pioneer trail. (89-5-006)

	Reappropriation	Appropriation
Trust Land Purchase Acct		200,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/89 and	Costs
6/30/87	Thereafter	
		200,000

NEW SECTION. Sec. 2. A new section is added to chapter 6, Laws of 1987 1st ex. sess. to read as follows:

**FOR THE MILITARY DEPARTMENT**

Minor Works—HVAC Renovation (89-2-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		274,000
General Fund—Federal		274,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/89 and	Costs
6/30/87	Thereafter	
		548,000

Sec. 3. Section 518, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Suzzallo Library addition (88-3-013)

~~((The appropriation in this section is subject to the following conditions and limitations: Disbursements from the state building construction account shall not exceed \$7,917,000 in the 1987-89 biennium.))~~

	Reappropriation	Appropriation
St Bldg Const Acct		28,283,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/89 and	Costs
6/30/87	Thereafter	
1,043,000		33,626,000

Sec. 4. Section 837, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((GAME)) WILDLIFE**

Satsop river: Acquisition and redevelopment (86-2-029)

	Reappropriation	Appropriation
ORA, State	75,000	
ORA, Federal	8,000	
Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
2,000		85,000

**NEW SECTION.** Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 26, 1989.

Passed the Senate May 5, 1989.

Approved by the Governor June 1, 1989.

Filed in Office of Secretary of State June 1, 1989.

**CHAPTER 16**

[House Bill No. 2245]

**BASIC EDUCATION SALARY ALLOCATION—LIMIT ON POST-GRADUATE HOURS USED TO DETERMINE**

AN ACT Relating to the basic education salary allocation; and amending RCW 28A.41.112.

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

Sec. 1. Section 204, chapter 2, Laws of 1987 1st ex. sess. as amended by section 4, chapter 1, Laws of 1987 3rd ex. sess. and RCW 28A.41.112 are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a state-wide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.41.140.

(2) The superintendent of public instruction shall calculate salary allocations for state funded basic education certificated instructional staff by determining the district average salary for basic education instructional staff using the salary allocation schedule established pursuant to this section. However, no district shall receive an allocation based upon an average

basic education certificated instructional staff salary which is less than the average of the district's 1986-87 actual basic education certificated instructional staff salaries, as reported to the superintendent of public instruction prior to June 1, 1987, and the legislature may grant minimum salary increases on that base: PROVIDED, That the superintendent of public instruction may adjust this allocation based upon the education and experience of the district's certificated instructional staff.

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the biennial appropriations act, or any replacement schedules and documents, unless:

(a) The employee has a masters degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

Passed the House May 7, 1989.

Passed the Senate May 7, 1989.

Approved by the Governor June 1, 1989.

Filed in Office of Secretary of State June 1, 1989.

## CHAPTER 17

[Second Substitute Senate Bill No. 5065]

### CHILDREN—SUBSTITUTE CARE—CITIZEN REVIEW

AN ACT Relating to children; amending RCW 13.34.145; reenacting and amending RCW 13.34.130; creating new sections; and providing an expiration date.

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

**NEW SECTION.** Sec. 1. The legislature recognizes the importance of permanency and continuity to children and of fairness to parents in the provision of child welfare services.

The legislature intends to create a citizen review board system that will function in an advisory capacity to the judiciary, the department, and the legislature. The purpose of the citizen review board system is to:

(1) Provide periodic review of cases involving substitute care of children in a manner that complies with case review requirements and time lines imposed by federal laws pertaining to child welfare services;

(2) Improve the quality of case review provided to children in substitute care and their families; and

(3) Provide a means for community involvement in monitoring cases of children in substitute care.



In order to accomplish the foregoing purposes, the citizen review board system shall not be subject to the procedures and standards usually applicable to judicial and administrative hearings, except as otherwise specifically provided in this chapter and RCW 13.34.130, 13.34.145, and 26.44.115. Nothing in this chapter and RCW 13.34.130, 13.34.145, and 26.44.115 shall limit the ability of the department to utilize court review hearings and administrative reviews to meet the periodic review requirements imposed by federal law.

**NEW SECTION.** Sec. 2. Periodic case review of all children in substitute care shall be provided in at least one class 1 or higher county, in accordance with this act.

The administrator for the courts shall coordinate and assist in the administration of the local citizen review board pilot program created by this act.

**NEW SECTION.** Sec. 3. Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the local citizen review board established pursuant to this chapter.

(2) "Child" means a person less than eighteen years of age.

(3) "Conflict of interest" means that a person appointed to a board has a personal or pecuniary interest in a case being reviewed by that board.

(4) "Court" means the juvenile court.

(5) "Custodian" means that person who has legal custody of the child.

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

(7) "Mature child" means a child who is able to understand and participate in the decision-making process without excessive anxiety or fear. A child twelve years old or over shall be rebuttably presumed to be a mature child.

(8) "Parent" or "parents" means the biological or adoptive parents of a child unless the legal rights of that person have been terminated by judicial proceedings.

(9) "Placement episode" means the period of time that begins with the date the child was removed from the home of the parent or legal custodian for the purposes of placement in substitute care and continues until the child returns home or an adoption decree or guardianship order is entered.

(10) "Records" means any information in written form, pictures, photographs, charts, graphs, recordings, or documents pertaining to a case.

(11) "Resides" or "residence," when used in reference to the residence of a child, means the place where the child is actually living and not the legal residence or domicile of the parent or guardian.

(12) "Substitute care" means an out-of-home placement of a child for purposes related to the provision of child welfare services in accordance with chapter 74.13 RCW where the child is in the care, custody, and control of

the department pursuant to a proceeding under chapter 13.34 RCW or pursuant to the written consent of the child's parent or parents or custodian.

**NEW SECTION.** Sec. 4. The supreme court is requested to:

- (1) Establish and approve policies and procedures for the creation, recruitment, and operation of local citizen substitute care review boards;
- (2) Approve and cause to have conducted training programs for board members;
- (3) Provide consultation services on request to the boards;
- (4) Establish reporting procedures to be followed by the boards to provide data for the evaluation of this chapter;
- (5) Monitor the boards to ensure the impartiality of reviews and consistency of review standards throughout the state;
- (6) Employ staff and provide for support services for the boards which shall be provided with staff through the local juvenile court in accordance with guidelines and procedures established by the supreme court;
- (7) Direct the administrator for the courts to carry out duties prescribed by the supreme court relating to the administration of this chapter;
- (8) Submit a report to the governor, the appropriate committees of the legislature, and the public on January 1, 1991, and biennially thereafter. The report shall address the following issues:

(a) State laws, policies, and practices affecting permanence and appropriate care for children in the custody of the department and other agencies;

(b) Whether the boards are effective in bringing about permanence and appropriate care for children in the custody of the department and other agencies; and

(c) Whether adequate resources are available to permit the department to make reasonable efforts to keep families together.

(9) Adopt rules regarding:

(a) Procedures for providing written notice of the review to the department, any other child placement agency directly responsible for supervising the placement of the child, the child's parents and their attorneys, the child's legal custodians and their attorneys, mature children and their attorneys, the court-appointed attorney and guardian ad litem of any child, any prosecuting attorney or attorney general actively involved in the case, and the child's Indian tribe if the child is an Indian as defined in the Indian child welfare act, 25 U.S.C. 1901, et seq. The notice shall include advice that persons receiving a notice may participate in the review and be accompanied by a representative;

(b) Procedures for removing members from the board for nonparticipation or other good cause.

**NEW SECTION.** Sec. 5. Each board shall be composed of five members appointed by the juvenile court. Three members shall constitute a quorum.

**NEW SECTION.** Sec. 6. Each board shall be appointed according to the following guidelines:

(1) Members of each board shall represent the various socioeconomic and ethnic groups of the area served.

(2) No person employed by a juvenile court or by the department for purposes related to the provision of child welfare services under chapter 74.13 RCW may serve on any board. No more than one person from any private agency or individual licensed by the department to provide child welfare services under chapter 74.13 RCW may serve on any board. A majority of the members on each board shall be persons who have no current professional or volunteer relationship with the department.

(3) No person who has had a child of his or her own, or one under his or her control, placed in substitute care within the last two years may serve on any board.

(4) All board members must be of good character and must demonstrate the understanding, ability, and judgment necessary to carry out the duties under this chapter.

(5) All board members shall serve a term of two years, except that if a vacancy occurs, a successor shall be appointed to serve the unexpired term. The terms of the initial members shall be staggered. Members shall be limited to two terms unless there are insufficient volunteers to replace them.

(6) Each board shall elect annually from its membership a chair and vice-chair to serve in the absence of the chair.

(7) Board members shall be domiciled within the counties of the appointing courts.

**NEW SECTION.** Sec. 7. Prior to reviewing cases, all persons appointed to serve as board members shall participate in a training program established and approved by the supreme court. Board members shall participate in at least sixteen hours of training prior to reviewing cases and, thereafter, at least eight hours of training annually.

**NEW SECTION.** Sec. 8. (1) Before beginning to serve on a board, each member shall swear or affirm to the court that the member shall keep confidential the information reviewed by the board and its actions and recommendations in individual cases.

(2) A member of a board who violates the duty imposed by subsection (1) of this section is subject to dismissal from the board and other penalties as provided by law.

**NEW SECTION.** Sec. 9. Each board shall have access to the following information unless disclosure is otherwise specifically prohibited by law:

(1) Any records of the court which are pertinent to the case;

(2) Any records of the department pertaining to the child, the child's parents, or legal custodian; and

(3) Any records in the possession of an agency or other entity pertaining to the child, the child's parents, or legal custodian if such records are relevant to review of the case.

**NEW SECTION.** Sec. 10. The department and any other agency directly responsible for the care and placement of the child in substitute care shall require the employee who has primary case-planning responsibility for the case to attend the review. If the employee is unable to attend the review, an employee with knowledge of the case plan shall attend the review.

**NEW SECTION.** Sec. 11. (1) Whenever a member of a board has a potential conflict of interest in a case being reviewed, the member shall declare to the board the nature of the potential conflict prior to participating in the case review. The declaration of the member shall be recorded in the official records of the board and disclosed to all parties participating in the review. If, in the judgment of the majority of the local board, the potential conflict of interest may prevent the member from fairly and objectively reviewing the case, the board may remove the member from participation in the review.

(2) The board shall keep accurate records, including a verbatim record of board reviews, and retain these records.

(3) The board may hold joint or separate reviews for groups of siblings.

(4) The board may disclose information to participants in the board review of a case. Before participating in a board review, each participant shall swear or affirm to the board that the participant shall keep confidential the information disclosed by the board in the case review and to disclose it only as authorized by law.

(5) Members of the board shall be held immune from suit and not be held liable in any civil action for recommendations made or activities performed under this chapter.

**NEW SECTION.** Sec. 12. (1) This section shall apply to cases where a child has been placed in substitute care pursuant to written parental consent and a dependency petition has not been filed under chapter 13.34 RCW. If a dependency petition is subsequently filed and the child's placement in substitute care continues pursuant to a court order entered in a proceeding under chapter 13.34 RCW, the provisions set forth in section 13 of this act shall apply.

(2) Within thirty days following commencement of the placement episode, the department shall send a copy of the written parental consent to the juvenile court with jurisdiction over the geographical area in which the child resides.

(3) Within forty-five days following commencement of the placement episode, the court shall assign the child's case to a board and forward to the board a copy of the written parental consent to placement.

(4) The board shall review the case plan for each child in substitute care whose case is assigned to the board by the court. The review shall take place at times set by the board. The first review shall occur within ninety days following commencement of the placement episode. The second review shall occur within six months following commencement of the placement episode. The next review shall occur within one year following commencement of the placement episode unless the child is no longer in substitute care or unless a guardianship order or adoption decree is entered.

(5) The board shall prepare written findings and recommendations with respect to:

(a) Whether reasonable efforts were made before the placement to prevent or eliminate the need for removal of the child from the home;

(b) Whether reasonable efforts have been made subsequent to the placement to make it possible for the child to be returned home;

(c) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration has been given to placement with the child's relatives;

(d) Whether there is a continuing need for and whether the placement is appropriate;

(e) Whether there has been compliance with the case plan;

(f) Whether progress has been made toward alleviating the need for placement;

(g) A likely date by which the child may be returned home or other permanent plan of care may be implemented; and

(h) Other problems, solutions, or alternatives the board determines should be explored.

(6) Within ten working days following the review, the board shall send a copy of its findings and recommendations to the child's parents and their attorneys, the child's custodians and their attorneys, mature children and their attorneys, and the department and other child placement agencies directly responsible for supervising the child's placement. If the child is an Indian as defined in the Indian child welfare act, 25 U.S.C. 1901 et seq., a copy of the board's findings and recommendations shall also be sent to the child's Indian tribe.

(7) If the department is unable or unwilling to implement the board recommendations, the department shall submit to the board, within ten working days after receipt of the findings and recommendations, an implementation report setting forth the reasons why the department is unable or unwilling to implement the board's recommendations. The report will also set forth the case plan which the department intends to implement.

(8) The court shall not review the findings and recommendations of the board in cases where the child has been placed in substitute care with signed parental consent unless a dependency petition has been filed and the child has been taken into custody under RCW 13.34.050.

**NEW SECTION.** Sec. 13. (1) This section shall apply to cases where a child has been placed in substitute care pursuant to a proceeding under chapter 13.34 RCW.

(2) Within forty-five days following commencement of the placement episode, the court shall assign the child's case to a board and forward to the board a copy of the dependency petition and any shelter care or dependency disposition orders which have been entered in the case by the court.

(3) The board shall review the case plan for each child whose case is assigned to the board by the court. The review shall take place at times set by the board. The first review shall occur within ninety days following commencement of the placement episode. The second review shall occur within six months following commencement of the placement episode. The next review shall occur within one year after commencement of the placement episode. Within eighteen months following commencement of the placement episode, a permanency planning hearing shall be held before the court in accordance with RCW 13.34.145. Thereafter, a board review or a court review hearing pursuant to RCW 13.34.130(4) shall take place at least once every six months until the child is no longer within the jurisdiction of the court or no longer in substitute care or until a guardianship order or adoption decree is entered. A court review hearing must occur at least once a year as provided in RCW 13.34.130. The board shall review any case where a petition to terminate parental rights has been denied, and such review shall occur as soon as practical but no later than forty-five days after the denial.

(4) The board shall prepare written findings and recommendations with respect to:

(a) Whether reasonable efforts were made before the placement to prevent or eliminate the need for removal of the child from the home, including whether consideration was given to removing the alleged offender, rather than the child, from the home;

(b) Whether reasonable efforts have been made subsequent to the placement to make it possible for the child to be returned home;

(c) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration has been given to placement with the child's relatives;

(d) Whether there is a continuing need for placement and whether the placement is appropriate;

(e) Whether there has been compliance with the case plan;

(f) Whether progress has been made toward alleviating the need for placement;

(g) A likely date by which the child may be returned home or other permanent plan of care may be implemented; and

(h) Other problems, solutions, or alternatives the board determines should be explored.

(5) Within ten working days following the review, the board shall send a copy of its findings and recommendations to the parents and their attorneys, the child's custodians and their attorneys, mature children and their attorneys, other attorneys or guardians ad litem appointed by the court to represent children, the department and other child placement agencies directly responsible for supervising the child's placement, and any prosecuting attorney or attorney general actively involved in the case. If the child is an Indian as defined in the Indian child welfare act, 25 U.S.C. Sec. 1901 et seq., a copy of the board's findings and recommendations shall also be sent to the child's Indian tribe.

(6) If the department is unable or unwilling to implement the board recommendations, the department shall submit to the board, within ten working days after receipt of the findings and recommendations, an implementation report setting forth the reasons why the department is unable or unwilling to implement the board's recommendations. The report will also set forth the case plan which the department intends to implement.

(7) Within forty-five days following the review, the board shall either:

(a) Schedule the case for further review by the board;

(b) File with the court a motion for a review hearing;

(c) Submit to the court the board's findings and recommendations, the department's implementation reports, if any, and a proposed amended court order agreed to by the parties to the action, if any.

(8) Upon receipt of the board's written findings and recommendations, the department's implementation report, if any, and the proposed amended court order, if any, the court shall either:

(a) Approve the recommendations; or

(b) Upon its own motion, schedule a review hearing.

(9) The findings and recommendations of the board and the department's implementation report, if any, shall become part of the department's case file and the court file pertaining to the child.

(10) Nothing in this section shall limit or otherwise modify the rights of any party to a dependency proceeding to request and receive a court review hearing pursuant to the provisions of chapter 13.34 RCW or applicable court rules.

**NEW SECTION.** Sec. 14. In addition to reviewing individual cases of children in substitute care, boards may make recommendations to the court and the department concerning substitute care services, policies, procedures, and laws.

**NEW SECTION.** Sec. 15. The administrator for the courts may apply for and receive funds from federal, local, and private sources for carrying out the purposes of this chapter.

**NEW SECTION.** Sec. 16. For cases which are subject to the foster care citizen review board pilot project under section 2 of this act, a court

review hearing shall occur no later than eighteen months following commencement of the child's placement episode. Thereafter, court review hearings shall occur at least once every year until the child is no longer within the jurisdiction of the court or the child returns home or a guardianship order or adoption decree is entered. The court may review the case more frequently upon the court's own motion or upon the request of any party to the proceeding or the citizen review board assigned to the child's case.

Sec. 17. Section 4, chapter 188, Laws of 1984 as amended by section 2, chapter 189, Laws of 1988, section 2, chapter 190, Laws of 1988, and by section 1, chapter 194, Laws of 1988 and RCW 13.34.130 are each reenacted and amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, as now or hereafter amended, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(2); after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home and that:

(i) There is no parent or guardian available to care for such child;

(ii) The child is unwilling to reside in the custody of the child's parent, guardian, or legal custodian;

(iii) The parent, guardian, or legal custodian is not willing to take custody of the child;



(iv) A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or

(v) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(a) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must meet in order to resume custody, and a time limit for each service plan and parental requirement.

(b) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement.

(c) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(d) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(3) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall

be grounds for removal of the child from the relative's home, subject to review by the court.

(4) The status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion;

(ii) ~~((The extent to which))~~ Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

~~(((iii) Whether the agency is satisfied with the cooperation given to it by the parents;~~

~~(iv))~~ (vii) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered; and

~~(((v) When return of the child can be expected))~~ (viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

Sec. 18. Section 3, chapter 194, Laws of 1988 and RCW 13.34.145 are each amended to read as follows:

~~((A dependency may only be maintained for a maximum period of two years, at which time the court shall:))~~

(1) In all cases where a child has been placed in substitute care for at least fifteen months, a permanency planning hearing shall be held before the court no later than eighteen months following commencement of the placement episode.

(2) At the permanency planning hearing, the court shall enter findings as required by RCW 13.34.130(4). In addition the court shall: (a) Approve a permanent plan of care which can include one of the following: Adoption, guardianship, or placement of the child in the home of the child's parent; ~~((2))~~ (b) require filing of a petition for termination of parental rights; or ~~((3))~~ (c) dismiss the dependency, unless the court finds, based on clear, cogent, and convincing evidence, that it is in the best interest of the child to continue the dependency beyond ~~((two years))~~ eighteen months, based on a permanent plan of care. Extensions may only be granted in increments of ~~((six))~~ twelve months or less ~~((unless a juvenile court guardianship is in effect)).~~

NEW SECTION. Sec. 19. Sections 1 through 16 of this act shall expire June 30, 1991.

Passed the Senate May 7, 1989.

Passed the House May 8, 1989.

Approved by the Governor June 1, 1989.

Filed in Office of Secretary of State June 1, 1989.

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## CHAPTER 18

[Substitute Senate Bill No. 5897]

### ALCOHOL AND DRUG ADDICTION TREATMENT—PROVISION OF SERVICES

AN ACT Relating to alcohol and drug treatment; amending RCW 74.50.060 and 74.50.050; amending section 2, chapter 3, Laws of 1989 (uncodified); adding new sections to chapter 74.50 RCW; creating a new section; repealing RCW 74.50.020; repealing section 1, chapter 3, Laws of 1989 (uncodified); providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature recognizes that alcoholism and drug addiction are treatable diseases and that most persons with this illness can recover. For this reason, this chapter provides a range of substance abuse treatment services. In addition, the legislature recognizes that when these diseases have progressed to the stage where a person's alcoholism or drug addiction has resulted in physiological or organic damage or cognitive impairment, shelter services may be appropriate. The legislature further recognizes that distinguishing alcoholics and drug addicts from persons incapacitated due to physical disability or mental illness is necessary in

order to provide an incentive for alcoholics and drug addicts to seek appropriate treatment and in order to avoid use of programs that are not oriented toward their conditions.

**NEW SECTION.** Sec. 2. A new section is added to chapter 74.50 RCW to read as follows:

A person is eligible for shelter services under this chapter only if he or she:

(1) Meets the financial eligibility requirements contained in RCW 74.04.005;

(2) Is incapacitated from gainful employment due to a condition contained in subsection (3) of this section, which incapacity will likely continue for a minimum of sixty days; and

(3) (a) Suffers from active addiction to alcohol or drugs manifested by physiological or organic damage resulting in functional limitation, based on documented evidence from a physician, psychologist, or alcohol or drug treatment professional who is determined by the department to be qualified to make this finding; or

(b) Suffers from active addiction to alcohol or drugs to the extent that impairment of the applicant's cognitive ability will not dissipate with sobriety or detoxification, based on documented evidence from a physician, psychologist, or alcohol or drug treatment professional who is determined by the department to be qualified to make this finding.

Sec. 3. Section 7, chapter 406, Laws of 1987 as amended by section 4, chapter 163, Laws of 1988 and RCW 74.50.060 are each amended to read as follows:

(1) The department shall establish a shelter assistance program to ~~((ensure the availability of))~~ provide, within available funds, shelter for persons eligible under this chapter. "Shelter," "shelter support," or "shelter assistance" means a facility under contract to the department providing room and board in a supervised living arrangement, normally in a group or dormitory setting, to eligible recipients under this chapter. This may include supervised domiciliary facilities operated under the auspices of public or private agencies. No facility under contract to the department shall allow the consumption of alcoholic beverages on the premises. The department may contract with counties and cities for such shelter services. To the extent possible, the department shall not displace existing emergency shelter beds for use as shelter under this chapter. In areas of the state in which it is not feasible to develop shelters, due to low numbers of people needing shelter services, or in which sufficient numbers of shelter beds are not available, the department may provide shelter through an intensive protective payee((s)) program, unless the department grants an exception on an individual basis for less intense supervision.

(2) Persons continuously eligible for the general assistance—unemployable program since July 25, 1987, who transfer to the program established by this chapter, have the option to continue their present living situation, but only through a protective payee.

**NEW SECTION.** Sec. 4. A new section is added to chapter 74.50 RCW to read as follows:

(1) A person shall not be eligible for treatment services under this chapter unless he or she:

(a) Meets the financial eligibility requirements contained in RCW 74.04.005; and

(b) Is incapacitated from gainful employment, which incapacity will likely continue for a minimum of sixty days.

(2) First priority for receipt of treatment services shall be given to pregnant women and parents of young children.

(3) In order to rationally allocate treatment services, the department may establish by rule caseload ceilings and additional eligibility criteria, including the setting of priorities among classes of persons for the receipt of treatment services. Any such rules shall be consistent with any conditions or limitations contained in any appropriations for treatment services.

Sec. 5. Section 6, chapter 406, Laws of 1987 as amended by section 3, chapter 163, Laws of 1988 and RCW 74.50.050 are each amended to read as follows:

(1) The department shall establish a treatment program to provide, within available funds, alcohol and drug treatment services for indigent persons eligible under this chapter (~~((who are incapacitated from gainful employment due to drug or alcohol abuse or addiction))~~). The treatment services may include but are not limited to:

(a) Intensive inpatient treatment services;

(b) Recovery house treatment;

(c) Outpatient treatment and counseling, including assistance in obtaining employment, and including a living allowance while undergoing outpatient treatment. The living allowance may not be used to provide shelter to clients in a dormitory setting that does not require sobriety as a condition of residence. The living allowance shall be administered on the clients' behalf by the outpatient treatment facility or other social service agency designated by the department. The department is authorized to pay the facility a fee for administering this allowance.

(2) (~~Every effort will be made to serve all of those requesting treatment. If a waiting list develops, those persons awaiting treatment may be provided shelter services and shall have the option of receiving such shelter services through a protective payee. The department shall promulgate regulations which determine the amount of cash which may be disbursed by the protective payee to the recipient. A recipient who fails to appear for the~~

~~scheduled treatment shall not be eligible for such waiting period benefits for a period of one year:~~

~~(3))~~ No individual may receive treatment services under this section for more than six months in any two-year period: PROVIDED, That the department may approve additional treatment and/or living allowance as an exception.

~~((4))~~ (3) The department may require an applicant or recipient selecting treatment to complete inpatient and recovery house treatment when, in the judgment of a designated assessment center, such treatment is necessary prior to providing the outpatient program.

Sec. 6. Section 2, chapter 3, Laws of 1989 (uncodified) is amended to read as follows:

~~(Within available funds, the department may provide to eligible persons services for assessment, inpatient and outpatient treatment, and shelter. In order to control expenditures or to comply with conditions or limitations placed on appropriations, the department may establish caseload ceilings and client eligibility standards for any of these services. The eligibility standards may provide for limiting eligibility for any service to that class or classes of applicants that the department determines constitute the highest priority for services under this chapter. The department's determination of priority shall be based on the department's estimate of the potential benefit to applicants and the likelihood that the service will reduce future demands for state assistance. The department may provide such a priority classification system for any or all services provided under this chapter. Any caseload ceiling or priority classification system adopted by the department shall be consistent with any appropriation condition or limitation prescribing or dealing with such a ceiling or system))~~ The department by rule may establish procedures for the administration of the services provided by this chapter. Any rules shall be consistent with any conditions or limitations on appropriations provided for these services. If funds provided for any ~~(of these))~~ service(s) under this chapter have been fully expended, the department shall immediately discontinue that service.

NEW SECTION. Sec. 7. A new section is added to chapter 74.50 RCW to read as follows:

The department of social and health services shall:

- (1) Collect and maintain relevant demographic data regarding persons receiving or awaiting treatment services under this chapter;
- (2) Collect and maintain utilization data on inpatient treatment, outpatient treatment, shelter services, and medical services;
- (3) Monitor contracted service providers to ensure conformance with the omnibus appropriations act and the treatment priorities established in this chapter;

(4) Report the results of the data collection and monitoring provided for in this section to appropriate committees of the legislature on or before December 1, 1989, and December 1, 1990.

NEW SECTION. Sec. 8. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 3, Laws of 1989 (uncodified); and
- (2) Section 3, chapter 406, Laws of 1987 and RCW 74.50.020.

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, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the Senate May 7, 1989.

Passed the House May 8, 1989.

Approved by the Governor June 1, 1989.

Filed in Office of Secretary of State June 1, 1989.

## CHAPTER 19

[Substitute Senate Bill No. 5352]

### OPERATING BUDGET, 1989-1991 BIENNIUM

AN ACT Relating to fiscal matters; making appropriations and authorizing expenditures for the operations of state agencies for the fiscal biennium beginning July 1, 1989, and ending June 30, 1991; amending RCW 9.46.100, 50.16.070, and 43.08.250; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) A budget is hereby adopted and, subject to the provisions set forth in the following sections, the several amounts specified in the following sections, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for salaries, wages, and other expenses of the agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 1989, and ending June 30, 1991, except as otherwise provided, out of the several funds of the state hereinafter named.

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

(a) "Fiscal year 1990" or "FY 1990" means the fiscal year ending June 30, 1990.

(b) "Fiscal year 1991" or "FY 1991" means the fiscal year ending June 30, 1991.

(c) "FTE" means full time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is unnecessary to fulfill the specified purpose shall lapse.

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PART I  
GENERAL GOVERNMENT

NEW SECTION. Sec. 101. FOR THE HOUSE OF REPRESENTATIVES

General Fund Appropriation . . . . . \$ 49,300,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$150,000 is provided solely to contract for an evaluation of Seattle public schools.

(2) \$250,000 of the general fund appropriation is provided solely for acquisition and implementation of necessary redistricting data processing systems in conjunction with the senate and the secretary of state.

(3) \$163,000 is provided solely for the fellows program of the Washington state institute for public policy.

NEW SECTION. Sec. 102. FOR THE SENATE

General Fund Appropriation . . . . . \$ 36,751,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$250,000 is provided solely for acquisition and implementation of necessary redistricting data processing systems in conjunction with the house of representatives and the secretary of state.

(2) \$163,000 is provided solely for the fellows program of the Washington state institute for public policy.

NEW SECTION. Sec. 103. FOR THE LEGISLATIVE BUDGET COMMITTEE

General Fund Appropriation . . . . . \$ 1,864,000

NEW SECTION. Sec. 104. FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

General Fund Appropriation . . . . . \$ 2,712,000

NEW SECTION. Sec. 105. FOR THE OFFICE OF THE STATE ACTUARY

Department of Retirement Systems Expense  
Fund Appropriation . . . . . \$ 1,098,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The office shall provide all necessary services for the department of retirement systems within the funds appropriated in this section.

(2) \$100,000 is provided solely for implementation of the employee benefits communication project by the joint committee on pension policy.

NEW SECTION. Sec. 106. FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE

General Fund Appropriation . . . . . \$ 5,628,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall be transferred to the legislative systems revolving fund.

NEW SECTION. Sec. 107. FOR THE STATUTE LAW COMMITTEE

General Fund Appropriation . . . . . \$ 5,983,000

NEW SECTION. Sec. 108. FOR THE SUPREME COURT

General Fund Appropriation . . . . . \$ 13,404,000

The appropriation in this section is subject to the following conditions and limitations: \$5,013,000 is provided solely for the indigent appeals program.

**NEW SECTION. Sec. 109. FOR THE LAW LIBRARY**

General Fund Appropriation . . . . . \$ 2,989,000

**NEW SECTION. Sec. 110. FOR THE COURT OF APPEALS**

General Fund Appropriation . . . . . \$ 13,765,000

The appropriation in this section is subject to the following conditions and limitations: \$354,000 is provided solely for an additional judgeship in division I of the court of appeals. If neither Senate Bill No. 5109 nor House Bill No. 1802 is enacted by June 30, 1989, this amount of the appropriation shall lapse.

**NEW SECTION. Sec. 111. FOR THE COMMISSION ON JUDICIAL CONDUCT**

General Fund Appropriation . . . . . \$ 594,000

**NEW SECTION. Sec. 112. FOR THE ADMINISTRATOR FOR THE COURTS**

General Fund Appropriation . . . . . \$ 26,481,000

Public Safety and Education Account Appropriation . . . . . \$ 22,850,000

Total Appropriation . . . . . \$ 49,331,000

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

(1) Within the appropriations provided in this section, the administrator for the courts, in conjunction with the indigent defense task force, shall review the feasibility of implementing an indigent defense cost recovery program in order to recover state expenses for the indigent appeals program. The administrator for the courts also shall prepare recommendations regarding standards for indigency to be applied uniformly among courts throughout the state. Recommendations regarding a cost recovery program and indigency standards shall be submitted to the house of representatives appropriations and the senate ways and means committees by December 1, 1989.

(2) \$4,712,000 of the general fund appropriation is provided solely for the continuation of treatment-alternatives-to-street-crimes (TASC) programs in Pierce, Snohomish, Clark, King, Spokane, and Yakima counties. In administering TASC program contracts, the administrator for the courts shall monitor program expenditures, conduct program audits, and develop corrective action plans as necessary for contract compliance.

(3) \$15,555,000 of the general fund appropriation is provided solely for the superior court judges program.

(4) \$50,000 of the public safety and education account appropriation is provided solely for the continuation of the indigent defense task force as provided in Substitute Senate Bill No. 5960 (indigent defense services). If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(5) \$200,000 of the public safety and education account appropriation is provided solely for implementing Substitute Senate Bill No. 5474 or Substitute House Bill No. 1119 (court interpreters). If neither bill is enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(6) \$500,000 of the general fund appropriation is provided solely for a foster care review pilot project. In designing the project, the administrator for the courts shall: (a) Establish control groups, one with foster care review and one without, and (b) document the comparative impacts on court costs and foster care length-of-stay.

(7) \$5,758,000 of the public safety and education account appropriation is provided solely to implement the conversion of the district court information system (DISCIS) to a subsystem compatible with the other subsystems within the judicial information system. The amount provided in this subsection is intended to convert twenty-eight existing DISCIS sites and establish eight new sites. When providing equipment upgrades to an existing site, an equal amount of local matching funds shall be provided by the local jurisdiction. The administrator for the courts shall report to the legislature by January 15, 1990, on the reasonableness and feasibility of installing more DISCIS sites during the 1989-91 biennium.

(8) \$3,000,000 of the public safety and education account appropriation shall be held in reserve by the administrator for the courts until July 1, 1990.

(9) The administrator for the courts shall prepare a five-year plan for the judicial information system in conformance with the guidelines of the department of information services. The administrator for the courts shall submit the plan to the house of representatives committee on appropriations and the senate committee on ways and means by January 15, 1990. The five-year plan shall include but not be limited to the following items: Long range goals, objectives, and priorities; estimated equipment and software acquisition costs; an equipment acquisition schedule; estimated operating costs by fiscal year; a cost/benefit analysis of planned system modifications; an analysis of the revenue impact of implementing accounts receivable modules; current and projected debt service costs; descriptions of the services provided to each court jurisdiction; and a plan for requiring local matching funds.

NEW SECTION. Sec. 113. FOR THE OFFICE OF THE GOVERNOR

General Fund Appropriation—State . . . . .	\$	11,894,000
General Fund Appropriation—Federal . . . . .	\$	27,779,000

Total Appropriation . . . . . \$ 39,673,000

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

- (1) \$182,000 of the general fund—state appropriation is provided solely for mansion maintenance.
- (2) \$421,000 of the general fund—state appropriation is provided solely for extradition expenses to carry out RCW 10.34.030, providing for the return of fugitives by the governor, including prior claims, and for extradition-related legal services as determined by the attorney general.
- (3) \$225,000 of the general fund—state appropriation is provided solely for the administration and activities of a governor's commission on African-American affairs.

NEW SECTION. Sec. 114. FOR THE LIEUTENANT GOVERNOR

General Fund Appropriation . . . . . \$ 492,000

NEW SECTION. Sec. 115. FOR THE PUBLIC DISCLOSURE COMMISSION

General Fund Appropriation . . . . . \$ 1,289,000

NEW SECTION. Sec. 116. FOR THE SECRETARY OF STATE

General Fund Appropriation . . . . . \$ 8,042,000

Archives and Records Management Account  
 Appropriation . . . . . \$ 2,571,000

Department of Personnel Service Fund Approp-  
 riation . . . . . \$ 447,000

Total Appropriation . . . . . \$ 11,060,000

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

- (1) \$200,000 of the general fund appropriation is provided solely for acquisition and implementation of necessary redistricting data processing systems in conjunction with the house of representatives and the senate.
- (2) \$1,074,000 of the general fund appropriation is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures.
- (3) \$2,542,000 of the general fund appropriation is provided solely for the verification of initiative and referendum petitions and the maintenance of related voter registration records, legal advertising of state measures, and the publication and distribution of the voters and candidates pamphlet.
- (4) \$123,000 of the general fund appropriation is provided solely for expansion of the oral history program recently instituted by the archives and records management division.

NEW SECTION. Sec. 117. FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS

General Fund Appropriation .....	\$	290,000
<u>NEW SECTION, Sec. 118. FOR THE COMMISSION ON ASIAN-AMERICAN AFFAIRS</u>		
General Fund Appropriation .....	\$	312,000
<u>NEW SECTION, Sec. 119. FOR THE STATE TREASURER</u>		
Motor Vehicle Fund Appropriation .....	\$	46,000
State Treasurer's Service Fund Appropriation .....	\$	9,082,000
Higher Education Construction Account Appropriation .....	\$	39,000
State Convention and Trade Center Account Appropriation .....	\$	76,000
State and Local Improvements Revolving Account—Waste Disposal Facilities Appropriation .....	\$	58,000
Salmon Enhancement Construction Account Appropriation .....	\$	10,000
State and Local Improvements Revolving Account—Waste Disposal Facilities, 1980 Appropriation .....	\$	200,000
State Higher Education Construction Account Appropriation .....	\$	25,000
State Building Construction Account Appropriation .....	\$	588,000
Higher Education Reimbursable Short-Term Bond Account Appropriation .....	\$	14,000
Outdoor Recreation Account Appropriation .....	\$	7,000
State and Local Improvements Revolving Account (Water Supply Facilities) Appropriation .....	\$	71,000
State and Local Improvements Revolving Account (Social and Health Services Facilities) Appropriation .....	\$	25,000
Economic Development Account Appropriation .....	\$	11,000
State Facilities Renewal Account Appropriation .....	\$	14,000
Puget Sound Capital Construction Account Appropriation .....	\$	35,000
Urban Arterial Trust Account Appropriation .....	\$	43,000
Total Appropriation .....	\$	10,344,000

The appropriations in this section, with the exception of the motor vehicle fund and state treasurer's service fund appropriations, are subject to the following conditions and limitations: The provisions of sections 807 and 808 of this act apply to the appropriations in this section.



**NEW SECTION. Sec. 120. FOR THE STATE AUDITOR**

General Fund Appropriation . . . . .	\$	902,000
Motor Vehicle Fund Appropriation . . . . .	\$	225,000
Municipal Revolving Fund Appropriation . . . . .	\$	16,262,000
Auditing Services Revolving Fund Appropria- tion . . . . .	\$	10,338,000
Total Appropriation . . . . .	\$	27,727,000

**NEW SECTION. Sec. 121. FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS**

General Fund Appropriation . . . . .	\$	76,000
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**NEW SECTION. Sec. 122. FOR THE ATTORNEY GENERAL**

General Fund Appropriation—State . . . . .	\$	6,188,000
General Fund Appropriation—Federal . . . . .	\$	1,664,000
Legal Services Revolving Fund Appropriation . . . . .	\$	70,713,000
Motor Vehicle Fund Appropriation . . . . .	\$	761,000
New Motor Vehicle Arbitration Account Ap- propriation . . . . .	\$	1,716,000
Total Appropriation . . . . .	\$	81,042,000

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

(1) \$761,000 of the motor vehicle fund appropriation is provided solely to pursue highway bid-rigging anti-trust litigation and shall be expended only after the office of financial management approves plans for any expenditures.

(2) No part of the appropriations provided in this section may be used to move any attorney co-located with an agency for which the attorney provides legal services away from the agency without prior approval of the agency and the office of financial management.

(3) \$181,000 of the general fund—state appropriation is provided solely for expanding the computerized homicide information and tracking system. The attorney general shall report to the legislature, no later than January 14, 1991, on the homicide information and tracking system, as well as on the feasibility of expanding the system to include the violent crimes of rape, robbery, and arson. The report shall include a local agency financial participation analysis, a systems analysis that includes use of the incident-based reporting system (IBR) of the Washington association of sheriffs and police chiefs and of the criminal information system of the Washington state patrol, and a full-cost purchase analysis. The attorney general shall coordinate the preparation of this report with the office of financial management, the Washington association of sheriffs and police chiefs, and the Washington state patrol.

**\*NEW SECTION. Sec. 123. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

General Fund Appropriation . . . . .	\$	22,519,000
Hospital Commission Account Appropriation . . . . .	\$	844,000
Motor Vehicle Fund Appropriation . . . . .	\$	101,000
Total Appropriation . . . . .	\$	23,464,000

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

**(1) *The director of financial management, in consultation with the department of general administration, shall report to the house of representatives appropriations and senate ways and means committees by July 1, 1990, on the savings resulting from the implementation of the report of the motor pool review team of the governor's commission for efficiency and accountability in government. The report shall provide recommendations on how the identified savings should be programmed into state agency budgets. Periodically during the biennium, the director of financial management shall direct agencies affected by the implementation of the report to place appropriated moneys in reserve status to reflect the resulting savings. By June 30, 1991, at least \$3,200,000 from the general fund—state appropriation shall be placed in reserve status under this subsection.***

(2) \$845,000 of the general fund appropriation and \$844,000 of the hospital commission account appropriation are provided solely for fiscal year 1991 and are subject to the following conditions:

(a) If, by June 30, 1989, Substitute Senate Bill No. 5385 (hospital data collection) is enacted and a department of health is created, the amounts provided in this subsection shall be transferred to the department of health solely for the purposes of Substitute Senate Bill No. 5385.

(b) If, by June 30, 1989, Substitute Senate Bill No. 5385 is not enacted and a department of health is created, the amounts provided in this subsection shall be transferred to the department of health solely for the purposes of data collection previously performed by the hospital commission.

(c) If, by June 30, 1989, Substitute Senate Bill No. 5385 is not enacted and a department of health is not created, the amounts provided in this subsection shall be retained by the office of financial management solely for the purposes of data collection previously performed by the hospital commission.

**(3) *In conjunction with the common school enrollment forecast, the office of financial management shall forecast the enrollment of the K-12 handicapped program.***

**(4) *\$200,000 of the general fund appropriation is provided solely to examine the state's program for handicapped education in the common schools. The study shall be conducted by a committee including representatives of the office of financial management, appointed by the director, and representatives of the staffs of the appropriations committee of the house of representatives and the ways and means committee of the senate, appointed by the respective***

*committee chairmen. The director of financial management may also appoint to the committee professionals in the field of handicapped assessments. The committee shall conduct research and make recommendations in the areas of forecasting methodology, enrollment growth, assessment practices, severity classifications, state funding methods, and the needs of unique populations. The committee may contract for professional assistance as necessary and shall submit its report to the ways and means committee and the appropriations committee by December 1, 1989.*

*(5) To the extent motor vehicle funds appropriated for the 1989-91 biennium are not sufficient to provide for funding of the master license center of the department of licensing, the office of financial management shall transfer the amounts associated with savings due to the operations of the master license center from agencies that benefit from the consolidation of licensing operations at the department of licensing.*

*(6) \$130,000 of the general fund—state appropriation is provided solely for an architectural or structural cost specialist for evaluation and technical analysis related to the capital budget.*

(7) The office of financial management shall study the effect on county revenues resulting from the designation of timber for processing within the state as specified under section 2 of Substitute Senate Bill No. 5911. The study shall determine the magnitude of revenue changes and shall include recommendations on methods to determine whether county forest board revenues declined, the amount of any decline, and possible methods to compensate counties for any decrease in revenue. The office shall report its findings to the appropriate committees of the senate and house of representatives by December 1, 1990.

\*Sec. 123 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 124. FOR THE OFFICE OF ADMINISTRATIVE HEARINGS**

Administrative Hearings Revolving Fund Appropriation ..... \$ 10,031,000

**\*NEW SECTION. Sec. 125. FOR THE DEPARTMENT OF PERSONNEL**

Department of Personnel Service Fund Appropriation ..... \$ 14,498,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$80,000 of this amount is provided solely for the establishment of the new leadership fellowship program with Hyogo prefecture in Japan.

(2) \$670,000 is provided solely for implementation of Engrossed House Bill No. 1360, House Bill No. 2236, or the career executive management program portion of Substitute Senate Bill No. 5140. If none of these bills is

enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(3) The department of personnel shall survey the compensation practices of comparable in-state and out-of-state law enforcement agencies. The survey shall consider the degree to which duties, skills, and working conditions are shared by classifications such as wildlife agents, fisheries agents, and members of the Washington state patrol, all of whom have full police powers. The department shall report on the survey findings to the legislature by January 1, 1990.

*(4) The speaker of the house of representatives and the majority leader of the senate shall each designate a legislative staff person who shall consult with and make recommendations to the department of personnel on all matters relating to the conduct of the salary survey. Persons designated under this section shall have expertise on policy or budget matters relating to state employee salaries.*

\*Sec. 125 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 126. FOR THE COMMITTEE FOR DEFERRED COMPENSATION

General Fund Appropriation . . . . . \$ 529,000

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for the administration of a state employee salary reduction plan for dependent care assistance.

NEW SECTION. Sec. 127. FOR THE WASHINGTON STATE LOTTERY

Lottery Administrative Account Appropriation . . . . . \$ 17,108,000

NEW SECTION. Sec. 128. FOR THE COMMISSION ON HISPANIC AFFAIRS

General Fund Appropriation . . . . . \$ 343,000

NEW SECTION. Sec. 129. FOR THE PERSONNEL APPEALS BOARD

Department of Personnel Service Fund Appropriation . . . . . \$ 831,000

NEW SECTION. Sec. 130. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—OPERATIONS

Department of Retirement Systems Expense  
Fund Appropriation . . . . . \$ 22,381,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$908,000 is provided solely for information systems projects named in this section for which work will commence or continue in this biennium.

Authority to expend these funds is conditioned upon compliance with section 802 of this act. For the purposes of this subsection, "information systems projects" means the projects known by the following names or successor names: Transmittals, member account ledgers, account receivables, billing, and disbursements.

(2) \$871,000 is provided solely for reduction of the agency's backlogs.

(3) \$184,000 is provided solely for development of data security and program library management.

(4) \$50,000 is provided solely for the preparation of information on disability benefit for members of the retirement systems. In preparing this information, the department shall coordinate with the joint committee on pension policy regarding the committee's employee communications project.

(5) The department shall be divided into three program areas of administration, data processing, and retirement operations.

NEW SECTION. Sec. 131. FOR THE STATE INVESTMENT BOARD

State Investment Board Expense Account Appropriation .....	\$ 2,015,000
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NEW SECTION. Sec. 132. FOR THE DEPARTMENT OF REVENUE

General Fund Appropriation .....	\$ 75,729,000
Timber Tax Distribution Account Appropriation .....	\$ 3,382,000
State Toxics Control Account Appropriation .....	\$ 100,000
Solid Waste Management Account Appropriation .....	\$ 92,000
Pollution Liability Reinsurance Trust Account Appropriation .....	\$ 286,000
Vehicle Tire Recycling Account Appropriation .....	\$ 122,000
Total Appropriation .....	\$ 79,711,000

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

(1) \$286,000 of the pollution liability reinsurance trust account appropriation is provided solely for implementation of Second Substitute House Bill No. 1180. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(2) \$122,000 of the vehicle tire recycling account appropriation is provided solely for implementation of Engrossed Substitute House Bill No. 1671. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(3) \$92,000 of the solid waste management account appropriation is provided solely for implementing the provisions of Engrossed Substitute

House Bill No. 1671. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 133. FOR THE BOARD OF TAX APPEALS  
General Fund Appropriation . . . . . \$ 1,329,000

NEW SECTION. Sec. 134. FOR THE MUNICIPAL RESEARCH COUNCIL  
General Fund Appropriation . . . . . \$ 2,212,000

NEW SECTION. Sec. 135. FOR THE UNIFORM LEGISLATION COMMISSION  
General Fund Appropriation . . . . . \$ 37,000

NEW SECTION. Sec. 136. FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES  
General Fund Appropriation . . . . . \$ 2,076,000

NEW SECTION. Sec. 137. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION  
General Fund Appropriation—State . . . . . \$ 8,576,000  
General Fund Appropriation—Federal . . . . . \$ 1,715,000  
General Fund Appropriation—Private/Local . . . . \$ 99,000  
Motor Vehicle Fund Appropriation . . . . . \$ 330,000  
State Patrol Highway Account Appropriation . . . . \$ 228,000  
Motor Transport Account Appropriation . . . . . \$ 10,712,000  
General Administration Facilities and Services  
Revolving Fund Appropriation . . . . . \$ 21,498,000  
Total Appropriation . . . . . \$ 43,158,000

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

(1) The motor vehicle fund appropriation and state patrol highway account appropriation are provided solely for risk management activities related to the motor vehicle fund and the state patrol highway account.

(2) \$471,000 of the motor transport account appropriation is provided solely to establish the office of motor vehicle services as provided in chapter 57, Laws of 1989.

NEW SECTION. Sec. 138. FOR THE DEPARTMENT OF INFORMATION SERVICES  
Data Processing Revolving Fund Appropriation . . . . \$ 2,392,000

NEW SECTION. Sec. 139. FOR THE INSURANCE COMMISSIONER  
Insurance Commissioner's Regulatory Account  
Appropriation . . . . . \$ 12,126,000

NEW SECTION. Sec. 140. FOR THE BOARD OF ACCOUNTANCY  
General Fund Appropriation . . . . . \$ 443,000

Certified Public Accountant Examination Account Appropriation . . . . .	\$	655,000
Total Appropriation . . . . .	\$	1,098,000

**NEW SECTION. Sec. 141. FOR THE DEATH INVESTIGATION COUNCIL**

Death Investigations Account Appropriation . . . . .	\$	11,000
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**NEW SECTION. Sec. 142. FOR THE BOXING COMMISSION**

General Fund Appropriation . . . . .	\$	139,000
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**NEW SECTION. Sec. 143. FOR THE HORSE RACING COMMISSION**

Horse Racing Commission Fund Appropriation . . . . .	\$	4,544,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) If there are more than seven hundred thirty-two racing days during the fiscal biennium ending June 30, 1991, the governor is authorized to allocate such additional moneys from the horse racing commission fund as may be required.

(2) No horse racing commission funds may be used for the purpose of certifying Washington-bred horses under RCW 67.16.075.

**NEW SECTION. Sec. 144. FOR THE LIQUOR CONTROL BOARD**

Liquor Revolving Fund Appropriation . . . . .	\$	95,098,000
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**NEW SECTION. Sec. 145. FOR THE PHARMACY BOARD**

General Fund Appropriation . . . . .	\$	1,423,000
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**NEW SECTION. Sec. 146. FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Public Service Revolving Fund Appropriation . . . . .	\$	26,245,000
Grade Crossing Protective Fund Appropriation . . . . .	\$	320,000
Total Appropriation . . . . .	\$	26,565,000

The appropriations in this section are subject to the following conditions and limitations: \$347,000 of the public service revolving fund appropriation is contingent on the enactment of Engrossed Substitute House Bill No. 1671. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

**NEW SECTION. Sec. 147. FOR THE BOARD FOR VOLUNTEER FIREMEN**

Volunteer Firefighter's Relief and Pension Administrative Fund Appropriation . . . . .

	\$	315,000
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**NEW SECTION. Sec. 148. FOR THE MILITARY DEPARTMENT**

General Fund Appropriation—State . . . . .	\$	8,087,000
General Fund Appropriation—Federal . . . . .	\$	6,425,000

Total Appropriation .....	\$	14,512,000
<b>NEW SECTION. Sec. 149. FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION</b>		
General Fund Appropriation .....	\$	1,819,000

**PART II  
HUMAN SERVICES**

**NEW SECTION. Sec. 201. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

(1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law, or unless the services were provided on March 1, 1989. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, except maternal and child health block grant moneys, those moneys shall be spent for services authorized in this act, and an equal amount of appropriated state general fund moneys shall lapse. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on explicitly defined projects or matched on a formula basis by state funds.

(3) The department of social and health services is authorized to expend federal funds made available by the federal immigration reform and control act, P.L. 99-603, for the purposes contained in that act.

**NEW SECTION. Sec. 202. GENERAL VENDOR RATE INCREASES**

In granting the vendor rate increases funded by appropriations in sections 201 through 219 of this act which reference this section, the department may vary percentage increases among vendor groups. In order to determine the percentage increases for each vendor group, the department may consider the gap between the vendor group's costs or market rates and department rates, and the extent to which a disproportionate share of the vendor group's revenue or activity is dependent on department clients. The department shall ensure that the overall average rate increase on January 1, 1990, does not exceed three percent and that the average overall increase on January 1, 1991, does not exceed two percent. The department may transfer



funds among appropriations for the purposes of this section. In no case may transfers out of a section exceed the amounts appropriated for the purposes of this section. This section does not apply to rates for hospitals and nursing homes reimbursed under chapter 74.46 RCW.

**NEW SECTION. Sec. 203. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—CHILDREN AND FAMILY SERVICES PROGRAM**

General Fund Appropriation—State . . . . .	\$	262,488,000
General Fund Appropriation—Federal . . . . .	\$	161,172,000
Public Safety and Education Account Appropriation . . . . .	\$	400,000
Total Appropriation . . . . .	\$	424,060,000

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

(1) \$4,152,000 of the general fund—state appropriation and \$293,000 of the general fund—federal appropriation are provided solely for reduction of the average caseloads for child protective and child welfare casework staff to a standard of thirty-two cases per staff.

(2) \$5,812,000 of the general fund—state appropriation is provided solely to expand services to families to reduce the need for family or group foster care. Of the amount provided in this subsection, \$2,560,000 is provided solely for additional homemakers; \$982,000 is provided solely for family reconciliation services (level II); \$1,000,000 is provided solely for home-based services or treatment for families receiving child protective services; and \$1,270,000 is provided solely for increased child care services.

(3) \$400,000 of the public safety and education account appropriation is provided solely to continue training programs under chapter 70.125 RCW for medical personnel regarding victims of sexual abuse. Training provided under this subsection shall be designed to develop regional expertise on identification, verification, and retention of evidence in cases of child sexual abuse.

(4) \$5,090,000 of the general fund—state appropriation and \$591,000 of the general fund—federal appropriation are provided solely to increase rates and services as follows: \$3,210,000 of the general fund—state appropriation and \$591,000 of the general fund—federal appropriation are provided solely for increased treatment and rates for family foster care and child placement agencies; \$500,000 of the general fund—state appropriation is provided solely for increased grants to domestic violence shelter programs; \$200,000 of the general fund—state appropriation is provided solely for increased grants to victims of sexual assault programs; and \$1,180,000 of the general fund—state appropriation is provided solely for increased rates for therapeutic child care.

(5) \$3,926,000 of the general fund—state appropriation is provided solely to increase the number of children served in the employment child care subsidy program.

(6) \$694,000 of the general fund—state appropriation is provided solely for expansion of the homebuilders program in Thurston, King, Skagit, and Jefferson counties.

(7) \$300,000 of the general fund—state appropriation is provided solely for grants for the operation of community-based family support centers. Grants shall be administered and evaluated by the council for prevention of child abuse and neglect. Grantees shall be part of a community interagency team that provides support to families, which support may include, but is not limited to, parenting education and support groups, child development assessments, and information and referral services. As a condition of receiving a grant, grantees shall provide twenty-five percent of the funding for family support centers.

(8) Any federal funds not anticipated in this act received for the purpose of maternal and child health services may be spent to increase county health department services to families with young children, including home visits, preventive health care, nutrition, and other services.

(9) \$5,133,000 of the general fund—state appropriation and \$2,559,000 of the general fund—federal appropriation are provided solely for vendor rate increases for vendors providing services to the children and family services program, as specified in section 202 of this act.

(10) \$2,020,000 of the general fund—state appropriation is provided solely for foster care diversion projects established under section 203(15), chapter 289, Laws of 1988. The department shall continue or expand those projects showing positive outcomes in both benefits to families and cost neutrality. The department shall report to the appropriate committees of the legislature by January 8, 1990, on these projects. The reports shall include a description of each project, the cost of each project, and an assessment of its effectiveness.

(11) \$250,000 of the general fund—state appropriation is provided solely for employer-related child care activities, including outreach and technical assistance to employers, by the department of social and health services or community-based child care resource and referral agencies as outlined in Engrossed Substitute House Bill No. 1133 and Second Substitute Senate Bill No. 6051. No moneys provided in this subsection may be spent for grants or loans to employers.

(12) \$500,000 of the general fund—state appropriation is provided solely for continuation of the "continuum of care" projects as provided for in section 203(15), chapter 289, Laws of 1988, through June 30, 1990.

**NEW SECTION.** Sec. 204. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—JUVENILE REHABILITATION PROGRAM

(1) COMMUNITY SERVICES

General Fund Appropriation—State . . . . .	\$	33,512,000
General Fund Appropriation—Federal . . . . .	\$	134,000
Total Appropriation . . . . .	\$	33,646,000

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

(a) \$418,000 of the general fund—state appropriation is provided solely for vendor rate increases for vendors providing service to the juvenile rehabilitation program, as specified in section 202 of this act.

(b) \$554,000 of the general fund—state appropriation is provided solely to accommodate offender population increases resulting from the policies of the juvenile disposition standards board.

(2) INSTITUTIONAL SERVICES

General Fund Appropriation—State . . . . .	\$	47,370,000
General Fund Appropriation—Federal . . . . .	\$	871,000
Total Appropriation . . . . .	\$	48,241,000

The appropriations in this section are subject to the following conditions and limitations: The department shall develop a long-range plan for the future status of institutional programs and facilities. The plan shall be presented to the appropriate policy and fiscal committees of the senate and house of representatives by January 8, 1990, and shall address in detail:

(a) Offenders who can be diverted to community programs;

(b) Community programs necessary to successfully divert offenders from state facilities;

(c) Programs and facilities most appropriate for offenders requiring incarceration in state facilities;

(d) The costs to state and local organizations to accomplish the plan; and

(e) Policy changes necessary to accomplish the plan.

(3) PROGRAM SUPPORT

General Fund Appropriation . . . . .	\$	2,905,000
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**NEW SECTION. Sec. 205. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MENTAL HEALTH PROGRAM**

(1) COMMUNITY SERVICES

General Fund Appropriation—State . . . . .	\$	168,222,000
General Fund Appropriation—Federal . . . . .	\$	91,552,000
General Fund Appropriation—Local . . . . .	\$	3,360,000
Total Appropriation . . . . .	\$	263,134,000

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

(a) A maximum of \$33,012,000 of the general fund—state appropriation and \$16,057,000 of the general fund—federal appropriation are

provided for approved regional network plans through contracts negotiated with the secretary of social and health services.

(i) It is the intent of the legislature to implement mental health reform on a multi-year schedule. Dramatic escalation of costs for new programs would impair the state's ability to proceed with subsequent expansion. The contracts shall contain a fiscal plan that will ensure that the increased cost of maintaining fiscal year 1991 programs in fiscal year 1992 will not unduly exceed the rate of inflation. Of the amounts provided in this subsection, a maximum of \$500,000 from the general fund—state appropriation may be used for planning and technical assistance grants to counties or regions wishing to form networks. The amounts in this subsection include moneys needed to implement the federal omnibus budget and reconciliation act of 1987 ("OBRA"). First priority for necessary mental health services shall be given to individuals transferred from nursing homes because of OBRA. Such services shall be consistent with an individual's discharge plan and shall include residential services, if needed. Assumptions regarding the number of transfers from the nursing homes shall be incorporated into each contract and shall be consistent with the state-wide plan. The department shall coordinate OBRA transfers consistent with the provisions of each contract. The secretary shall negotiate contracts with networks from areas comprising no more than two-thirds of the state's population. Contracts shall be negotiated in at least two competitive rounds. The first round of contracts shall be effective no later than January 1, 1990. The last round of contracts shall be effective no later than March 1, 1990.

(ii) The department shall continue contracting directly for the Kitsap mental health services residential care alternative project until such time as Kitsap county becomes or joins a regional support network. The reimbursement rate per available bed-day shall not exceed \$206 in fiscal year 1990 and \$210 in fiscal year 1991. During the contract period, all eligible involuntary treatment referrals for Kitsap county residents shall be made to the project. No involuntary referrals shall be made to western state hospital unless the Kitsap residential treatment facility is filled to capacity and the mental health division and the Kitsap county mental health coordinator concur with the referral. Priority for referral to western state hospital shall be given to individuals under ninety-day or one hundred eighty-day commitments and individuals who have exhausted all community placement options.

(iii) The department may continue to contract directly with Chartley house until King county joins or becomes a regional support network.

(b) \$2,000,000 of the general fund—state appropriation is provided solely for a mental health housing reserve. The secretary of social and health services shall transfer funds from the reserve to the state hospitals in any quarter in which hospital census exceeds the December 1988 forecast adjusted to eliminate the bed contract assumption. Any amount remaining

after March 1991 may be used for one-time grants. In making grants, the secretary shall give priority to proposals that facilitate network development, demonstrate integration with other mental health services, and are designed to reduce involuntary treatment.

(c) \$5,500,000 of the general fund—state appropriation is provided solely for increases for involuntary treatment act administration, including costs associated with involuntary medication hearings.

(d) \$2,200,000 of the general fund—state appropriation is provided solely for information system requirements associated with chapter 205, Laws of 1989.

(e) \$600,000 of the general fund—state appropriation and \$400,000 of the general fund—federal appropriation are provided solely for increasing local hospital outlier payments.

(f) \$1,400,000 of the general fund—state appropriation and \$500,000 of the general fund—federal appropriation are for community mental health services for children. Priority for the remaining moneys shall be given to maintaining Title XIX eligibility for children's outpatient services at risk of losing federal financial participation because of lack of state match.

(g) \$3,509,000 of the general fund—state appropriation and \$1,322,000 of the general fund—federal appropriation are for vendor rate increases for vendors providing services to the mental health program, as specified in section 202 of this act.

(2) INSTITUTIONAL SERVICES

General Fund Appropriation—State . . . . .	\$	205,687,000
General Fund Appropriation—Federal . . . . .	\$	10,809,000
Total Appropriation . . . . .	\$	216,496,000

The appropriations in this subsection are subject to the following conditions and limitations: \$9,026,000 of the general fund—state appropriation and \$560,000 of the general fund—federal appropriation are provided for improvements at state mental hospitals. Of these amounts, it is intended that:

(a) \$56,000 is for start-up of an employee day care facility to enhance staff recruitment and retention.

(b) \$500,000 is for staff recruitment, retention, and development activities which includes but is not limited to continuing education, inservice training, and scholarships for staff training to become registered nurses.

(c) \$2,920,000 is for improving housekeeping and maintenance.

(d) \$2,750,000 is for improved staffing at the state hospitals.

(e) \$2,550,000 is for research and teaching activities in cooperation with universities, colleges, community colleges, and vocational technical institutes. In developing these relationships, the secretary shall give highest priority to activities which improve staff recruitment, retention, and development and contribute to improving quality of care.

(f) \$100,000 is for the nurses conditional scholarship program established in chapter 242, Laws of 1988. The department shall transfer \$100,000 to the higher education coordinating board for the purposes of this section. The moneys transferred to the board shall be used only for nurses who agree to serve at the state hospitals or who agree to serve community mental health providers in underserved areas.

(3) PROGRAM SUPPORT

General Fund Appropriation—State . . . . .	\$	3,347,000
General Fund Appropriation—Federal . . . . .	\$	1,379,000
Total Appropriation . . . . .	\$	4,726,000

(4) SPECIAL PROJECTS

General Fund Appropriation—State . . . . .	\$	1,258,000
General Fund Appropriation—Federal . . . . .	\$	2,966,000
Total Appropriation . . . . .	\$	4,224,000

The appropriation in this subsection is subject to the following conditions and limitations: \$600,000 of the general fund—state appropriation is provided solely to expand the primary intervention program to ten additional school districts beginning in 1989-90.

NEW SECTION. Sec. 206. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DEVELOPMENTAL DISABILITIES PROGRAM

(1) COMMUNITY SERVICES

General Fund Appropriation—State . . . . .	\$	104,169,000
General Fund Appropriation—Federal . . . . .	\$	85,326,000
Total Appropriation . . . . .	\$	189,495,000

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

(a) \$992,000 of the general fund—state appropriation and \$669,000 of the general fund—federal appropriation are provided solely to provide additional funding for the Sunrise group homes congregate care facilities and the St. Margaret's Hall congregate care facility, and to establish a pilot group home project for the Special Homes organization. The department may transfer up to \$238,000 of the general fund—state appropriation provided in the long-term care services program to this subsection to provide additional funding for Sunrise group homes.

(b) \$417,000 of the general fund—state appropriation and \$477,000 of the general fund—federal appropriation are provided solely to transfer twenty-eight residents of the united cerebral palsy program to community-based residential programs.

(c) \$2,785,000 of the general fund—state appropriation and \$1,413,000 of the general fund—federal appropriation are provided solely for vendor rate increases for vendors providing services to the developmental disabilities program, as specified in section 202 of this act.

(d) To the extent feasible, the department shall enable at least twenty-two developmentally disabled persons, initially from Clark county, who have been transferred from residential habilitation centers due to downsizing to receive residential and day programming services in Clark county.

(2) INSTITUTIONAL SERVICES

General Fund Appropriation—State . . . . .	\$	104,849,000
General Fund Appropriation—Federal . . . . .	\$	117,487,000
Total Appropriation . . . . .	\$	222,336,000

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

(a) \$1,000,000 of the general fund—state appropriation and \$675,000 of the general fund—federal appropriation are provided solely to fund the provisions of Engrossed Substitute House Bill No. 1051. If Engrossed Substitute House Bill No. 1051 is not enacted by June 30, 1989, the amounts provided in this subsection shall lapse.

(b) \$150,000 of the general fund—state appropriation may be used to provide day programming services to residents of the Frances Haddon Morgan Center.

(3) PROGRAM SUPPORT

General Fund Appropriation—State . . . . .	\$	3,879,000
General Fund Appropriation—Federal . . . . .	\$	626,000
Total Appropriation . . . . .	\$	4,505,000

**NEW SECTION. Sec. 207. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—LONG-TERM CARE SERVICES**

General Fund Appropriation—State . . . . .	\$	445,753,000
General Fund Appropriation—Federal . . . . .	\$	499,185,000
General Fund Appropriation—Local . . . . .	\$	296,000
Total Appropriation . . . . .	\$	945,234,000

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

(1) Nursing home rates shall be adjusted for inflation under RCW 74-.46.495 by 4.7 percent on July 1, 1989, and 4.7 percent on July 1, 1990.

(2) \$3,200,000 of the general fund—state appropriation is provided solely to enhance respite care services.

(3) The department shall provide personal care services for Title XIX categorically eligible persons, effective July 1, 1989. Personal care services shall be provided to eligible persons with one or more personal care needs who meet program eligibility standards established by rule pursuant to chapter 34.05 RCW.

(4) \$2,100,000 of the general fund—state appropriation and \$700,000 of the general fund—federal appropriation are provided solely

to increase medical benefits for contracted chore service workers, contracted personal care workers, and contracted COPES workers.

(5) The department shall request an amendment to its community options program entry system waiver under section 1905(c) of the federal social security act to include respite services as a service available under the waiver.

(6) At least \$16,050,420 of the general fund—state appropriation shall initially be allotted for implementation of the senior citizens services act. However, at least \$1,265,000 of this amount shall be used solely for programs that use volunteer workers for the provision of chore services to persons whose need for chore services is not being met by the chore services program.

(7) \$2,179,000 of the general fund—state appropriation and \$2,464,000 of the general fund—federal appropriation are provided solely for expansion of the community options entry program.

(8) \$700,000 of the general fund—state appropriation is provided for new and expanded volunteer chore services.

(9) \$4,270,000 of the general fund—state appropriation and \$813,000 of the general fund—federal appropriation are provided solely for vendor rate increases for vendors providing services to long-term care services, as specified in section 202 of this act.

(10) \$500,000 of the general fund—state appropriation is provided solely to enhance quality assurance for adult family homes through enhanced survey, licensing, and contracted consultation activities. If House Bill No. 1968 is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(11) In addition to the adjustments for inflation set forth in subsection (1) of this section, \$1,410,000 of the general fund—state appropriation and \$1,590,000 of the general fund—federal appropriation are provided solely for a special prospective inflation adjustment for the nursing services cost center. The special adjustment shall go into effect July 1, 1989, and shall be set at a level to ensure that the amount provided in this subsection is sufficient to fund the special adjustment through June 30, 1991. The special adjustment shall be used only to fund wages and benefits and shall not be used to fund nursing pool expenses. The legislature finds that medicaid reimbursement rates, in every cost center and rate period, are and have been adequate, without enhancements, to meet costs that must be incurred by economically operated nursing care in compliance with all state or federal health and safety standards.

(12) \$3,686,000, of which \$1,596,000 is from the general fund—state appropriation, is provided solely for the maximum needs allowance for at-home spouses of nursing home residents as provided in chapter 87, Laws of 1989. The maximum needs allowance is set at \$1,000 per month per at-home spouse.



**\*NEW SECTION. Sec. 208. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—INCOME ASSISTANCE PROGRAM**

General Fund Appropriation—State . . . . .	\$	374,337,000
General Fund Appropriation—Federal . . . . .	\$	406,084,000
Total Appropriation . . . . .	\$	780,421,000

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

(1) \$8,661,000 of the general fund—state appropriation and \$10,026,000 of the general fund—federal appropriation are provided solely for a two percent standard increase beginning January 1, 1990, for the aid to families with dependent children, noncontinuing general assistance, and refugee assistance programs.

(2) Payment levels in the programs for aid to families with dependent children, general assistance, and refugee assistance shall contain an energy allowance to offset the costs of energy. The allowance shall be excluded from consideration as income for the purpose of determining eligibility and benefit levels of the food stamp program to the maximum extent such exclusion is authorized under federal law and RCW 74.08.046. To this end, up to \$200,000,000 of the income assistance payments is so designated for exemptions of the following amounts:

Family size:	1	2	3	4	5	6	7	8 or more
Exemption:	\$36	47	56	67	77	87	101	111

(3) *No funds are provided under this section for the consolidated emergency assistance program. The department of social and health services shall eliminate the program as of July 1, 1989.*

(4) \$250,000 of the general fund—state appropriation and \$117,000 of the general fund—federal appropriation are provided solely for vendor rate increases for vendors providing services for the income assistance program, as specified in section 202 of this act.

(5) The department shall expand the family independence program by four sites to a total of fifteen sites.

(6) Moneys from these appropriations may be spent for general assistance programs not included in section 209 of this act.

\*Sec. 208 was partially vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 209. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—GENERAL ASSISTANCE—UNEMPLOYABLE PROGRAM**

General Fund Appropriation—State . . . . .	\$	69,550,000
General Fund Appropriation—Federal . . . . .	\$	418,000
Total Appropriation . . . . .	\$	69,968,000

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

(1) *The department shall conserve the moneys from this appropriation so that assistance is available throughout the 1989-91 biennium.*

(2) \$1,379,000 of the general fund—state appropriation is provided solely for a two percent standard increase beginning January 1, 1990, for the general assistance—unemployable program.

\*Sec. 209 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—COMMUNITY SOCIAL SERVICES PROGRAM**

General Fund Appropriation—State . . . . .	\$	28,872,000
General Fund Appropriation—Federal . . . . .	\$	17,651,000
Total Appropriation . . . . .	\$	46,523,000

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

(1) \$1,204,000 of the general fund—state appropriation and \$32,000 of the general fund—federal appropriation are provided solely for vendor rate increases for vendors providing services for the community social service program, as specified in section 202 of this act.

(2) \$700,000 of the general fund—state appropriation is provided solely to expand refugee assistance services.

(3) In order to achieve a more equitable rate structure, the department, in consultation with affected parties, shall revise its rates for vendors providing services for the alcohol and drug addiction treatment and support program by reducing outpatient treatment rates and increasing inpatient treatment rates.

**NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ALCOHOL AND DRUG TREATMENT AND SUPPORT PROGRAM—ASSESSMENT AND TREATMENT**

General Fund Appropriation—State . . . . .	\$	17,116,000
General Fund Appropriation—Federal . . . . .	\$	9,948,000
Total Appropriation . . . . .	\$	27,064,000

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for assessment and treatment services under the alcohol and drug addiction treatment and support act and is the maximum amount that may be spent for those services. First priority for receipt of inpatient and outpatient treatment services shall be given to pregnant women and parents of young children. The department shall conserve the moneys from this appropriation so that services are available throughout the 1989-91 biennium.

**NEW SECTION.** Sec. 212. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ALCOHOL AND DRUG TREATMENT AND SUPPORT PROGRAM—SHELTER

General Fund Appropriation . . . . . \$ 10,639,000

The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation is provided solely for shelter services under the alcohol and drug addiction treatment and support act and is the maximum amount that may be spent for those services. The department shall conserve the moneys from this appropriation so that services are available throughout the 1989–91 biennium.

(2) A person is eligible for shelter services provided by this appropriation only if he or she:

(a) Meets the financial eligibility requirements contained in RCW 74.04.005;

(b) Is incapacitated from gainful employment due to a condition contained in (c) of this subsection, which incapacity will likely continue for a minimum of sixty days; and

(c) (i) Suffers from active addiction to alcohol or drugs manifested by physiological or organic damage resulting in functional limitation, based on documented evidence from a physician, psychologist, or alcohol or drug treatment professional who is determined by the department to be qualified to make this finding; or

(ii) Suffers from active addiction to alcohol or drugs to the extent that impairment of the applicant's cognitive ability will not dissipate with sobriety or detoxification, based on documented evidence from a physician, psychologist, or alcohol or drug treatment professional who is determined by the department to be qualified to make this finding.

(3) Any rule by the department pursuant to section 2, chapter 3, Laws of 1989, as amended, shall be consistent with these conditions and limitations.

(4) Consistent with RCW 74.50.010(7), the department shall aggressively develop and contract for shelter services, including dormitory-style shelters.

**\*NEW SECTION.** Sec. 213. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MEDICAL ASSISTANCE PROGRAM

General Fund Appropriation—State . . . . . \$ 688,479,000  
 General Fund Appropriation—Federal . . . . . \$ 666,599,000  
 Total Appropriation . . . . . \$ 1,355,078,000

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

(1) The department is authorized under 42 U.S.C. Sec. 1396b(a)(1) to pay third-party health insurance premiums for categorically needy medical assistance recipients upon a determination that payment of the health insurance premium is cost effective. In determining cost effectiveness, the department shall compare the amount, duration, and scope of coverage offered under the medical assistance program.

(2) The senate committee on ways and means and the house of representatives committee on appropriations shall jointly contract for a management and financial study of Harborview medical center, for the purpose of determining whether the cause of the actual and projected operating losses experienced by Harborview medical center are attributable to management practices within the hospital itself, or whether they are fundamentally attributable to the context in which the hospital operates.

(3) The department shall continue variable ratable reductions for the medically indigent and general assistance—unemployable programs in effect November 1, 1988.

(4) \$7,014,000 of the general fund—state appropriation and \$6,928,000 of the general fund—federal appropriation are provided solely for vendor rate increases for vendors providing services to the medical assistance program, as specified in section 202 of this act.

(5) In order to increase coordination and visibility of the state's overall mental health effort, a maximum of \$37,158,000 of the general fund—state appropriation, and a maximum of \$39,921,000 of the general fund—federal appropriation may be transferred to the mental health program. The department shall report to the house of representatives committee on appropriations and senate ways and means committee on any adjustments needed to this act to implement this subsection. It is the intent of the legislature that providers providing services funded by the amounts provided in this subsection shall receive the vendor increases provided in this section.

(6) \$14,473,000 of the general fund—state appropriation and \$17,566,000 of the general fund—federal appropriation are provided solely for the adult dental program for Title XIX categorically eligible and medically needy persons.

*(7) The department of social and health services shall not provide payment for chiropractic services under chapter 74.09 RCW.*

*(8) \$12,200,000 of the general fund—state appropriation and \$14,254,000 of the general fund—federal appropriation are provided solely to increase medicaid disproportionate share payments to eligible hospitals. The department shall expend fifty-seven percent of the combined appropriations in fiscal year 1990. The remainder shall be for payments during fiscal year 1991. The department may use a hospital's low-income utilization rate, as defined in 42 U.S.C.A. § 1396a (a)(13)(A) sec. 4112 (b)(c), as the variable*

***for determining disproportionate share payments. The department shall continue to provide vendor payment advances to Harborview medical center. A total of at least \$28,162,000 in disproportionate share payments shall be provided to Harborview medical center.***

\*Sec. 213 was partially vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 214. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—PUBLIC HEALTH PROGRAM**

General Fund Appropriation—State . . . . .	\$	60,308,000
General Fund Appropriation—Federal . . . . .	\$	14,468,000
General Fund Appropriation—Local . . . . .	\$	10,951,000
Public Safety and Education Account Appropriation . . . . .	\$	200,000
State Toxics Control Account Appropriation . . . . .	\$	828,000
Total Appropriation . . . . .	\$	86,755,000

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

(1) \$1,600,000 of the general fund—state appropriation is provided solely for continuation of the state drinking water program.

(2) \$4,000,000 of the general fund—state appropriation is provided solely to enhance funding for AIDS education, high-risk intervention, counseling and testing, case management, continuum of care, and coordination and planning activities through the regional AIDSNET program established by chapter 70.24 RCW. State moneys provided for AIDSNET activities may not be used to supplant other funds. The office on AIDS, established by RCW 70.24.250, shall require AIDSNET lead counties to develop regional service plans which meet state standards for uniformity and consistency. The state standards shall ensure that all the provisions of RCW 70.24.400(3) are implemented uniformly throughout the state.

(3) \$1,000,000 of the general fund—state appropriation is provided solely to increase in equal percentages medical and dental services provided through community health clinics. A maximum of \$100,000 of the amount provided in this subsection may be used to contract with new providers. \$900,000 of this amount shall be allocated to contractors who were contractors in fiscal year 1989, prorated according to the percentage of total fiscal year 1989 contract funds received by each contractor.

***(4) In allocating money to community health clinics, the department shall ensure that each clinic receives at least ninety-five percent of the amount received in the prior fiscal year. The department shall promulgate rules under chapter 34.05 RCW to develop an allocation formula for distributing money to community health clinics, and to develop eligibility criteria for receipt of program moneys.***

(5) \$150,000 of the state toxics control account appropriation is provided solely to contract with the University of Washington for toxicology

research, evaluation, and technical assistance regarding health risks of toxic substances.

(6) \$200,000 of the public safety and education account is provided solely for a study of the trauma care system.

\*Sec. 214 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 215. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—VOCATIONAL REHABILITATION PROGRAM**

General Fund Appropriation—State . . . . .	\$	13,114,000
General Fund Appropriation—Federal . . . . .	\$	51,032,000
Total Appropriation . . . . .	\$	64,146,000

The appropriations in this section are subject to the following conditions and limitations: \$75,000 of the general fund—state appropriation is provided solely for vendor rate increases for vendors providing services to the vocational rehabilitation program, as specified in section 202 of this act.

**NEW SECTION. Sec. 216. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

General Fund Appropriation—State . . . . .	\$	55,295,000
General Fund Appropriation—Federal . . . . .	\$	36,264,000
Institutional Impact Account Appropriation . . . . .	\$	80,000
Total Appropriation . . . . .	\$	91,639,000

The appropriations in this section are subject to the following conditions and limitations: \$666,000 of the general fund—state appropriation is provided solely to enhance the department's accounting system.

**NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—COMMUNITY SERVICES ADMINISTRATION PROGRAM**

General Fund Appropriation—State . . . . .	\$	165,471,000
General Fund Appropriation—Federal . . . . .	\$	188,304,000
Total Appropriation . . . . .	\$	353,775,000

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

(1) \$3,178,000 of the general fund—state appropriation is provided solely to expand the supplemental security income pilot project state-wide.

(2) \$454,000 of the general fund—state appropriation and \$840,000 of the general fund—federal appropriation are provided solely to expand the patient-requiring-regulation program and provider review program of the division of medical assistance.

(3) \$1,000,000 of the general fund—state appropriation and \$1,000,000 of the general fund—federal appropriation are provided solely for transfer by interagency agreement to the Washington state institute for

public policy to continue to conduct a longitudinal study of public assistance recipients, pursuant to section 14, chapter 434, Laws of 1987.

(4) \$600,000 of the general fund—state appropriation and \$1,149,000 of the general fund—federal appropriation are provided solely for transfer by July 1, 1989, by interagency agreement to the legislative budget committee for the purpose of an independent evaluation of the family independence program as required by section 14, chapter 434, Laws of 1987.

(5) \$102,000 of the general fund—state appropriation and \$306,000 of the general fund—federal appropriation are provided solely for the department of social and health services and the employment security department for costs associated with the evaluation of the family independence program.

(6) \$137,000 of the general fund—state appropriation is provided solely for vendor rate increases for vendors providing services to the community services program, as specified in section 202 of this act.

(7)(a) \$668,000 of the general fund—state appropriation and \$518,000 of the general fund—federal appropriation are provided solely to continue the complaint backlog project to investigate and process backlogged public assistance and food stamp fraud complaints. The department shall assign additional staff under this subsection with the goals of (i) eliminating the complaint backlog existing as of June 30, 1989, by March 1990, and (ii) maximizing overpayment recoveries during the biennium ending June 30, 1991.

(b) Expenditures for the purposes of this subsection shall be charged to a unique identifier in the department's accounting system. The department shall collect necessary data on the backlogged complaints and report to the legislative budget committee on December 1, 1989, and December 1, 1990, regarding the utilization, performance, and cost-effectiveness of the additional funding provided for complaint backlog work by this section.

**\*NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—REVENUE COLLECTIONS PROGRAM**

General Fund Appropriation—State . . . . .	\$	39,600,000
General Fund Appropriation—Federal . . . . .	\$	70,728,000
General Fund Appropriation—Local . . . . .	\$	949,000
Total Appropriation . . . . .	\$	111,277,000

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

(1) \$2,391,000 of the general fund—state appropriation and \$4,696,000 of the general fund—federal appropriation are provided solely for the enforcement of health insurance provisions of child support orders pursuant to Substitute House Bill No. 1547 (medical support enforcement).

If the bill is not enacted by June 30, 1989, the amounts provided in this subsection shall lapse.

(2) \$3,419,000 of the general fund—state appropriation and \$6,786,000 of the general fund—federal appropriation are provided solely to implement the requirements of the family support act.

(3) \$1,800,000 of the general fund—state appropriation, \$4,940,000 of the general fund—federal appropriation, and \$706,000 of the general fund—local appropriation are provided solely to implement recommendations made to the office of support enforcement by the efficiency commission. Authority to expend \$1,115,000 of the general fund—state appropriation, \$3,059,000 of the general fund—federal appropriation, and \$438,000 of the general fund—local appropriation for information projects named in this subsection is conditioned on compliance with section 802 of this act. For the purposes of this subsection, "information systems projects" means the projects known by the following name or successor names: Office of support enforcement case tracking and collection.

(4) \$1,429,000 of the general fund—state appropriation, \$828,000 of the general fund—federal appropriation, and \$43,000 of the general fund—local appropriation are provided solely for information systems projects named in this subsection for which work will commence or continue in this biennium. Authority to expend these funds is conditioned upon compliance with section 802 of this act. For the purposes of this subsection, "information systems projects" means the projects known by the following names or successor names: Office of financial recovery accounts receivable management system.

(5) \$207,000 of the general fund—state appropriation and \$403,000 of the general fund—federal appropriation are provided solely for the implementation of the employer reporting amendments to RCW 26.23.040 contained in House Bill No. 1635 (support enforcement). If these amendments are not enacted by June 30, 1989, the amounts provided in this subsection shall lapse.

***(6) \$273,000 of the general fund—state appropriation is provided solely for increased foster care support collections. In an effort to provide assistance, protection, and temporary care for children who require out-of-home placement, and to recognize the responsibility and ability of some parents to participate financially in such care, the department shall establish a financial participation plan including at least the following components:***

***(a) A financial participation schedule for use in assessing natural or adoptive parents of minor children receiving out-of-home residential care that is provided or funded by the department, as follows: The maximum amount of annual financial participation by parent(s) for services received shall be determined by subtracting one-half of the state median income adjusted for family size from annual gross income for the previous calendar***



*year, and multiplying the result by a percentage based on the following sliding scale:*

ANNUAL GROSS INCOME	PERCENT
<i>Less than \$16,000</i>	<i>10</i>
<i>\$16,000 to \$21,000</i>	<i>12</i>
<i>\$21,000 to \$26,000</i>	<i>14</i>
<i>\$26,000 to \$31,000</i>	<i>16</i>
<i>\$31,000 to \$36,000</i>	<i>18</i>
<i>\$36,000 or more</i>	<i>20</i>

*(b) Family size for the purpose of this section is that number of exemptions for the minor's family allowed by federal income tax regulations.*

*(c) Persons assessed under this section may include parents, adoptive parents, or other responsible parties. A representative payee, fiduciary, or legal guardian of the recipient minor is a responsible party only to the extent of the benefits received, assets of the estate, or both.*

*(d) No services to minor children shall be denied due to the inability or refusal of a responsible party to pay for services previously provided.*

\*Sec. 218 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—PAYMENTS TO OTHER AGENCIES PROGRAM**

General Fund Appropriation—State . . . . .	\$ 38,187,000
General Fund Appropriation—Federal . . . . .	\$ 17,041,000
Total Appropriation . . . . .	\$ 55,228,000

**NEW SECTION. Sec. 220. FOR THE WASHINGTON STATE HEALTH CARE AUTHORITY**

State Employees Insurance Administrative Account Appropriation . . . . .	\$ 6,203,000
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**\*NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

General Fund Appropriation—State . . . . .	\$ 58,487,000
General Fund Appropriation—Federal . . . . .	\$ 124,725,000
General Fund Appropriation—Private/Local . . . . .	\$ 269,000
Building Code Council Account Appropriation . . . . .	\$ 809,000
Public Works Assistance Account Appropriation . . . . .	\$ 933,000
Fire Service Training Account Appropriation . . . . .	\$ 750,000
State Toxics Control Account Appropriation . . . . .	\$ 519,000
Low Income Weatherization Account Appropriation . . . . .	\$ 8,007,000
Washington Housing Trust Fund Appropriation . . . . .	\$ 3,500,000

Total Appropriation . . . . . \$ 197,999,000

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

(1) \$400,000 of the general fund—state appropriation is provided solely for a state-wide stabilization program for arts organizations that have annual budgets exceeding \$200,000. No portion of this amount may be expended for a grant without a match of an equal portion from nonstate sources. No organization shall be eligible for such a grant unless it has operated without a deficit for at least the previous two years. A maximum of \$200,000 of this appropriation may be expended for grants in any single county.

(2) \$200,000 of the general fund—state appropriation is provided solely for development of a state-wide food stamp assistance outreach program. No portion of this amount may be expended without a match of an equal amount from federal funds.

(3) \$3,500,000 of the general fund—state appropriation is provided solely for security costs associated with the goodwill games, subject to the following conditions and limitations:

(a) A maximum of \$1,500,000 may be expended by the department to develop, in consultation with the Washington state patrol, local governments, the Seattle goodwill games organizing committee, and appropriate federal authorities, a coordinated security plan for the 1990 goodwill games.

(b) The security plan shall contain an assessment of the security requirements for the goodwill games; a definition of the policy goals; and a description of the roles and responsibilities of federal, state, and local agencies in preparing and implementing the plan. The plan shall contain a detailed security plan element for the athletes village and for each of the local event venues. The plan shall provide a detailed budget that outlines how federal, state, local government resources, and Seattle goodwill games organizing committee resources will be used to meet the financial requirements of the plan. The plan shall consider the experiences of other states in providing security for such events. The plan shall be completed no later than November 1, 1989, and shall be submitted to the appropriate committees of the legislature no later than January 8, 1990.

(c) Other than expenditures for developing the plan, no portion of the amount provided in this subsection may be expended unless the plan has been completed and the expenditure complies with the plan and with the following conditions and limitations:

(i) The department shall provide in full for the entire budget requirement from the amount provided in this subsection contained in the plan for the Washington state patrol.

(ii) No more than \$200,000 of the amount provided in this subsection may be expended for administration of the plan.

(iii) The remainder of the amount provided in this subsection shall be allocated to local governments.

(iv) Only direct personnel costs related to event security shall be eligible for general fund—state reimbursement. Local revenue losses and expenses for reducing normal workloads shall not be eligible for reimbursement.

(v) No amount shall be expended for local governments prior to an agreement by the Seattle goodwill games organizing committee to contribute at least \$2,000,000 to local governments to help defray the costs of preparing and implementing the security plan. The agreement by the Seattle goodwill games organizing committee shall also indemnify the state from any liability resulting from the games.

(4) \$3,000,000 of the general fund—state appropriation is provided solely for grants to emergency shelters.

(5) \$526,000 of the general fund—state appropriation is provided solely for the department's emergency food assistance program.

(6) \$250,000 of the general fund—state appropriation is provided solely for providing representation to indigent persons in dependency proceedings under chapter 13.34 RCW.

(7) \$13,900,000 of the general fund—state appropriation is provided solely to increase the number of children enrolled in the early childhood education program.

(8) \$120,000 is provided solely for the department to provide grants to nonprofit organizations for the purpose of locating at least one additional reemployment center in areas of the state adversely impacted by reductions in timber harvested from federal lands. Each center shall provide direct and referral services to the unemployed. These services may include but are not limited to reemployment assistance, medical services, social services including marital counseling, mortgage foreclosure and utility problem counseling, drug and alcohol abuse counseling, credit counseling, and other services deemed appropriate. These services shall not supplant the on-going efforts of any reemployment centers existing on the effective date of this act. Not more than five percent of this amount may be used for administrative costs of the department.

***(9) By January 8, 1990, the department shall report to the legislature on the distribution and amount of grants to bordertowns. It is intended that the level of funding provided for this purpose under RCW 66.08.190 through 66.08.195 to bordertowns shall remain substantially equal to the current level of expenditures.***

(10) \$307,000 of the general fund—state appropriation is provided solely for the department to continue homeport activities.

(11) \$200,000 of the general fund—state appropriation is provided solely to assist Okanogan county with planning activities to address impacts associated with major tourism developments.

**(12) \$475,000 of the general fund—state appropriation is provided solely for the Lewis county technology demonstration project. This amount constitutes the final state contribution to the project.**

**(13) \$75,000 of the general fund—state appropriation is provided solely for increased grants to public radio and television stations, consistent with RCW 43.63A.410 through 43.63A.420. In determining the allocation of grants to stations, the department shall strive to provide rural stations equitable access to these funds.**

**(14) \$200,000 of the general fund—state appropriation is provided solely for a pilot rural revitalization program.**

**(15) \$150,000 of the general fund—state appropriation is provided solely for the department to contract with the University of Washington for development and continuation of the children's telecommunication project.**

**(16) \$200,000 of the general fund—state appropriation is provided solely to enhance the long-term care ombudsman program.**

**(17) \$400,000 of the general fund—state appropriation is provided solely for a pilot demonstration project for high-risk youth pursuant to *Engrossed Second Substitute Senate Bill No. 5624*. On or before November 1, 1990, the department shall report to the senate children and family services committee and the house of representatives human services committee on the status of this project. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.**

**(18) \$350,000 of the general fund—state appropriation is provided solely for the department to establish a temporary commission on Washington state growth strategies. The purpose of the commission is to develop a specific growth strategy for the state which focuses on the Puget Sound region and fast-growing counties having a population exceeding one hundred thousand persons. The strategy shall promote linkage between transportation and land use decisions and shall include specific recommendations to the legislature on ways to enhance regional planning and coordinate state and local decision-making processes. The commission shall consist of seventeen members appointed by the president of the senate and the speaker of the house of representatives representing a balance of the growing geographic regions of the state. Six members shall be from the legislature, including two members from each of the majority caucuses and one member from each of the minority caucuses. The commission shall submit to the legislature by January 1, 1990, a set of preliminary findings, including but not limited to growth planning goals. The commission shall submit its final report to the legislature by January 1, 1991.**

\*Sec. 221 was partially vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 222. FOR THE HUMAN RIGHTS COMMISSION**

General Fund Appropriation—State . . . . .	\$	3,830,000
General Fund Appropriation—Federal . . . . .	\$	864,000

Total Appropriation . . . . . \$ 4,694,000

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

*(1) \$227,414 of the general fund—state appropriation is provided solely for combined federal and state jurisdiction case management to ensure continuance of current level federal contract reimbursement to the state.*

*(2) \$550,000 of the general fund—state appropriation is provided solely for legal services provided by the attorney general's office.*

\*Sec. 222 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 223. FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS**

Public Safety and Education Account Appropriation . . . . .	\$	324,000
Worker and Community Right-to-Know Account Appropriation . . . . .	\$	32,000
Accident Fund Appropriation . . . . .	\$	6,459,000
Medical Aid Fund Appropriation . . . . .	\$	6,459,000
Total Appropriation . . . . .	\$	13,274,000

**NEW SECTION. Sec. 224. FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

Death Investigations Account Appropriation . . . . .	\$	35,000
Public Safety and Education Account Appropriation . . . . .	\$	8,643,000
Total Appropriation . . . . .	\$	8,678,000

**\*NEW SECTION. Sec. 225. FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund Appropriation . . . . .	\$	9,277,000
Public Safety and Education Account Appropriation—State . . . . .	\$	18,334,000
Public Safety and Education Account Appropriation—Federal . . . . .	\$	2,000,000
Accident Fund Appropriation . . . . .	\$	100,104,000
Electrical License Fund Appropriation . . . . .	\$	11,882,000
Farm Labor Revolving Account Appropriation . . . . .	\$	30,000
Medical Aid Fund Appropriation . . . . .	\$	119,330,000
Asbestos Account Appropriation . . . . .	\$	1,314,000
Plumbing Certificate Fund Appropriation . . . . .	\$	696,000
Pressure Systems Safety Fund Appropriation . . . . .	\$	1,476,000
Worker and Community Right-to-Know Fund Appropriation . . . . .	\$	2,406,000
Total Appropriation . . . . .	\$	266,849,000

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

(1) \$6,596,793 from the accident fund appropriation and \$12,953,328 from the medical aid fund appropriation are provided solely for information systems projects named in this section. Authority to expend these funds is conditioned on compliance with section 802 of this act. For the purposes of this section, "information systems projects" means the projects known by the following names or successor names: Document image processing, improved service level, electronic data interchange, interactive system, and integrated system.

(2) *\$300,000 of the general fund—state appropriation is provided solely to fund the provisions of Engrossed Substitute House Bill No. 1581. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.*

(3) \$216,000 of the worker and community right-to-know appropriation, \$575,000 of the accident fund appropriation, and \$101,000 of the medical fund appropriation are provided to fund the provisions of House Bill No. 2222 (chapter —, Laws of 1989). If the bill is not enacted by June 30, 1989, the amounts provided in this subsection shall lapse.

\*Sec. 225 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 226. FOR THE INDETERMINATE SENTENCE REVIEW BOARD**

General Fund Appropriation . . . . . \$ 3,236,000

**NEW SECTION. Sec. 227. FOR THE DEPARTMENT OF VETERANS AFFAIRS**

General Fund Appropriation—State . . . . . \$ 20,229,000  
General Fund Appropriation—Federal . . . . . \$ 5,726,000  
General Fund Appropriation—Local . . . . . \$ 7,802,000  
Total Appropriation . . . . . \$ 33,757,000

**NEW SECTION. Sec. 228. FOR THE DEPARTMENT OF CORRECTIONS**

**(1) COMMUNITY SERVICES**

General Fund Appropriation . . . . . \$ 74,807,000

The appropriation in this subsection is subject to the following conditions and limitations: To the extent feasible, the department shall increase the daily board and room charges authorized under RCW 72.65.050 for work release participants to \$15.00.

**(2) INSTITUTIONAL SERVICES**

General Fund Appropriation . . . . . \$ 300,806,000

The appropriation in this subsection is subject to the following conditions and limitations: \$556,000 of the general fund appropriation is provided for offender population increases associated with increased penalties for residential burglaries established in Engrossed Senate Bill No. 5233. If the bill is not enacted by June 30, 1989, this amount shall lapse.

**(3) ADMINISTRATION AND PROGRAM SUPPORT**

General Fund Appropriation . . . . .	\$	22,531,000
Institutional Impact Account Appropriation . . . . .	\$	332,000
Total Appropriation . . . . .	\$	22,863,000

(4) INSTITUTIONAL INDUSTRIES

General Fund Appropriation . . . . .	\$	2,622,000
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NEW SECTION. Sec. 229. FOR THE DEPARTMENT OF SERVICES FOR THE BLIND

General Fund Appropriation—State . . . . .	\$	2,472,000
General Fund Appropriation—Federal . . . . .	\$	6,987,000
Total Appropriation . . . . .	\$	9,459,000

\*NEW SECTION. Sec. 230. FOR THE HOSPITAL COMMISSION

General Fund Appropriation . . . . .	\$	864,000
Hospital Commission Account Appropriation . . . . .	\$	821,000
Total Appropriation . . . . .	\$	1,685,000

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

(1) These appropriations are provided solely for fiscal year 1990.

(2) *If Substitute Senate Bill No. 5385 (hospital data collection) is enacted by June 30, 1989, \$432,000 of the general fund appropriation and \$411,000 of the hospital commission account appropriation are provided solely for the purposes of Substitute Senate Bill No. 5385 during fiscal year 1990 and are subject to the following conditions:*

(a) *If a department of health is created by June 30, 1989, the amounts provided in this subsection shall be transferred to the department of health for the purposes specified in this subsection;*

(b) *If a department of health is not created by June 30, 1989, the amounts provided in this subsection shall be transferred to the office of financial management for the purposes specified in this subsection.*

\*Sec. 230 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 231. FOR THE WASHINGTON BASIC HEALTH PLAN

General Fund Appropriation . . . . .	\$	27,215,000
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The appropriation in this section is subject to the following conditions and limitations: The plan may enroll up to 25,000 individuals during the 1989-91 biennium.

NEW SECTION. Sec. 232. FOR THE SENTENCING GUIDELINES COMMISSION

General Fund Appropriation . . . . .	\$	573,000
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NEW SECTION. Sec. 233. FOR THE EMPLOYMENT SECURITY DEPARTMENT

General Fund Appropriation—State . . . . .	\$	129,000
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General Fund Appropriation—Federal . . . . .	\$	162,308,000
General Fund Appropriation—Local . . . . .	\$	12,489,000
Administrative Contingency Fund		
Appropriation—Federal . . . . .	\$	8,953,000
Unemployment Compensation Administration		
Fund Appropriation—Federal . . . . .	\$	118,169,000
Employment Service Administration Account		
Appropriation—Federal . . . . .	\$	790,000
Employment Service Administration Account		
Appropriation—State . . . . .	\$	6,823,000
Federal Interest Payment Fund Appropriation . . . . .	\$	2,100,000
Total Appropriation . . . . .	\$	311,761,000

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

(1) \$152,000 of the administrative contingency fund—federal appropriation and \$2,100,000 of the federal interest payment fund appropriation are provided solely for transfer through interagency agreement to the department of social and health services for family independence program employment services.

(2) The department shall provide job placement services for the department of natural resources' forest land management activities. These services shall include widely disseminating information on the availability of work on state forest lands and information on the procedures for bidding on contracts for such work. Priority for these services shall be given to unemployed individuals who have been employed in the timber industry. The department shall record the number of unemployed timber workers who obtain employment through the department of natural resources' forest land management activities and shall report its findings to the governor and to the appropriate legislative committees on January 1, 1990, and January 1, 1991.

**NEW SECTION. Sec. 234. FOR THE EMPLOYMENT SECURITY DEPARTMENT**

\$300,000 from the administrative contingency fund—federal appropriation is appropriated solely for a study of the impact of the state minimum wage increase under chapter 1, Laws of 1989 (Initiative 518). The department shall contract with the northwest policy center at the University of Washington and shall cooperate in supplying data to the center for purposes of the study. The center shall choose an advisory committee to advise the center on the design of the study. The committee shall consist of an equal number of economists who supported the minimum wage initiative and who opposed the initiative, and an equal number of representatives of labor and of business. The minimum wage study shall include the identification of the affected population of employers and employees, and a survey



of a sample of the affected population. The survey instrument shall include questions regarding the longitudinal impact of the initiative on wages, employment, employee hours, employee benefits, tip income, productivity, prices, business closures and openings, social welfare payments, and the demographic characteristics of the affected population. To the extent feasible, the study shall attempt to verify the information provided by survey respondents. The study shall also include a report on minimum wage claims filed with the department of labor and industries. A report of findings shall be presented to the governor and legislature by December 1, 1990.

**NEW SECTION. Sec. 235. FOR THE EMPLOYMENT SECURITY DEPARTMENT**

\$1,175,000 from the administrative contingency fund—federal is appropriated solely for an interagency agreement with the department of trade and economic development to promote employer involvement in the development of child care services and facilities as provided in Second Substitute Senate Bill No. 6051. Of this amount, \$1,000,000 shall be deposited in the child care expansion grant fund. If the bill is not enacted by June 30, 1989, the amount provided in this section shall lapse.

**NEW SECTION. Sec. 236. FOR THE 1991 HUMAN RESOURCES RESERVE ACCOUNT**

\$25,839,000, of which \$14,094,000 is from federal funds, is appropriated from the general fund to the 1991 human resources reserve account, which account is hereby created in the state treasury. This appropriation represents the fiscal year 1991 costs to operate the family independence program. All moneys in the 1991 human resources reserve account not appropriated by law for the family independence program by June 30, 1990, may be expended to implement the job opportunities/basic skills mandate of the federal family support act of 1988 or for the transition of family independence program clients to the aid to families with dependent children program.

**PART III  
NATURAL RESOURCES**

**NEW SECTION. Sec. 301. FOR THE STATE ENERGY OFFICE**

General Fund Appropriation—State . . . . .	\$	2,086,000
General Fund Appropriation—Federal . . . . .	\$	10,832,000
General Fund Appropriation—Private/Local . . . . .	\$	260,000
Geothermal Account Appropriation—Federal . . . . .	\$	22,000
Building Code Council Account Appropriation . . . . .	\$	40,000
Solid Waste Management Account Appropriation . . . . .	\$	150,000
Total Appropriation . . . . .	\$	13,390,000

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

(1) The entire solid waste management account appropriation is provided solely to implement the energy-related provisions of Engrossed Substitute House Bill No. 1671. If the bill is not enacted by June 30, 1989, the solid waste management account appropriation is null and void.

(2) \$153,000 of the general fund—state appropriation is provided solely to implement Substitute Senate Bill No. 5174 (state hydropower plan). If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

**NEW SECTION. Sec. 302. FOR THE WASHINGTON CENTENNIAL COMMISSION**

General Fund Appropriation . . . . .	\$	1,044,000
State Centennial Commission Account Appropriation . . . . .	\$	302,000
Total Appropriation . . . . .	\$	1,346,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is intended to be the final state contribution to the funding of the centennial commission.

**NEW SECTION. Sec. 303. FOR THE COLUMBIA RIVER GORGE COMMISSION**

General Fund Appropriation—State . . . . .	\$	570,000
General Fund Appropriation—Private/Local . . . . .	\$	580,000
Total Appropriation . . . . .	\$	1,150,000

**\*NEW SECTION. Sec. 304. FOR THE DEPARTMENT OF ECOLOGY**

General Fund Appropriation—State . . . . .	\$	59,767,000
General Fund Appropriation—Federal . . . . .	\$	27,024,000
General Fund Appropriation—Private/Local . . . . .	\$	432,000
Flood Control Assistance Account Appropriation . . . . .	\$	3,852,000
Special Grass Seed Burning Research Account		
Appropriation . . . . .	\$	41,000
Reclamation Revolving Account Appropriation . . . . .	\$	474,000
Emergency Water Project Revolving Account		
Appropriation: Appropriated pursuant to chapter 1, Laws of 1977 ex. sess. . . . .	\$	389,000
Litter Control Account Appropriation . . . . .	\$	6,755,000
State and Local Improvements Revolving Account—Waste Disposal Facilities: Appropriated pursuant to chapter 127, Laws of 1972 ex. sess. (Referendum 26) . . . . .	\$	2,627,000

State and Local Improvements Revolving Account—Waste Disposal Facilities 1980: Appropriated pursuant to chapter 159, Laws of 1980 (Referendum 39) . . . . .	\$	1,187,000
State and Local Improvements Revolving Account—Water Supply Facilities: Appropriated pursuant to chapter 234, Laws of 1979 ex. sess. (Referendum 38) . . . . .	\$	1,586,000
Stream Gaging Basic Data Fund Appropriation . . . . .	\$	142,000
Vehicle Tire Recycling Account Appropriation . . . . .	\$	6,494,000
Water Quality Account Appropriation . . . . .	\$	2,551,000
Wood Stove Education Account Appropriation . . . . .	\$	232,000
Worker and Community Right-to-Know Fund Appropriation . . . . .	\$	285,000
State Toxics Control Account . . . . .	\$	26,173,000
Local Toxics Control Account . . . . .	\$	23,847,000
Water Quality Permit Account Appropriation . . . . .	\$	7,135,000
Solid Waste Management Account Appropriation . . . . .	\$	5,600,000
Underground Storage Tank Account Appropriation . . . . .	\$	3,658,000
Total Appropriation . . . . .	\$	180,251,000

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

(1) \$344,000 of the general fund—state appropriation is provided solely for costs associated with the development of a single headquarters building.

(2) \$1,010,000 of the general fund—state appropriation is provided solely as an enhancement to the water resources program.

(3) \$250,000 of general fund—state appropriation is provided solely for the initial development of a cost accounting system. Authority to expend these funds is conditioned on compliance with the requirements set forth in section 802 of this act.

(4) A maximum of \$2,209,000 of the general fund—state appropriation may be expended for the auto emissions inspection and maintenance program. If Engrossed Substitute House Bill No. 1104 is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(5) The entire underground storage tank account appropriation is contingent on enactment of Engrossed Substitute House Bill No. 1086. If the bill is not enacted by June 30, 1989, the underground storage tank account appropriation is null and void. In implementing Engrossed Substitute House Bill No. 1086, the department shall use, to the greatest extent possible, local

government and private sector expertise in meeting installation, closure, testing, and monitoring requirements.

(6) The entire solid waste management account appropriation is contingent on enactment of Engrossed Substitute House Bill No. 1671. If the bill is not enacted by June 30, 1989, the solid waste management account appropriation and the amounts provided in subsections (7), (8), (9), and (10) are null and void.

***(7) \$1,000,000 of the solid waste management account appropriation is provided solely to assist local governments in developing materials to promote waste reduction and recycling pursuant to section 7, chapter . . . , Laws of 1989 (Engrossed Substitute House Bill No. 1671).***

(8) \$1,000,000 of the solid waste management account appropriation is provided solely for assisting local governments in establishing the feasibility of food and yard waste composting.

(9) \$150,000 of the solid waste management account appropriation is provided solely for pilot projects to recycle disposable diapers.

(10) \$1,300,000 of the solid waste management account appropriation is provided solely to implement sections 6(2), 9, 13, 54, 96, 99, 102, and 104 of chapter . . . , Laws of 1989 (Engrossed Substitute House Bill No. 1671).

(11) \$231,000 of the state toxics control account appropriation is provided solely for the office of waste reduction.

(12) \$200,000 of the general fund—state appropriation is provided solely for the purpose of implementing the Nisqually river management plan activities and projects outlined in the Nisqually river council report to the legislature dated December 1988. No more than half of this amount may be spent until twenty percent of the total project costs have been provided as matching funds from private or other government participants represented on the Nisqually river council.

(13) \$2,654,000 of the state toxics control account appropriation is contingent on enactment of Engrossed House Bill No. 2168. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(14) \$389,000 of the emergency water project revolving account appropriation is provided solely for drought relief activities. If Substitute Senate Bill No. 5196 is enacted by June 30, 1989, \$321,000 of the amount provided in this subsection may be spent only if a drought order is issued pursuant to section 2, chapter . . . , Laws of 1989 (Substitute Senate Bill No. 5196).

(15) \$427,000 of the state and local improvement revolving account—water supply facilities (Referendum 38) appropriation is provided solely for the implementation of Substitute House Bill No. 1397. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(16) \$250,000 of the general fund—state appropriation is provided solely for oil and chemical spill activities in implementing legislative requirements regarding damage assessments and vessel financial responsibility.

(17) \$70,000 of the general fund—state appropriation is provided solely to implement Substitute Senate Bill No. 5174 (state hydropower plan). If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(18) \$200,000 of the general fund—state appropriation is provided solely for the implementation of chapter 47, Laws of 1988.

\*Sec. 304 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 305. FOR THE ENERGY FACILITY SITE EVALUATION COUNCIL**

General Fund Appropriation—Federal . . . . .	\$	40,000
General Fund Appropriation—Private/Local . . . . .	\$	4,093,000
Total Appropriation . . . . .	\$	4,133,000

**NEW SECTION. Sec. 306. FOR THE STATE PARKS AND RECREATION COMMISSION**

General Fund Appropriation—State . . . . .	\$	41,132,000
General Fund Appropriation—Federal . . . . .	\$	1,208,000
General Fund Appropriation—Private/Local . . . . .	\$	822,000
Trust Land Purchase Account Appropriation . . . . .	\$	10,542,000
Winter Recreation Parking Account Appropriation . . . . .	\$	348,000
ORV (Off-Road Vehicle) Account Appropriation . . . . .	\$	173,000
Snowmobile Account Appropriation . . . . .	\$	963,000
Public Safety and Education Account Appropriation . . . . .	\$	10,000
Motor Vehicle Fund Appropriation . . . . .	\$	1,100,000
Total Appropriation . . . . .	\$	56,298,000

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

(1) \$60,000 of the general fund—state appropriation is provided solely for a contract with the marine science center at Fort Worden state park.

(2) \$1,100,000 of the general fund—state appropriation is provided solely to implement Second Substitute Senate Bill No. 5372 (recreational boating). If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

**NEW SECTION. Sec. 307. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Outdoor Recreation Account Appropriation—State . . . . .	\$	1,900,000
Outdoor Recreation Account Appropriation—Federal . . . . .	\$	26,000
Total Appropriation . . . . .	\$	1,926,000

The appropriations in this section are subject to the following conditions and limitations: \$63,000 of the outdoor recreation account—state appropriation is provided solely for a state-wide needs assessment and action plan for land acquisition for long-term outdoor recreation, wildlife, and conservation purposes. The agency shall oversee the preparation of the needs assessment and action plan and it may contract with a nonprofit organization representing these interests, subject to a requirement that private matching funding on a one-for-one basis be provided. The agency members of the interagency committee shall participate in the formulation of the plan and shall provide relevant information as needed. The report and plan shall be submitted to the legislature by January 15, 1990.

**NEW SECTION. Sec. 308. FOR THE ENVIRONMENTAL HEARINGS OFFICE**

General Fund Appropriation . . . . .	\$	901,000
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**NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT**

General Fund Appropriation . . . . .	\$	30,068,000
Motor Vehicle Fund Appropriation . . . . .	\$	553,000
Solid Waste Management Account Appropriation . . . . .	\$	312,000
Total Appropriation . . . . .	\$	30,933,000

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

(1) \$450,000 of the general fund appropriation is provided solely for the purpose of implementing either Engrossed Second Substitute Senate Bill No. 5339 or Engrossed Substitute House Bill No. 1553. If neither bill is enacted by June 30, 1989, the amount provided in this subsection shall lapse. In addition:

(a) The department shall spend the amount provided in this subsection solely for development of programs to be administered by the Washington economic development finance authority (the "authority") and shall not spend any amount for implementation or administration of the programs.

(b) On or before January 8, 1990, the department shall submit to the house of representatives appropriations committee and the senate ways and means committee a plan outlining how state employees and state resources are expected to be used with respect to the authority and describing procedures under which the lending of credit provisions of the state Constitution will be observed.

(c) The amount provided in this subsection is intended to be a one-time appropriation from state-revenue sources to support the initial development of programs of the Washington economic development finance authority.

(d) No state funds from state revenue sources and no state funds from federal revenue sources, except federal revenue sources provided expressly for the authority or its programs may be used for a reserve fund for the authority's programs, and no public funds subject to either appropriation or allotment control may be used for a reserve account without prior consultation with the house of representatives appropriations committee and the senate ways and means committee.

(2) \$350,000 of the general fund appropriation is provided solely for the Washington marketplace program as provided for in Second Substitute House Bill No. 1476. If the bill is not enacted by June 30, 1989, the amount in this subsection shall lapse.

(3) \$550,000 of the general fund appropriation is provided solely for the department to develop and implement a business and job retention program as follows:

(a) The program shall provide technical assistance to firms and workforces in which there is a risk of plant closure, mass layoff, or business failure. This technical assistance shall include turn-around assistance to firms at risk of closure to identify management activities and other actions, including diversification, that would permit continued operation. The department may contract for specialized services to provide turn-around assistance.

(b) The department shall establish a business and job retention advisory committee. The governor shall appoint eight members of whom four shall be from business and four from labor. The directors, or their designees, of the departments of trade and economic development, community development, financial management, revenue, and employment security shall serve as ex officio members of the committee. The president of the senate and the speaker of the house of representatives shall each appoint one member from each of the major caucuses to serve as ex officio members of the committee.

(c) The department shall select, in consultation with the advisory committee, locally based development organizations to undertake local business and job retention activities. Such local activities shall include the identification of firms in which there is a risk of plant closure, mass layoff, or business failure; initial assessment of firms and their workforces; the provision of technical assistance; and referrals for additional resources. A maximum of \$275,000 of the appropriation may be expended for contracts with locally based development organizations for local business and job retention activities.

(d) The department, in consultation with the advisory committee, shall provide grants to study the feasibility of various options for continuing or

renewing the operation of industrial facilities that are threatened with closure or that have already closed. Grants shall also be made for proposals to implement a system to identify firms at risk of closure, layoff, or relocation. Grants may not exceed \$35,000 and may be made to: Local governments, ports, local associate development organizations, local labor organizations, or local nonprofit community organizations. The department may require that grant money be matched at least dollar for dollar with nonstate money.

(e) The department shall establish an early warning program within the business and job retention program. The program shall obtain information currently available within state agencies to identify firms and industrial facilities at risk of closure, consistent with the confidentiality requirements of chapter 50.13 RCW.

(4) \$150,000 of the general fund appropriation is provided solely for the targeted sectors program as provided for in Engrossed Substitute House Bill No. 2137. If the bill is not enacted by June 30, 1989, the amount in this subsection shall lapse.

(5) \$200,000 of the general fund appropriation is provided solely for the Washington village project. No portion of this amount may be expended unless matched by an equal portion of nonstate money.

(6) \$700,000 of the general fund appropriation is provided solely for tourism enhancement. Of this amount: (a) \$400,000 is provided solely for market research and analysis; (b) \$175,000 is provided solely for tourism facility development to encourage private sector development in Washington tourism facilities; (c) \$25,000 is provided solely for the development of a tourism advisory committee; and (d) \$100,000 is provided solely for additional staff and costs associated with the film and video division within the department.

(7) \$1,614,000 of the general fund appropriation is provided solely for the Tri-Cities diversification program. This amount is intended to be the final state contribution toward Tri-Cities diversification. Of this amount:

(a) \$331,000 is provided solely for the department of agriculture, by interagency agreement, for continuation of its contractual relationship with TRIDEC and for development of local diversification agricultural projects;

(b) \$206,000 is provided solely for the department of community development, by interagency agreement, for social service impact mitigation, and for loan packaging assistance;

(c) \$260,000 is provided solely for transfer to the employment security department, by interagency agreement, for a state-funded employment and training project;

(d) \$250,000 is provided solely for transfer to the employment security department, by interagency agreement, for public works related employment;

(e) \$383,000 is provided solely for contracts with local organizations for specific diversification projects;



(f) \$184,000 is provided solely for necessary staff to implement and coordinate the Tri-Cities diversification program.

(8) \$367,000 of the general fund appropriation is provided solely for the purpose of implementing a timber industrial extension service. The department shall provide technical and financial assistance to businesses for the purpose of identifying new markets, developing new technologies and products, and assisting production and marketing efforts. This program shall provide specialized expertise on issues affecting forest products companies, including the provision of assistance to firms experiencing supply problems, and shall provide industry perspective on proposed state and federal policies and programs impacting the forest industry. The department may contract for services provided under this chapter.

(9) \$8,195,000 of the general fund appropriation is provided solely for the Washington high technology center.

(10) \$305,000 of the general fund appropriation is provided solely for the center for international trade in forest products (CINTRAFOR).

(11) The general fund appropriation in this section includes moneys for higher education salary increases for the Washington high technology center and CINTRAFOR in the manner provided in section 601 of this act.

(12) It is the intent of the legislature that the department shall continue to provide grants of at least current level amounts to associate development organizations located in counties of at least classes three through eight.

(13) \$400,000 may be allocated to the Washington research foundation. The state auditor shall conduct an audit of the foundation by December 1, 1989.

**NEW SECTION. Sec. 310. FOR THE CONSERVATION COMMISSION**

General Fund Appropriation . . . . .	\$	1,340,000
Water Quality Account Appropriation . . . . .	\$	179,000
Total Appropriation . . . . .	\$	1,519,000

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

(1) No more than eight percent of the water quality account moneys administered by the commission may be used by the commission for administration and program activities related to the grant and loan program.

(2) \$521,000 of the general fund appropriation is provided solely to provide operational funds for conservation districts. Moneys may be expended under this subsection only to the extent that the conservation districts provide an equal amount of matching funds.

(3) \$85,000 of the general fund appropriation is provided solely for a one-time allocation to Stevens county.

**NEW SECTION. Sec. 311. FOR THE WINTER RECREATION COMMISSION**

General Fund Appropriation . . . . . \$ 27,000

**NEW SECTION. Sec. 312. FOR THE PUGET SOUND WATER QUALITY AUTHORITY**

General Fund Appropriation—State . . . . . \$ 3,489,000  
 General Fund Appropriation—Federal . . . . . \$ 202,000  
 Water Quality Account Appropriation . . . . . \$ 1,100,000  
 Total Appropriation . . . . . \$ 4,791,000

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

(1) \$400,000 of the general fund—state appropriation is provided solely for the Puget Sound water quality management plan's monitoring program. Of this amount:

(a) \$200,000 is provided solely for transfer to the department of fisheries, by interagency agreement, to monitor levels of toxins in fish;

(b) \$160,000 is provided solely for transfer to the department of social and health services, by interagency agreement, to monitor levels of toxins in shellfish;

(c) \$20,000 is provided solely for the authority to implement a citizen monitoring program; and

(d) \$20,000 is provided solely for for program coordination and data management.

(2) \$100,000 of the general fund—state appropriation is provided solely for public education and information programs.

**\*NEW SECTION. Sec. 313. FOR THE DEPARTMENT OF FISHERIES**

General Fund Appropriation—State . . . . . \$ 54,022,000  
 General Fund Appropriation—Federal . . . . . \$ 16,496,000  
 General Fund Appropriation—Private/Local . . . . . \$ 5,284,000  
 Aquatic Lands Enhancement Account Appropriation . . . . . \$ 1,076,000  
 Total Appropriation . . . . . \$ 76,878,000

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

(1) \$320,000 of the general fund—state appropriation is provided so that patrol officers, in the course of duty, emphasize vessel registration.

(2) \$100,000 of the general fund—state appropriation is provided solely for monitoring of Navy homeport dredging and dumping.

(3) \$250,000 of the general fund—state appropriation is provided solely for a grant for shellfish studies to the sea grant program at the University of Washington.

(4) \$276,000 of the general fund—state appropriation is provided solely for maintenance of current operations of the Simpson hatchery. Of this amount, \$138,000 shall be expended during fiscal year 1990. The remainder of this amount shall lapse if the results of the study of the Grays Harbor watershed, to be completed by March 1, 1990, show that the hatchery production is seriously jeopardized by environmental conditions beyond control of the department.

(5) \$1,810,000 of the general fund—state appropriation is provided solely for recreational salmon enhancement projects.

(6) \$41,000 of the general fund—state appropriation is provided to implement Substitute Senate Bill No. 5174 (state hydropower plan).

\*Sec. 313 was partially vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 314. FOR THE DEPARTMENT OF WILDLIFE

General Fund Appropriation . . . . .	\$	9,385,000
ORV (Off-Road Vehicle) Account Appropriation . . . . .	\$	265,000
Aquatic Lands Enhancement Account Appropriation . . . . .	\$	1,081,000
Public Safety and Education Account Appropriation . . . . .	\$	566,000
Wildlife Fund Appropriation—State . . . . .	\$	41,441,000
Wildlife Fund Appropriation—Federal . . . . .	\$	15,717,000
Wildlife Fund Appropriation—Private/Local . . . . .	\$	2,135,000
Game Special Wildlife Account Appropriation . . . . .	\$	466,000
Total Appropriation . . . . .	\$	71,056,000

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

(1) \$45,000 of the general fund appropriation is provided solely to implement Substitute Senate Bill No. 5174 (state hydropower plan). If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(2) \$68,000 of the general fund appropriation is provided solely for contracting for fire protection on agency lands.

(3) \$100,000 of the wildlife fund appropriation—state is provided solely for a study of the impact of elk in the Blue Mountains.

**NEW SECTION.** Sec. 315. FOR THE DEPARTMENT OF NATURAL RESOURCES

General Fund Appropriation—State . . . . .	\$	44,540,000
General Fund Appropriation—Federal . . . . .	\$	639,000
General Fund Appropriation—Private/Local . . . . .	\$	12,000

ORV (Off-Road Vehicle) Account Appropriation—Federal .....	\$	3,266,000
Geothermal Account Appropriation—Federal .....	\$	16,000
Forest Development Account Appropriation .....	\$	23,074,000
Survey and Maps Account Appropriation .....	\$	860,000
Natural Resources Conservation Area Stewardship Account Appropriation.....	\$	364,000
Aquatic Lands Enhancement Account Appropriation .....	\$	635,000
Landowner Contingency Forest Fire Suppression Account Appropriation.....	\$	2,119,000
Resource Management Cost Account Appropriation .....	\$	68,432,000
Aquatic Land Dredged Material Disposal Site Account Appropriation .....	\$	286,000
Total Appropriation .....	\$	144,243,000

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

(1) \$4,654,000 of the general fund—state appropriation is provided solely for the emergency fire suppression subprogram.

(2) \$2,297,000, of which \$372,000 is from the general fund—state appropriation, \$1,448,000 is from the resource management cost account appropriation, and \$477,000 is from the forest development account appropriation, is provided solely for information systems projects named in this subsection for which work will commence or continue in this biennium. Authority to expend these funds is conditioned upon compliance with the requirements set forth in section 802 of this act. For the purposes of this section, information systems projects shall mean the projects known by the following name or successor names: Department of natural resources revenue system.

(3) \$110,000 from the general fund—state appropriation is provided solely for a fire investigator.

(4) \$1,500,000 of the general fund—state appropriation is provided solely for cooperative monitoring, evaluation, and research projects related to implementation of the timber-fish-wildlife agreement.

(5) \$400,000 of the aquatic lands enhancement account appropriation is provided solely for conducting an inventory of state wetlands.

(6) \$122,000 of the natural resources conservation area stewardship account appropriation is provided solely for operations and maintenance costs associated with natural area preserves.

(7) \$242,000 of the natural resources conservation area stewardship account appropriation is provided solely for operations and maintenance costs associated with natural resources conservation areas.

(8) No portion of these appropriations may be expended for spreading sludge on state trust lands without first completing an environmental impact statement with respect to the sludge spreading operations. \$75,000 of the resource management cost account appropriation is provided solely for the costs of the environmental impact statement performed pursuant to this subsection.

(9) The department shall contract for labor-intensive forest land management activities in areas of the state adversely impacted by reductions in timber sales from federal lands. Contracts provided for under this section shall be in addition to and shall not supplant or displace activities normally administered by the department. The department shall, to the extent feasible, offer the additional contracts in sizes that do not discourage participation by small enterprises. The department shall cooperate with the employment security department in disseminating information on forest land management contracts to unemployed individuals who have been employed in the timber industry, and others adversely affected by reductions in timber sales from federal lands. \$2,800,000 of the resource management cost account appropriation is provided solely for this purpose.

(10) \$125,000 of the general fund—state appropriation is provided solely to implement Engrossed Senate Bill No. 5364 or Engrossed House Bill No. 1249 (marine debris).

(11) Based on schedules submitted by the director of financial management, the state treasurer shall transfer from the general fund—state or such other funds as the state treasurer deems appropriate to the Clarke McNary fund such amounts as are necessary to meet unbudgeted forest fire fighting expenses. All amounts borrowed under the authority of this section shall be repaid to the appropriate fund, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed.

**\*NEW SECTION. Sec. 316. FOR THE DEPARTMENT OF NATURAL RESOURCES—COMMON SCHOOL CONSTRUCTION**

The following amounts are appropriated for the acquisition in fee of common school trust lands and timber throughout the state as determined by the board of natural resources:

General Fund Appropriation for fiscal year	
1990.....	\$ 35,750,000
General Fund Appropriation for the period	
April 15, 1990, through June 30, 1991 .....	\$ 35,750,000
Total Appropriation .....	\$ 71,500,000

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

*(1) Lands and timber purchased by the department shall be based on a finding by the board of natural resources, in consultation with the appropriations committee of the house of representatives and the ways and means committee of the senate, that, in the interest of the state, the timber on such lands should not be harvested.*

(2) The lands and timber purchased under this section shall be managed under either chapter 79.70 or 79.71 RCW, as determined by the board of natural resources.

(3) The land and timber shall be appraised and purchased at full market value.

(4) The proceeds of the sales of timber shall be deposited by the department in the same manner as timber revenues from other common school trust lands except that no deductions shall be made for the resource management cost account under RCW 79.64.040.

(5) The proceeds of the sales of land shall be used by the department to acquire replacement timber land of equal value to be managed as common school trust land and to maintain a sustainable yield.

\*Sec. 316 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 317. FOR THE DEPARTMENT OF AGRICULTURE

General Fund Appropriation—State . . . . .	\$	18,780,000
General Fund Appropriation—Federal . . . . .	\$	795,000
State Toxics Control Account Appropriation . . . . .	\$	299,000
Total Appropriation . . . . .	\$	19,874,000

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

(1) Authority to expend funds from any source for AIM 2000, the agency information system, is conditioned on compliance with section 802 of this act.

(2) \$1,624,000 of the general fund—state appropriation is provided solely for the implementation of House Bill No. 2222 regarding the regulation of agricultural chemicals. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse. \$1,224,000 of the amount provided in this subsection shall be supported by increased fees deposited into the general fund in accordance with chapter 15.58 RCW.

NEW SECTION. Sec. 318. FOR THE STATE CONVENTION AND TRADE CENTER

State Convention/Trade Center Account Ap- propriation . . . . .	\$	22,119,000
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The appropriation in this section is subject to the following conditions and limitations: \$3,453,000 is provided solely for marketing the facilities and services of the convention center, for promoting the locale as a convention and visitor destination, and for related activities. Of this amount, the

center shall not expend more than is projected to be received from revenue generated by the special excise tax that is deposited in the state convention and trade center operations account under RCW 67.40.090(3). Projections of such revenue shall be as determined and updated by the department of revenue.

PART IV  
TRANSPORTATION

NEW SECTION. Sec. 401. FOR THE STATE PATROL

General Fund Appropriation—State . . . . .	\$	25,718,000
General Fund Appropriation—Federal . . . . .	\$	161,000
General Fund Appropriation—Private/Local . . . . .	\$	164,000
Death Investigations Account Appropriation . . . . .	\$	24,000
Total Appropriation . . . . .	\$	26,067,000

The appropriations in this section are subject to the following conditions and limitations: The staff of the Washington state patrol crime laboratory shall not provide tests for marijuana to cities or counties except: (1) To verify weight for criminal cases where weight is a factor, or (2) for criminal cases that the prosecuting attorney and field administrator of the crime laboratory agree are likely to go to trial.

NEW SECTION. Sec. 402. FOR THE DEPARTMENT OF LICENSING

General Fund Appropriation . . . . .	\$	19,349,000
Architects' License Account Appropriation . . . . .	\$	623,000
Cemetery Account Appropriation . . . . .	\$	157,000
Health Professions Account Appropriation . . . . .	\$	15,059,000
Medical Disciplinary Account Appropriation . . . . .	\$	1,586,000
Professional Engineers' Account Appropriation . . . . .	\$	1,527,000
Real Estate Commission Account Appropria- tion . . . . .	\$	5,603,000
Total Appropriation . . . . .	\$	43,904,000

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

(1) If uniform commercial code filing fees are increased such that the increase is expected to yield at least \$1,000,000 in additional revenues, then up to \$1,000,000 of the general fund—state appropriation may be expended for department purposes.

(2) If any of the following bills are not enacted by June 30, 1989, a corresponding amount, shown below, from the health professions account appropriation shall lapse:

House Bill No. 1896 . . . . .	\$	9,000
House Bill No. 2126 . . . . .	\$	42,000

(3) Of the general fund—state appropriation, the following amounts are provided solely for the purposes of the following bills. The general fund shall be reimbursed by June 30, 1991, through an assessment of fees sufficient to cover all costs associated with enacting the purposes of the following legislation. If any of the following bills is not enacted by June 30, 1989, a corresponding amount, shown below, from the general fund—state appropriation in this section shall lapse:

House Bill No. 1096 .....	\$	130,000
Engrossed House Bill No. 1917.....	\$	450,000
Substitute Senate Bill No. 5085 .....	\$	153,000

PART V  
EDUCATION

NEW SECTION. Sec. 501. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STATE ADMINISTRATION

General Fund Appropriation—State .....	\$	19,774,000
General Fund Appropriation—Federal .....	\$	9,074,000
Public Safety and Education Account Approp- riation .....	\$	409,000
Total Appropriation .....	\$	29,257,000

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

(1) The entire public safety and education account appropriation is provided solely for administration of the traffic safety education program, including in-service training related to instruction in the risks of driving while under the influence of alcohol and other drugs.

(2) \$336,000 of the general fund—state appropriation is provided solely for the continuation of the international education and teacher exchange programs.

(3) \$19,000 of the general fund—state appropriation is provided solely for the continuation of the environmental education program.

(4) \$54,000 of the general fund—state appropriation is provided solely for Hispanic drop-out prevention and retrieval.

(5) \$200,000 of the general fund—state appropriation is provided solely for purchase and dissemination to school districts of innovative or multicultural curriculum materials, and for training to implement innovative curricula such as a schools and architecture program. The superintendent of public instruction shall select materials based on unusual potential for stimulating new instructional methods, student interest and understanding of academic subjects, or cultural and ethnic awareness.

(6) \$25,000 of the general fund—state appropriation is provided solely for continued development of educational outcomes measures and field testing in local school districts, including: Development of a model



writing assessment program at three grade levels; definitions of measurements for academic skills and mastery of key curriculum concepts; a follow-up survey of high school graduates; uniform reporting forms for data collection and display; and an instrument for identifying successful schools. In performing these activities, the superintendent shall consult with an advisory committee on outcomes-based education, comprising one representative of each of the selected field test projects, one representative of each twenty-first century schools project that has selected the outcomes measures as its evaluative tool, and two members who participated in the temporary committee on the assessment and accountability of educational outcomes.

**NEW SECTION. Sec. 502. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT (BASIC EDUCATION)**

General Fund Appropriation . . . . . \$ 4,323,885,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$414,003,000 of the general fund appropriation is provided solely for the remaining months of the 1988-89 school year.

(2) Allocations for certificated staff salaries for the 1989-90 and 1990-91 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Small school enrollments in kindergarten through grade six shall generate funding under (a) of this subsection, and shall not generate allocations under (d) and (e) of this subsection, if the staffing allocations generated under (a) of this subsection exceed those generated under (d) and (e) of this subsection. The certificated staffing allocations shall be as follows:

(a) On the basis of average annual full time equivalent enrollments, excluding full time equivalent enrollment otherwise recognized for certificated staff unit allocations under (c) through (f) of this subsection:

(i) Four certificated administrative staff units for each one thousand full time equivalent kindergarten through twelfth grade students excluding full time equivalent handicapped enrollment as recognized for funding purposes under section 510 of this act;

(ii) Fifty-one certificated instructional staff units for each one thousand full time equivalent students in kindergarten through third grade, excluding full time equivalent handicapped students ages six through eight; and

(iii) Forty-six certificated instructional staff units for each one thousand full time equivalent students in grades four through twelve, excluding full time equivalent handicapped students ages nine and above;

(b) For school districts with a minimum enrollment of 250 full time equivalent students, whose full time equivalent student enrollment count in a given month exceeds the first of the month full time equivalent enrollment

count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full time equivalent students been included in the normal enrollment count for that particular month.

(c) On the basis of full time equivalent enrollment in vocational education programs approved by the superintendent of public instruction, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 17.5 full time equivalent vocational students, except that for skills center programs the allocation ratios shall be 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 16.67 full time equivalent vocational students;

(d) For districts enrolling not more than twenty-five average annual full time equivalent students in kindergarten through grade eight, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full time equivalent students in kindergarten through grade eight:

(i) For those enrolling no students in grades seven and eight, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades seven or eight, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled.

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full time equivalent students in kindergarten through grade eight, and for small school plants within any school district which enroll more than twenty-five average annual full time equivalent kindergarten through eighth grade students and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full time equivalent students in kindergarten through grade six, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full time equivalent students in grades seven and eight, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units.

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full time equivalent students, for enrollment in grades nine through twelve in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades nine through twelve but no more than twenty-five average annual full time

equivalent kindergarten through twelfth grade students, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational and handicapped full time equivalent students.

(g) For each nonhigh school district having an enrollment of more than seventy annual average full time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit.

(h) For each nonhigh school district having an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 1989-90 and 1990-91 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsections (2) (d) through (h) of this section, one classified staff unit for each three certificated staff units allocated under such subsections.

(b) For all other enrollment in grades kindergarten through twelve, including vocational but excluding handicapped full time equivalent enrollments, one classified staff unit for each sixty average annual full time equivalent students.

(c) For each nonhigh school district with an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 19.80 percent in the 1989-90 school year and 19.85 percent in the 1990-91 school year of certificated salary allocations provided under subsection (2) of this section, and a rate of 17.32 percent in the 1989-90 school year and 17.37 percent in the 1990-91 school year of classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the rates specified in section 505 of this act, based on:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full time equivalent.

(6)(a) For nonemployee related costs associated with each certificated staff unit allocated under subsection (2) (a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$6,355 per certificated staff unit in the 1989-90 school year and a maximum of \$6,654 per certificated staff unit in the 1990-91 school year.

(b) For nonemployee related costs associated with each certificated staff unit allocated under subsection (2)(c) of this section, there shall be provided a maximum of \$12,110 per certificated staff unit in the 1989-90 school year and a maximum of \$12,679 per certificated staff unit in the 1990-91 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maximum rate of \$290 per year for allocated classroom teachers. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported state-wide for the 1987-88 school year.

(8) The superintendent may distribute a maximum of \$9,925,000 outside the basic education formula during fiscal years 1990 and 1991 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$358,000 may be expended in fiscal year 1990 and a maximum of \$375,000 in fiscal year 1991.

(b) For summer vocational programs at skills centers, a maximum of \$1,321,000 may be expended in fiscal year 1990 and a maximum of \$1,599,000 may be expended in fiscal year 1991.

(c) A maximum of \$272,000 may be expended for school district emergencies.

(d) A maximum of \$6,000,000 is provided solely for the purchase of new and replacement equipment for use in approved vocational-secondary and skill center programs. These moneys shall be allocated to school districts during the 1989-90 school year on the basis of full time equivalent enrollment in vocational programs.

(9) For the purposes of RCW 84.52.0531, the increase per full time equivalent student in state basic education appropriations provided under this act, including appropriations for salary and benefits increases, is 6.07 percent from the 1988-89 school year to the 1989-90 school year, and 5.74 percent from the 1989-90 school year to the 1990-91 school year.

(10) (a) The superintendent of public instruction shall revise personnel reporting systems to include information on grade level assignments of basic education certificated instructional staff, by grade level groupings of K-3, 4-6, and 7-12. The superintendent of public instruction shall collect such information from school districts beginning in the 1989-90 school year. School districts may submit supplemental information on changes in staffing levels after the initial personnel report for each school year. Staffing ratios calculated under this subsection may recognize additional staff reported, prorated by the number of months of employment during the academic year.

(b) For each school year, the funding provided under subsection (2)(a) of this section shall be based on a ratio of fifty-one certificated instructional staff per thousand students in kindergarten through grade three only if the district documents an actual ratio of at least fifty-one full time basic education certificated instructional staff per thousand full time equivalent students at those grade levels. For any school district documenting a lower ratio, the funding provided under this section shall be based on the district's actual K-3 ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.41.140(2)(c), if greater.

(c) School districts that had a ratio of fifty-one basic education certificated instructional staff per thousand students in kindergarten through grade three in the 1988-89 school year shall expend additional funding generated by the increase in staffing ratios provided in this section solely to improve staffing ratios in kindergarten through grade twelve.

**\*NEW SECTION. Sec. 503. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION INCREASES**

General Fund Appropriation . . . . . \$ 196,128,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional derived base salary shown on LEAP Document 12 by the district's average staff mix factor for basic education certificated instructional staff in that school year, computed using LEAP Document 1.

(b) Salary allocations for certificated administrative staff units and classified staff units shall be determined for each district by the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 12.

(2)(a) Districts shall certify to the superintendent of public instruction such information as may be necessary regarding the years of service and educational experience of basic education certificated instructional employees for the purposes of calculating certificated instructional staff salary allocations pursuant to this section. Any change in information previously certified, on the basis of years of experience or educational credits, shall be reported and certified to the superintendent of public instruction at the time such change takes place.

(b) For the purposes of this section, "basic education certificated instructional staff" is defined as provided in RCW 28A.41.110.

(c) "LEAP Document 1" means the computerized tabulation establishing staff mix factors for basic education certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on August 18, 1987, at 13:26 hours.

(d) "LEAP Document 1R" means the computerized tabulation establishing staff mix factors for basic education certificated instructional staff according to education and years of experience, as developed on May 7, 1989, at 11:00 hours.

(e) "LEAP Document 12" means the computerized tabulation of 1988-89 salary allocations for basic education certificated administrative staff and basic education classified staff and 1988-89 derived base salaries for basic education certificated instructional staff as developed on April 20, 1989, at 14:15 hours.

(f) The incremental fringe benefits factors applied to salary increases in this section shall be 1.1916 for certificated salaries and 1.1379 for classified salaries in the 1989-90 school year, and 1.1921 for certificated salaries and 1.1384 for classified salaries in the 1990-91 school year.

(3) \$7,492,000 is provided solely to increase allocations for certificated administrative staff units provided under section 502 of this act, pursuant to this subsection. For the 1989-90 and 1990-91 school years, the allocation for each certificated administrative staff unit shall be increased by 2.5 percent of the 1988-89 state-wide average certificated administrative salary shown on LEAP Document 12, multiplied by incremental fringe benefits.

(4) \$27,903,000 is provided solely to increase allocations for classified staff units provided under section 502 of this act, pursuant to this subsection. For the 1989-90 and 1990-91 school years, the allocation for each classified staff unit shall be increased by 4.0 percent of the 1988-89 state-wide average classified salary shown on LEAP Document 12, multiplied by incremental fringe benefits. For the 1990-91 school year, the allocation for

each classified staff unit shall be further increased by an additional 3.12 percent of the 1988-89 state-wide average classified salary shown on LEAP Document 12, multiplied by incremental fringe benefits.

(5) \$160,733,000 is provided solely to increase allocations for certificated instructional staff units provided under section 502 of this act, pursuant to this subsection:

(a) For any district with a derived base salary of \$17,600 on LEAP Document 12, the allocation for each certificated instructional staff unit in the 1989-90 school year shall be increased by the difference between:

(i) The district's salary allocation per certificated instructional staff unit computed under subsection (1)(a) of this section, adjusted for incremental fringe benefits; and

(ii) The district's 1989-90 average certificated instructional staff allocation salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff on the state-wide salary allocation schedule established in subsection (6) of this section, adjusted for incremental fringe benefits.

(b) For any district with a derived base salary greater than \$17,600 on LEAP Document 12, the allocation for each certificated instructional staff unit in the 1989-90 school year shall be increased by 4.0 percent of the district's salary allocation per certificated instructional staff unit computed under subsection (1)(a) of this section, adjusted for incremental fringe benefits.

(c) For any district with a derived base salary of \$17,600 on LEAP Document 12, the allocation for each certificated instructional staff unit in the 1990-91 school year shall be increased by the difference between:

(i) The district's salary allocation per certificated instructional staff unit computed under subsection (1)(a) of this section, adjusted for incremental fringe benefits; and

(ii) The district's 1990-91 average certificated instructional staff allocation salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff on the state-wide salary allocation schedule established in subsection (7) of this section, adjusted for incremental fringe benefits.

(d) For any district with a derived base salary greater than \$17,600 on LEAP Document 12, the allocation for each certificated instructional staff unit in the 1990-91 school year shall be increased by the difference between:

(i) The district's salary allocation per certificated instructional staff unit computed under subsection (1)(a) of this section, adjusted for incremental fringe benefits; and

(ii) The district's salary allocation per certificated instructional staff unit computed under subsection (1)(a) of this section multiplied by the compounded increase provided in this subsection, adjusted for incremental

fringe benefits. The compounded increase for each district shall be 7.12 percent, compounded by the percentage difference between the district's average staff mix factor for actual 1990-91 full time equivalent basic education certificated instructional employees computed using LEAP Document 1R and such factor for the same 1990-91 employees computed using LEAP Document 1.

(6)(a) Pursuant to RCW 28A.41.112, the following state-wide salary allocation schedule for certificated instructional staff is established for basic education salary allocations for the 1989-90 school year:

1989-90 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	18,304	18,798	19,311	19,823
1	18,981	19,494	20,025	20,574
2	19,677	20,208	20,757	21,361
3	20,409	20,958	21,526	22,166
4	21,159	21,745	22,331	23,008
5	21,946	22,551	23,155	23,887
6	22,770	23,374	24,015	24,802
7	23,612	24,234	24,893	25,735
8	24,472	25,131	25,809	26,724
9		26,065	26,779	27,731
10			27,767	28,792
11				29,890
12				
13				
14 or more				

1989-90 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	21,471	22,532	21,471	22,770	23,887
1	22,276	23,356	22,276	23,612	24,765
2	23,100	24,216	23,100	24,491	25,681
3	23,942	25,113	23,942	25,388	26,632
4	24,839	26,047	24,839	26,321	27,621
5	25,754	27,017	25,754	27,310	28,627



1989-90 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
6	26,706	28,005	26,706	28,316	29,689
7	27,694	29,048	27,694	29,360	30,787
8	28,719	30,128	28,719	30,440	31,940
9	29,781	31,245	29,781	31,574	33,112
10	30,879	32,398	30,879	32,746	34,338
11	32,032	33,588	32,032	33,954	35,601
12	33,222	34,833	33,222	35,217	36,919
13	34,448	36,114	34,448	36,516	38,292
14 or more		37,450	35,711	37,871	39,701

(b) As used in this subsection, "+(N)" means the number of credits earned since receiving the highest degree.

(7)(a) Pursuant to RCW 28A.41.112, the following state-wide salary allocation schedule for certificated instructional staff is established for basic education salary allocations for the 1990-91 school year:

1990-91 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	20,001	20,541	21,101	21,661
1	20,656	21,214	21,792	22,389
2	21,325	21,900	22,495	23,150
3	22,027	22,620	23,232	23,923
4	22,742	23,372	24,001	24,729
5	23,490	24,136	24,783	25,566
6	24,269	24,913	25,596	26,435
7	25,061	25,721	26,421	27,314
8	25,864	26,561	27,277	28,244
9		27,431	28,182	29,184
10			29,098	30,172
11				31,189
12				
13				
14 or more				

1990-91 STATE-WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	23,461	24,621	23,980	25,780	26,940
1	24,242	25,417	24,708	26,561	27,736
2	25,034	26,245	25,469	27,353	28,563
3	25,840	27,104	26,242	28,159	29,423
4	26,696	27,995	27,048	29,015	30,314
5	27,565	28,916	27,885	29,884	31,235
6	28,464	29,849	28,754	30,783	32,168
7	29,393	30,831	29,633	31,712	33,150
8	30,352	31,842	30,563	32,671	34,161
9	31,341	32,882	31,502	33,660	35,201
10	32,358	33,950	32,491	34,677	36,269
11	33,423	35,047	33,508	35,742	37,366
12	34,516	36,189	34,566	36,835	38,508
13	35,636	37,359	35,659	37,955	39,678
14 or more		38,573	36,786	39,154	40,892

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

(i) Credits earned since receiving the masters degree; and

(ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(8) For the purposes of this section:

(a) "BA" means a baccalaureate degree.

(b) "MA" means a masters degree.

(c) "PHD" means a doctorate degree.

(d) "Years of service" shall be calculated under the same rules used by the superintendent of public instruction for salary allocations in the 1988-89 school year.

(e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.71.110.

(9) The salary allocation schedules established in subsections (6) and (7) of this section are for allocation purposes only.

(10) The legislature finds that, during the 1987-89 biennium, actual salary increases provided to school administrators substantially exceeded the

*state-funded increases granted for administrative staff. The legislature intends that increases granted to administrators during the 1989-91 biennium be limited to the percentage increase provided in administrative salary allocations under this section. School districts shall annually submit documentation to the superintendent of public instruction on any increases in average administrative salaries that exceed the increase provided in this section, pursuant to instructions issued by the superintendent. The superintendent of public instruction shall forward such data and documentation to the appropriations committee of the house of representatives and the ways and means committee of the senate. The documentation shall include an explanation of amount of the excess increases provided by each district and the justification or reasons for such increases.*

\*Sec. 503 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 504. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—CATEGORICAL PROGRAM SALARY INCREASES**

General Fund Appropriation . . . . . \$ 38,730,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The incremental fringe benefits factors applied to salary increases in subsection (3) of this section shall be 1.1916 for certificated salaries and 1.1379 for classified salaries in the 1989-90 school year, and 1.1921 for certificated salaries and 1.1384 for classified salaries in the 1990-91 school year.

(2) A maximum of \$13,400,000 is provided to implement salary increases for each school year for state-supported school employees in the following categorical programs: Transitional bilingual instruction, learning assistance, education of highly capable students, vocational technical institutes, and pupil transportation. Moneys provided by this subsection include costs of incremental fringe benefits and shall be distributed by increasing allocation rates for each school year by the amounts specified:

(a) Transitional bilingual instruction: The rates specified in section 520 of this act shall be increased by \$16.04 per pupil for the 1989-90 school year and by \$40.13 per pupil for the 1990-91 school year.

(b) Learning assistance: The rates specified in section 521 of this act shall be increased by \$12.91 per pupil for the 1989-90 school year and by \$22.99 per pupil for the 1990-91 school year.

(c) Education of highly capable students: The rates specified in section 516 of this act shall be increased by \$9.50 per pupil for the 1989-90 school year and by \$23.78 per pupil for the 1990-91 school year.

(d) Vocational technical institutes: The rates for vocational programs specified in section 508 of this act shall be increased by \$86.33 per full time

equivalent student for the 1989-90 school year, and by \$205.01 per full time equivalent student for the 1990-91 school year.

(e) Pupil transportation: The rates provided under section 507 of this act shall be increased by \$0.66 per weighted pupil-mile for the 1989-90 school year, and by \$1.18 per weighted pupil-mile for the 1990-91 school year.

(3) A maximum of \$25,330,000 is provided for salary increases and incremental fringe benefits for state-supported staff unit allocations in the handicapped program, section 510, and for state-supported staff in institutional education programs, section 515, and in educational service districts, section 512. The superintendent of public instruction shall distribute salary increases for these programs not to exceed the percentage salary increases provided for basic education staff under section 503 of this act.

(4) While this section and section 509 of this act do not provide specific allocations for salary increases for school food services employees, nothing in this act is intended to preclude or discourage school districts from granting increases that are equivalent to those provided for other classified staff.

**NEW SECTION. Sec. 505. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE INSURANCE BENEFIT INCREASES**

General Fund Appropriation . . . . . \$ 21,111,000

The appropriation in this section is subject to the following conditions and limitations:

(1) Allocations for insurance benefits from general fund appropriations provided under section 502 of this act shall be calculated at a rate of \$224.75 per month for each certificated staff unit, and for each classified staff unit adjusted pursuant to section 502(5)(b).

(2) The appropriation in this section is provided solely to increase insurance benefit allocations for state-funded certificated and classified staff in the 1989-90 and 1990-91 school years, effective October 1, 1989, to a rate of \$239.86 per month, as distributed pursuant to this section.

(3) A maximum of \$16,939,000 may be expended to increase general fund allocations for insurance benefits for basic education staff units under section 502(5) of this act by \$15.11 per month.

(4) A maximum of \$2,226,000 may be expended to increase insurance benefit allocations for handicapped program staff units as calculated under section 510 of this act by \$15.11 per month.

(5) A maximum of \$108,000 may be expended to increase insurance benefit allocations for state-funded staff in educational service districts and institutional education programs by \$15.11 per month.

(6) A maximum of \$1,838,000 may be expended to fund insurance benefit increases in the following categorical programs by increasing annual

state funding rates by the amounts specified in this subsection. For the 1989-90 school year, due to the October implementation, school districts shall receive eleven-twelfths of the annual rate increases specified. On an annual basis, the maximum rate adjustments provided under this section are:

- (a) For pupil transportation, an increase of \$0.14 per weighted pupil-mile;
- (b) For learning assistance, an increase of \$3.78 per pupil;
- (c) For education of highly capable students, an increase of \$1.29 per pupil;
- (d) For transitional bilingual education, an increase of \$2.44 per pupil;
- (e) For vocational-technical institutes, an increase of \$10.05 per full time equivalent pupil.

**NEW SECTION. Sec. 506. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—RETIREMENT CONTRIBUTIONS**  
 General Fund Appropriation . . . . . \$ 33,141,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$13,056,000 for the teachers' retirement system and \$2,147,000 for the public employees' retirement system, or so much thereof as may be necessary, shall be distributed to local districts to increase state retirement system contributions resulting from Engrossed Substitute House Bill No. 1322. If the bill is not enacted by June 30, 1989, the amounts provided in this subsection shall lapse.
- (2) \$14,587,000 for the teachers' retirement system and \$3,351,000 for the public employees' retirement system, or so much thereof as may be necessary, shall be distributed to local districts to increase state retirement system contributions resulting from Substitute Senate Bill No. 5418. If the bill is not enacted by June 30, 1989, the amounts provided in this subsection shall lapse.

**NEW SECTION. Sec. 507. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION**  
 General Fund Appropriation . . . . . \$ 250,821,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$22,695,000 is provided solely for distribution to school districts for the remaining months of the 1988-89 school year.
- (2) A maximum of \$111,468,000 may be distributed for pupil transportation operating costs in the 1989-90 school year.
- (3) A maximum of \$857,000 may be expended for regional transportation coordinators.
- (4) A maximum of \$64,000 may be expended for bus driver training.

(5) For eligible school districts, the small fleet maintenance factor shall be funded at a rate of \$1.53 per weighted pupil-mile in the 1989-90 school year and \$1.60 per weighted pupil-mile in the 1990-91 school year.

**NEW SECTION. Sec. 508. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR VOCATIONAL-TECHNICAL INSTITUTES AND ADULT EDUCATION AT VOCATIONAL-TECHNICAL INSTITUTES**

General Fund Appropriation . . . . .	\$ 82,884,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) Funding for vocational programs during the 1989-90 school year shall be distributed at a rate of \$3,267 per student for a maximum of 12,655 full time equivalent students. This amount includes \$154 per student solely to replace out-of-date or worn-out equipment.

(2) Funding for vocational programs during the 1990-91 school year shall be distributed at a rate of \$3,268 per student for a maximum of 12,655 full time equivalent students. This amount includes \$154 per student solely to replace out-of-date or worn-out equipment.

(3) Funding for adult basic education programs during the 1989-90 school year shall be distributed at a rate of \$1.46 per hour of student service for a maximum of 288,690 hours.

(4) Funding for adult basic education programs during the 1990-91 school year shall be distributed at a rate of \$1.48 per hour of student service for a maximum of 288,690 hours.

**NEW SECTION. Sec. 509. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL FOOD SERVICE PROGRAMS**

General Fund Appropriation—State . . . . .	\$ 6,000,000
General Fund Appropriation—Federal . . . . .	\$ 85,000,000
Total Appropriation . . . . .	\$ 91,000,000

**NEW SECTION. Sec. 510. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR HANDICAPPED EDUCATION PROGRAMS**

General Fund Appropriation—State . . . . .	\$ 503,593,000
General Fund Appropriation—Federal . . . . .	\$ 59,000,000
Total Appropriation . . . . .	\$ 562,593,000

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

(1) \$48,111,000 of the general fund—state appropriation is provided solely for the remaining months of the 1988-89 school year.

(2) The superintendent of public instruction shall distribute state funds for the 1989-90 and 1990-91 school years in accordance with districts' actual handicapped enrollments and the allocation model established in LEAP Document 13 as developed on March 25, 1989, at 13:45 hours.

(3) A maximum of \$440,000 may be expended from the general fund—state appropriation to fund 4.66 full time equivalent teachers and one aide at Children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the handicapped program.

(4) \$272,000 of the general fund—state appropriation is provided solely for the early childhood home instruction program for hearing impaired infants and their families. \$80,000 of the amount provided in this subsection is a one-time grant to replace lost federal support and maintain program continuity until other nonstate resources to support existing service levels can be identified.

(5) \$150,000 of the general fund—state appropriation is provided solely for development and implementation of a process for school districts to bill medical assistance for eligible services included in handicapped education programs, pursuant to Substitute House Bill No. 2014. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse. \$50,000 of the amount provided in this subsection is solely for interagency reimbursement for administrative and planning costs of the department of social and health services. \$100,000 of the amount provided in this subsection is solely for contracts with educational service districts for development and implementation of billing systems.

(6) A maximum of \$1,500,000 of the general fund—state appropriation may be granted to school districts for pilot programs for prevention of learning problems established under section 13 of Engrossed Substitute House Bill No. 1444. A district's grant for a school year under this subsection shall not exceed:

(a) The total of state allocations for general apportionment and handicapped education programs that the district would have received for that school year with specific learning disabled enrollment at the prior school year's level; minus

(b) The total of the district's actual state allocations for general apportionment and handicapped education programs for that school year.

**NEW SECTION. Sec. 511. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRAFFIC SAFETY EDUCATION PROGRAMS**

Public Safety and Education Account Appropria-	
tion .....	\$ 14,067,000

The appropriation in this section is subject to the following conditions and limitations: Not more than \$596,000 may be expended for regional traffic safety education coordinators.

**NEW SECTION. Sec. 512. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS**

General Fund Appropriation . . . . . \$ 10,654,000

The appropriation in this section is subject to the following conditions and limitations: The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.21.088 (3) and (4).

**NEW SECTION. Sec. 513. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE**

General Fund Appropriation . . . . . \$ 82,700,000

The appropriation in this section is subject to the following conditions and limitations: \$82,700,000 is provided for state matching funds pursuant to RCW 28A.41.155.

**NEW SECTION. Sec. 514. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE ENUMERATED PURPOSES**

General Fund Appropriation—Federal . . . . . \$ 141,817,000

(1) Education Consolidation and Improvement

Act . . . . . \$ 138,000,000

(2) Education of Indian Children . . . . . \$ 317,000

(3) Adult Basic Education . . . . . \$ 3,500,000

**NEW SECTION. Sec. 515. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund Appropriation—State . . . . . \$ 20,566,000

General Fund Appropriation—Federal . . . . . \$ 8,006,000

Total Appropriation . . . . . \$ 28,572,000

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

(1) \$3,817,000 of the general fund—state appropriation is provided solely for the remaining months of the 1988–89 school year.

(2) \$10,165,000 of the general fund—state appropriation is provided solely for the 1989–90 school year, distributed as follows:

(a) \$3,293,000 is provided solely for programs in state institutions for the handicapped or emotionally disturbed. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of \$10,903 per full time equivalent student.

(b) \$3,647,000 is provided solely for programs in state institutions for delinquent youth. These moneys may be distributed for that school year at a



maximum rate averaged over all of these programs of \$6,728 per full time equivalent student.

(c) \$418,000 is provided solely for programs in state group homes for delinquent youth. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of \$5,166 per full time equivalent student.

(d) \$727,000 is provided solely for juvenile parole learning center programs. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of \$1,772 per full time equivalent student, and are in addition to moneys allocated for these students through the basic education formula established in section 502 of this act.

(e) \$2,080,000 is provided solely for programs in county detention centers. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of \$4,871 per full time equivalent student.

(3) Distribution of state funding for the 1990-91 school year shall be based upon the following overall limitations for that school year including expenditures anticipated for July and August of 1991:

(a) State funding for programs in state institutions for the handicapped or emotionally disturbed may be distributed at a maximum rate averaged over all of these programs of \$10,847 per full time equivalent student and a total allocation of no more than \$2,885,000 for that school year.

(b) State funding for programs in state institutions for delinquent youth may be distributed at a maximum rate averaged over all of these programs of \$6,741 per full time equivalent student and a total allocation of no more than \$3,701,000 for that school year.

(c) State funding for programs in state group homes for delinquent youth may be distributed in that school year at a maximum rate averaged over all of these programs of \$5,177 per full time equivalent student and a total allocation of no more than \$419,000 for that school year.

(d) State funding for juvenile parole learning center programs may be distributed at a maximum rate averaged over all of these programs of \$1,789 per full time equivalent student and a total allocation of no more than \$723,000 for that school year, excluding funds provided through the basic education formula established in section 502 of this act.

(e) State funding for programs in county detention centers may be distributed at a maximum rate averaged over all of these programs of \$4,882 per full time equivalent student and a total allocation of no more than \$2,080,000 for that school year.

(4) \$167,000 of the general fund—state appropriation is provided solely to maintain the increased teacher/student ratio for programs at mentally ill offender units within the state institutions for delinquent youth.

(5) Notwithstanding any other provision of this section, the superintendent of public instruction may transfer funds between the categories of

institutions identified in subsections (2) and (3) of this section if the maximum expenditures per full time equivalent student for each category of institution are not thereby exceeded.

(6) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(7) The superintendent of public instruction shall conduct a study of institutional education programs, addressing the division of administrative and budgetary responsibilities between the school districts, the department of social and health services, and, in the case of county detention centers, the juvenile court administrators. The superintendent shall consult with the department of social and health services and the institutions in designing and conducting the study, and in developing recommendations. The study shall include recommendations on methods to improve communication, decision making, and cooperation among school district and institutional staff, as well as coordination of programs and responsiveness to student needs. The superintendent shall submit a report of the study to the legislature prior to December 1, 1990, including recommendations for legislative action and changes in administrative practices.

**NEW SECTION. Sec. 516. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

General Fund Appropriation . . . . . \$ 7,090,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$534,000 is provided solely for distribution to school districts for the remaining months of the 1988-89 school year.

(2) Allocations for school district programs for highly capable students during the 1989-90 school year shall be distributed at a maximum rate of \$364 per student for up to one percent of each district's full time equivalent enrollment.

(3) Allocations for school district programs for highly capable students during the 1990-91 school year shall be distributed at a maximum rate of \$364 per student for up to one and one-half percent of each district's full time equivalent enrollment.

(4) A maximum of \$356,000 is provided to contract for gifted programs to be conducted at Fort Worden state park.

**NEW SECTION. Sec. 517. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL DISTRICT SUPPORT**

General Fund Appropriation—State . . . . . \$ 5,684,000  
General Fund Appropriation—Federal . . . . . \$ 5,131,000

Total Appropriation . . . . . \$ 10,815,000

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

(1) \$282,000 of the general fund—state appropriation is provided solely for teacher in-service training in math, science, and computer technology.

(2) \$651,000 of the general fund—state appropriation is provided solely for teacher training workshops conducted by the Pacific science center. \$496,000 of this amount is for in-service training in science to be provided to approximately ten percent of the kindergarten through eighth grade teachers each year.

(3) \$2,029,000 of the general fund—state appropriation is provided solely for operation by the educational service districts of regional computer demonstration centers and computer information centers.

(4) \$872,000 of the general fund—state appropriation and \$413,000 of the general fund—federal appropriation are provided solely for teacher training in drug and alcohol abuse education and prevention in kindergarten through grade twelve. The amount provided in this subsection includes \$300,000 from license fees collected pursuant to RCW 66.24.320 and 66.24.330 which are dedicated to juvenile drug and alcohol prevention programs under RCW 66.08.180(4).

(5) \$1,500,000 of the general fund—state appropriation is provided solely for training of paraprofessional classroom assistants and classroom teachers to whom the assistants are assigned. The funding is intended to provide a training program of at least twenty-five hours for approximately one thousand classroom assistants, and at least a one-day training program for approximately two thousand assigned teachers. A maximum of \$175,000 of this amount may be spent by the superintendent for state administrative costs of this program.

(6) \$350,000 of the general fund—state appropriation is provided solely for grants to school districts for multicultural inservice training.

**NEW SECTION. Sec. 518. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL AND PILOT PROGRAMS**

General Fund Appropriation—State . . . . . \$ 15,991,000  
General Fund Appropriation—Federal . . . . . \$ 5,973,000  
Total Appropriation . . . . . \$ 21,964,000

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

(1) \$1,731,000 of the general fund—state appropriation is provided solely for a contract with the Pacific science center for travelling van programs and other educational services for public schools. \$815,000 of this

amount is provided to expand the travelling van program to serve approximately 50 percent of public elementary schools annually, and to expand the on-site instruction program to serve approximately 70,000 students and teachers each year.

(2) \$88,000 of the general fund—state appropriation is provided solely for a contract with the Cispus learning center for environmental education programs.

(3) \$3,975,000 of the general fund—federal appropriation is provided solely for substance abuse prevention programs.

(4) \$5,719,000 of the general fund—state appropriation and \$1,710,000 of the general fund—federal appropriation are provided solely for the schools for the twenty-first century pilot programs established by RCW 28A.100.030 through 28A.100.068. The general fund—federal appropriation shall be expended to establish a maximum of twelve new projects in fiscal year 1991.

(5) \$3,560,000 of the general fund—state appropriation is provided solely for the beginning teachers assistance program established under RCW 28A.67.240. Moneys shall be distributed under this subsection at a maximum rate per mentor/beginning teacher team of \$1,780 per year.

(6) \$204,000 of the general fund—state appropriation is provided solely for child abuse education provisions of RCW 28A.03.512 through 28A.03.514.

(7) \$1,519,000 of the general fund—state appropriation is provided solely for grants to public or private nonprofit organizations to assist parents of children in headstart or early childhood education and assistance programs, who are enrolled in adult literacy classes or tutoring programs under RCW 28A.130.010 through 28A.130.020. Grants provided under this subsection may be used for scholarships, costs of transportation and child care, and other support services. Moneys provided under this subsection may not be used by the superintendent of public instruction for state administrative costs.

(8) \$82,000 of the general fund—state appropriation is provided solely for in-service training and other costs associated with the development of a comprehensive K-12 health education curriculum, including an integral component relating to acquired immunodeficiency syndrome.

(9) \$250,000 of the general fund—state appropriation is provided solely for the continuation of student teaching pilot projects under Engrossed Senate Bill No. 5826. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(10) \$2,712,000 of the general fund—state appropriation and \$288,000 of the general fund—federal appropriation are provided solely for grants for drop-out prevention and retrieval programs established under

RCW 28A.120.060 through 28A.120.072. The general fund—federal appropriation shall be allocated to school districts for projects that meet federal criteria for targeted services eligible for funding under chapter 2 of the education consolidation and improvement act, to assist in establishing new services and innovative programs for students at risk.

(11) \$126,000 of the general fund—state appropriation is provided solely to establish and operate a toll-free telephone number at the Lifeline Institute to assist school districts in youth suicide prevention.

**NEW SECTION. Sec. 519. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR ENCUMBRANCES OF FEDERAL GRANTS**

General Fund Appropriation—Federal . . . . . \$ 36,216,000

**NEW SECTION. Sec. 520. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund Appropriation . . . . . \$ 14,772,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$1,476,000 is provided solely for the remaining months of the 1988–89 school year.
- (2) The superintendent shall distribute funds for the 1989–90 and 1990–91 school years at a rate for each year of \$452 per eligible student.

**NEW SECTION. Sec. 521. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM**

General Fund Appropriation . . . . . \$ 70,417,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$5,899,000 is provided solely for the remaining months of the 1988–89 school year.
- (2) Funding for school district learning assistance programs serving kindergarten through grade nine shall be distributed during the 1989–90 and 1990–91 school years at a maximum rate of \$389 per unit as calculated pursuant to this subsection. The number of units for each school district in each school year shall be the sum of: (a) The number of full time equivalent students enrolled in kindergarten through grade six in the district multiplied by the percentage of the district's students taking the fourth grade basic skills test who scored in the lowest quartile as compared to national norms, and then reduced by the number of students ages eleven and below in the district who are identified as specific learning disabled and are served through programs established pursuant to chapter 28A.13 RCW; and (b) the number of full time equivalent students enrolled in grades seven through nine in the district multiplied by the percentage of the district's students

taking the eighth grade basic skills test who scored in the lowest quartile as compared to national norms, and then reduced by the number of students ages twelve through fourteen in the district who are identified as specific learning disabled and are served through programs established pursuant to chapter 28A.13 RCW. In determining these allocations, the superintendent shall use the most recent prior five-year average scores on the fourth grade and eighth grade state-wide basic skills tests.

**NEW SECTION. Sec. 522. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL CLINICS**

General Fund Appropriation . . . . . \$ 3,584,000

The appropriation in this section is subject to the following conditions and limitations: Not more than \$1,792,000 of the general fund appropriation may be expended during fiscal year 1990.

**NEW SECTION. Sec. 523. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—LOCAL EDUCATION PROGRAM ENHANCEMENT FUNDS**

General Fund Appropriation . . . . . \$ 54,463,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$5,053,000 of the general fund appropriation is provided solely for the remaining months of the 1988-89 school year.
- (2) A school district may be eligible to receive an allocation from this appropriation if the school district's board of directors has:
  - (a) Assessed the needs of the schools within the district;
  - (b) Prioritized the identified needs; and
  - (c) Developed an expenditure plan for the allocation and an evaluation methodology to assess benefits to students.
- (3) School districts receiving moneys pursuant to this section shall expend such moneys to meet educational needs identified by the district within the following program areas:
  - (a) Prevention and intervention services in the elementary grades;
  - (b) Reduction of class size;
  - (c) Early childhood education;
  - (d) Student-at-risk programs, including dropout prevention and retrieval, and substance abuse awareness and prevention;
  - (e) Staff development and in-service programs;
  - (f) Student logical reasoning and analytical skill development;
  - (g) Programs for highly capable students;
  - (h) Programs involving students in community services;
  - (i) Senior citizen volunteer programs; and
  - (j) Other purposes that enhance a school district's basic education program.

Program enhancements funded pursuant to this section do not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder, nor shall such funding as now or hereafter appropriated and allocated constitute levy reduction funds for purposes of RCW 84.52.0531.

(4)(a) Allocations to eligible school districts for the 1989-90 and 1990-91 school years shall be calculated on the basis of average annual full time equivalent enrollment, at an annual rate of \$35.26 per pupil. For school districts enrolling not more than one hundred average annual full time equivalent students, and for small school plants within any school district designated as remote and necessary schools, the allocations shall be determined as follows:

(i) Enrollment of not more than sixty average annual full time equivalent students in grades kindergarten through six shall generate funding based on sixty full time equivalent students;

(ii) Enrollment of not more than twenty average annual full time equivalent students in grades seven and eight shall generate funding based on twenty full time equivalent students; and

(iii) Enrollment of sixty or fewer average annual full time equivalent students in grades nine through twelve shall generate funding based on sixty full time equivalent students.

(b) Allocations shall be distributed on a school-year basis pursuant to RCW 28A.48.010.

**NEW SECTION. Sec. 524. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE STATE SCHOOL FOR THE BLIND AND THE STATE SCHOOL FOR THE DEAF**

General Fund Appropriation—State . . . . .	\$	17,318,000
General Fund Appropriation—Federal . . . . .	\$	48,000
Total Appropriation . . . . .	\$	17,366,000

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

(1) \$5,940,000 of the general fund—state appropriation is provided to pass through directly to the state school for the blind at the request of the school's superintendent.

(2) \$10,991,000 of the general fund—state appropriation and \$48,000 of the general fund—federal appropriation is provided to pass through directly to the state school for the deaf at the request of the school's superintendent.

(3) \$387,000 of the general fund—state appropriation is provided solely for transportation of day students attending the schools. The state school for the deaf and the state school for the blind shall contract with educational service district No. 112 for the provision of pupil transportation services.

PART VI  
HIGHER EDUCATION

**\*NEW SECTION.** Sec. 601. The appropriations in sections 602 through 608 of this act are subject to the following conditions and limitations:

(1) For the purposes of this section and sections 602 through 608 of this act, "institutions of higher education" means the institutions receiving appropriations pursuant to sections 602 through 608 of this act.

(2) (a) *Student Quality Standard: During the 1989-91 fiscal biennium, each institution of higher education shall not spend less than the average biennial amount listed in this subsection per full time equivalent student. The amounts include total appropriated general fund—state operating expenses for the institution, less expenditures for plant maintenance and operations, with the exception of Washington State University, where cooperative extension and agriculture research are also excluded from the per student expenditures. This expenditure-per-student requirement may vary by two percent. If an institution's expenditure per student in fiscal year 1989-90 exceeds the two-percent variance, then the office of financial management shall reduce that institution's allotment for fiscal year 1990-91 by the amount above the two-percent variance.*

<i>University of Washington</i> . . . . .	\$	9,290
<i>Washington State University</i> . . . . .	\$	7,625
<i>Eastern Washington University</i> . . . . .	\$	5,511
<i>Central Washington University</i> . . . . .	\$	5,649
<i>The Evergreen State College</i> . . . . .	\$	7,076
<i>Western Washington University</i> . . . . .	\$	5,430
<i>State Board for Community College Education</i> . . . . .	\$	3,302

(b) *Facilities Quality Standard: During the 1989-91 biennium, no institution of higher education may allow its expenditures for plant operation and maintenance to be more than five percent below the general fund—state appropriation and the general fund—local amounts allotted for this purpose.*

(3)(a) The following are maximum amounts that each institution may spend from the appropriations in sections 602 through 608 and 610 of this act for faculty, graduate assistants, and exempt staff salary increases and are subject to all the limitations contained in this section. For the purpose of allocating these funds, "faculty" includes all instructional and research faculty, teaching and research assistants, academic deans, department chairpersons, librarians, and community college counselors who are not part of the state classified service system. "Exempt staff" includes all professional and administrative employees who are not part of the state classified service system.

University of Washington . . . . .	\$	18,348,000
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Washington State University . . . . .	\$	9,603,000
Eastern Washington University . . . . .	\$	2,864,000
Central Washington University . . . . .	\$	2,553,000
The Evergreen State College . . . . .	\$	1,210,000
Western Washington University . . . . .	\$	3,435,000
State Board for Community College Education . . . . .	\$	19,753,000
Higher Education Coordinating Board . . . . .	\$	66,000

(b) The amounts listed in (a) of this subsection are intended to provide faculty, exempt staff, teaching and research assistants, and medical residents at each four-year institution and the community college system as a whole, a maximum of the average percentage increase, including increments, listed below on the effective dates indicated:

Faculty and Exempt Staff

	January 1, 1990	January 1, 1991
University of Washington	6.1%	6.1%
Washington State University	6.1%	6.1%
Eastern Washington University	6.4%	6.4%
Central Washington University	6.4%	6.4%
The Evergreen State College	6.4%	6.4%
Western Washington University	6.4%	6.4%
State Board for Community College Education	6.2%	6.2%
Exempt staff (all institutions)	2.5%	6.0%
Higher Education Coordinating Board	2.5%	6.0%

(c) Regardless of whether the maximum amounts authorized in this subsection are granted, they will be considered granted by the higher education coordinating board when comparing faculty salaries to other institutions for the purpose of determining salary increase requirements.

(d) The salary increases authorized under this subsection may be granted to state employees at Washington State University who are supported in full or in part by federal land grant formula funds.

(e) The state board for community college education shall allocate the amounts authorized in this subsection among the community college districts according to policies and guidelines established by the board that may include policies for achieving more equitable salary levels among districts and more equitable salary levels between part-time and full-time faculty.

(4) The following amounts from the appropriations in sections 602 through 608 of this act, or as much thereof as may be necessary, shall be spent to provide higher education personnel board classified employees with

a 2.5 percent across-the-board salary increase effective January 1, 1990, and an additional 6.0 percent across-the-board salary increase effective January 1, 1991. These increases shall be implemented in compliance and conformity with all requirements of the comparable worth agreement ratified by 1986 Senate Concurrent Resolution No. 126. No salary increase may be paid under this subsection to any person whose salary has been Y-rated pursuant to rules adopted by the higher education personnel board.

University of Washington . . . . .	\$	4,484,000
Washington State University . . . . .	\$	2,950,000
Eastern Washington University . . . . .	\$	747,000
Central Washington University . . . . .	\$	574,000
The Evergreen State College . . . . .	\$	427,000
Western Washington University . . . . .	\$	792,000
State Board for Community College Education . . . . .	\$	4,011,000
Higher Education Coordinating Board . . . . .	\$	35,000

(5) The following amounts from the appropriations in sections 602 through 608 of this act are provided solely for student employee salary increases:

University of Washington . . . . .	\$	130,000
Washington State University . . . . .	\$	73,000
Eastern Washington University . . . . .	\$	21,000
Central Washington University . . . . .	\$	18,000
The Evergreen State College . . . . .	\$	9,000
Western Washington University . . . . .	\$	25,000
State Board for Community College Education . . . . .	\$	142,000

(6) Any institution that grants an average salary increase in excess of the amounts authorized in subsection (3) of this section is ineligible to receive any funds appropriated for salary increases in sections 603 through 608 of this act. Any community college district that grants an average salary increase in excess of the amounts authorized in subsection (3) of this section, as allocated by the state board for community college education, is ineligible to receive any funds appropriated for salary increases in section 602 of this act. The office of financial management shall adjust an institution's allotment as necessary to enforce the restrictions imposed by this section.

(7) The office of financial management shall by November 1, 1989, develop an employee classification system for the purpose of allocating the appropriations in this act for higher education salary increases. In developing the classification system, the office of financial management shall consult with the institutions of higher education, the senate committee on ways

and means, and the house of representatives committee on appropriations. The classification system shall be consistent among the institutions and shall provide for uniform application of each employee classification, including instructional and research faculty, academic and administrative deans, department chairpersons, exempt and classified staff, presidents, chancellors, vice-presidents, librarians, and counselors. An institution of higher education shall not grant any salary increase under this section unless the office of financial management determines that the increase is consistent with the classification system required by this subsection. It is the intent of the legislature to adjust the appropriations in this act during the 1990 legislative session to reflect the classification system; the appropriation adjustments shall result in a total expenditure level that is less than or equal to the total amount allocated for salary increases under this section to all institutions. The classification system shall be used solely for the purpose of salary increase allocations under this section and shall not affect any employee rights under the state higher education personnel law, chapter 28B.16 RCW.

\*Sec. 601 was partially vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 602. FOR THE STATE BOARD FOR COMMUNITY COLLEGE EDUCATION**

General Fund Appropriation . . . . . \$ 629,466,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The state board for community college education shall establish compensation guidelines for salary levels of the top administrative position at community colleges. The guidelines should take into account criteria such as institutional size, level of responsibility, experience, and longevity.

*(2) Community college districts having a higher than average proportion of part-time faculty may use up to five percent of instructional support enhancement money to convert existing part-time faculty to full-time status. Community college districts having a lower than average proportion of part-time faculty shall not use instructional support enhancement money to convert existing part-time faculty to full-time status.*

(3) The enrollment increases funded by this appropriation shall be distributed among all the community college districts based on the weighted percentage enrollment plan developed by the state board for community college education, and contained in the legislative budget notes.

(4) At least \$400,000 shall be spent on assessment of student outcomes. The institutions shall strive to improve the quality of instruction in areas such as instructor contact time and student writing requirements.

(5) At least \$50,000 shall be spent to fund the comparable worth salary adjustments for employees in community college childcare centers.

(6) \$5,430,000 is provided to enhance the institution's appropriation for equipment.

\*Sec. 602 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 603. FOR THE UNIVERSITY OF WASHINGTON**

General Fund Appropriation . . . . .	\$	613,671,000
Medical Aid Fund Appropriation . . . . .	\$	3,518,000
Accident Fund Appropriation . . . . .	\$	3,517,000
Death Investigations Account Appropriation . . . . .	\$	957,000
Total Appropriation . . . . .	\$	621,663,000

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

(1) At least \$6,620,000 of the general fund appropriation shall be spent to begin off-campus upper-division course offerings in Tacoma and Bothell.

(2) The University of Washington shall establish an evening degree credit program. \$391,000 of the general fund appropriation is provided to facilitate this purpose.

(3) At least \$400,000 shall be spent on assessment of student outcomes. The institution shall strive to improve the quality of instruction in areas such as professor contact time and student writing requirements.

(4) \$4,587,000 is provided to enhance the institution's appropriation for equipment.

**NEW SECTION. Sec. 604. FOR WASHINGTON STATE UNIVERSITY**

General Fund Appropriation . . . . .	\$	337,969,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) At least \$2,012,000 shall be spent to expand upper-division and graduate off-campus course offerings.

(2) Washington State University shall continue funding three faculty positions associated with Tri-Cities diversification.

(3) At least \$400,000 shall be spent on assessment of student outcomes. The institution shall strive to improve the quality of instruction in areas such as professor contact time and student writing requirements.

(4) \$1,237,000 is provided to enhance the institution's appropriation for equipment.

(5) \$300,000 is provided solely for implementing programs for gender equity in athletics.

**NEW SECTION. Sec. 605. FOR EASTERN WASHINGTON UNIVERSITY**

General Fund Appropriation . . . . .	\$	92,656,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) It is intended that enrollment increases be directed to resident students and that priority be given to students seeking entrance to upper-division courses with the intent to complete a bachelor's degree.

(2) At least \$400,000 shall be spent on assessment of student outcomes. The institution shall strive to improve the quality of instruction in areas such as professor contact time and student writing requirements.

(3) \$516,000 is provided to enhance the institution's appropriation for equipment.

NEW SECTION. Sec. 606. FOR CENTRAL WASHINGTON UNIVERSITY

General Fund Appropriation . . . . . \$ 78,366,000

The appropriation in this section is subject to the following conditions and limitations:

(1) It is intended that enrollment increases be directed to resident students and that priority be given to students seeking entrance to upper-division courses with the intent to complete a bachelor's degree.

(2) At least \$599,000 shall be spent to provide upper-division courses in Yakima.

(3) At least \$400,000 shall be spent on assessment of student outcomes. The institution shall strive to improve the quality of instruction in areas such as professor contact time and student writing requirements.

(4) \$316,000 is provided to enhance the institution's appropriation for equipment.

NEW SECTION. Sec. 607. FOR THE EVERGREEN STATE COLLEGE

General Fund Appropriation . . . . . \$ 48,375,000

The appropriation in this section is subject to the following conditions and limitations:

(1) It is intended that enrollment increases be directed to resident students and that priority be given to students seeking entrance to upper-division courses with the intent to complete a bachelor's degree.

(2) At least \$400,000 shall be spent on assessment of student outcomes. The institution shall strive to improve the quality of instruction in areas such as professor contact time and student writing requirements.

(3) \$377,000 is provided to enhance the institution's appropriation for equipment.

NEW SECTION. Sec. 608. FOR WESTERN WASHINGTON UNIVERSITY

General Fund Appropriation . . . . . \$ 102,936,000

The appropriation in this section is subject to the following conditions and limitations:

(1) It is intended that enrollment increases be directed to resident students and that priority be given to students seeking entrance to upper-division courses with the intent to complete a bachelor's degree.

(2) At least \$400,000 shall be spent on assessment of student outcomes. The institution shall strive to improve the quality of instruction in areas such as professor contact time and student writing requirements.

(3) \$805,000 is provided to enhance the institution's appropriation for equipment.

**NEW SECTION. Sec. 609. FOR THE COMPACT FOR EDUCATION**

General Fund Appropriation . . . . .	\$	92,000
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**\*NEW SECTION. Sec. 610. FOR THE HIGHER EDUCATION COORDINATING BOARD**

General Fund Appropriation—State . . . . .	\$	58,248,000
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General Fund Appropriation—Federal . . . . .	\$	4,152,000
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State Educational Grant Account Appropriation . . . . .	\$	40,000
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Total Appropriation . . . . .	\$	62,440,000
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The appropriations in this section are subject to the following conditions and limitations:

(1) \$53,943,000 of the general fund—state appropriation is provided solely for student financial aid, including administrative costs. Of that amount:

(a) At least \$18,100,000 shall be expended for work study grants;

(b) \$31,609,000 of the general fund—state appropriation is provided solely for the state need grant program. The need grant award to any individual shall not exceed the amount received by a student attending a state research university;

(c) \$250,000 is provided solely for additions to the conditional scholarship program for nurses;

(d) \$300,000 is provided solely for additions to the conditional scholarship program for teachers;

(e) \$500,000 is provided solely for the educational opportunity grant program;

(f) \$100,000 is provided solely to make matching awards of \$2,000 to community scholarship foundations that:

(i) After the effective date of this act, begin a higher education scholarship program and raise at least \$2,000 for the program;

(ii) Obtain and maintain tax-exempt status under section 501(c)(3) of the internal revenue code for the fund supporting the scholarship program; and

(iii) Have not previously received a matching award from the amount provided in this subsection.

**(2) \$50,000 is provided solely for the establishment of a Washington state writing project intended to enhance the skills of writing teachers in grades kindergarten through twelfth grade in Washington public schools.**

\*Sec. 610 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 611. FOR THE WASHINGTON INSTITUTE OF APPLIED TECHNOLOGY**

General Fund Appropriation . . . . . \$ 1,500,000

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for fiscal year 1990.

**NEW SECTION. Sec. 612. FOR THE 1991 APPLIED TECHNOLOGY RESERVE ACCOUNT.**

(1) \$1,500,000 is appropriated from the general fund to the 1991 applied technology reserve account, which account is hereby created in the state treasury. This appropriation represents the fiscal year 1991 costs to operate the Washington institute of applied technology. All moneys in the 1991 applied technology reserve account not appropriated by law by June 30, 1990, shall revert to the general fund.

(2) The state board for vocational education within the governor's office shall conduct a study of the Washington institute of applied technology. The study shall be conducted in conjunction with the Seattle school district, Seattle community college, the superintendent of public instruction, and the office of financial management. The study shall examine the institute's role in the marketplace, its effectiveness in accomplishing its purpose, and alternative methods of operation. The results of the study, together with any recommendations, shall be submitted to the senate committee on ways and means and the house of representatives committee on appropriations by December 1, 1989.

**NEW SECTION. Sec. 613. FOR THE HIGHER EDUCATION PERSONNEL BOARD**

Higher Education Personnel Board Service  
Fund Appropriation . . . . . \$ 2,083,000

The appropriation in this section is subject to the following conditions and limitations: \$50,000 of the appropriation is provided solely for a 2.5 percent across-the-board salary increase effective January 1, 1990, and an additional 6.0 percent across-the-board salary increase effective January 1, 1991, for staff of the higher education personnel board.

**NEW SECTION. Sec. 614. FOR WASHINGTON STATE LIBRARY**

General Fund Appropriation—State . . . . . \$ 11,013,000  
General Fund Appropriation—Federal . . . . . \$ 4,620,000

General Fund Appropriation—Private/Local . . . . .	\$	112,000
Western Library Network Computer System		
Revolving Fund Appropriation—		
Private/Local . . . . .	\$	14,073,000
Total Appropriation . . . . .	\$	29,818,000

The appropriations in this section are subject to the following conditions and limitations: \$2,331,000 of the general fund—state and the general fund—federal appropriations are provided solely for a contract with the Seattle public library for library services for the blind and physically handicapped.

**NEW SECTION. Sec. 615. FOR THE WASHINGTON STATE ARTS COMMISSION**

General Fund Appropriation—State . . . . .	\$	4,557,000
General Fund Appropriation—Federal . . . . .	\$	772,000
Total Appropriation . . . . .	\$	5,329,000

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

- (1) \$1,084,000 of the general fund—state appropriation is provided solely for grants of institutional support to major arts organizations.
- (2) \$183,000 of the general fund—state appropriation is provided solely for grants for artists participating in the artist-in-residence program.
- (3) The commission shall develop and implement a plan to reduce administrative expenditures below twenty-five percent of total expenditures by fiscal year 1991. The commission shall submit a progress report on its plan to the appropriations committee of the house of representatives and the ways and means committee of the senate prior to January 8, 1990.

**NEW SECTION. Sec. 616. FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

General Fund Appropriation . . . . .	\$	1,095,000
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The appropriation in this section is subject to the following conditions and limitations: \$241,000 of the general fund appropriation is provided solely for planning and implementation of the maritime voyages exhibition.

**NEW SECTION. Sec. 617. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY**

General Fund Appropriation—State . . . . .	\$	748,000
General Fund Appropriation—Federal . . . . .	\$	126,000
Total Appropriation . . . . .	\$	874,000

**NEW SECTION. Sec. 618. FOR THE STATE CAPITOL HISTORICAL ASSOCIATION**

General Fund Appropriation . . . . .	\$	873,000
State Capitol Historical Association Museum		
Account Appropriation . . . . .	\$	119,000



Total Appropriation . . . . . \$ 992,000

The appropriations in this section are subject to the following conditions and limitations: \$100,000 of the general fund appropriation is provided solely for the continuation of a technical assistance program for local heritage organizations.

**PART VII  
SPECIAL APPROPRIATIONS**

**NEW SECTION. Sec. 701. FOR THE STATE TREASURER—  
STATE REVENUES FOR DISTRIBUTION**

General Fund Appropriation for fire insurance premiums tax distribution . . . . .	\$	5,239,000
General Fund Appropriation for public utility district excise tax distribution . . . . .	\$	22,854,000
General Fund Appropriation for prosecuting attorneys' salaries . . . . .	\$	2,277,000
General Fund Appropriation for motor vehicle excise tax distribution . . . . .	\$	68,719,000
General Fund Appropriation for local mass transit assistance. . . . .	\$	208,213,000
General Fund Appropriation for camper and travel trailer excise tax distribution . . . . .	\$	2,600,000
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution . . . . .	\$	80,000
Liquor Excise Tax Fund Appropriation for liquor excise tax distribution . . . . .	\$	18,667,000
Motor Vehicle Fund Appropriation for motor vehicle fuel tax and overload penalties distribution . . . . .	\$	290,025,000
Liquor Revolving Fund Appropriation for liquor profits distribution . . . . .	\$	41,250,000
Timber Tax Distribution Account Appropriation for distribution to "Timber" counties . . . . .	\$	57,544,000
Municipal Sales and Use Tax Equalization Account Appropriation . . . . .	\$	37,002,000
County Sales and Use Tax Equalization Account Appropriation . . . . .	\$	12,695,000
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies . . . . .	\$	636,000
Total Appropriation . . . . .	\$	767,801,000

**NEW SECTION. Sec. 702. FOR THE STATE TREASURER—  
FEDERAL REVENUES FOR DISTRIBUTION**

Forest Reserve Fund Appropriation for federal forest reserve fund distribution . . . . .	\$	70,000,000
General Fund Appropriation for federal flood control funds distribution . . . . .	\$	70,000
General Fund Appropriation for federal grazing fees distribution . . . . .	\$	50,000
Geothermal Account Appropriation—Federal . . . . .	\$	20,000
General Fund Appropriation for distribution of federal funds to counties in conformance with Public Law 97-99 . . . . .	\$	720,000
Total Appropriation . . . . .	\$	70,860,000

**NEW SECTION. Sec. 703. FOR THE STATE TREASURER—  
BOND RETIREMENT AND INTEREST, INCLUDING ONGOING  
BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT SUBJECT TO THE STATUTORY DEBT LIMIT**

Fisheries Bond Redemption Fund 1977 Appropriation . . . . .	\$	1,367,200
Water Pollution Control Facilities Bond Redemption Fund 1967 Appropriation . . . . .	\$	4,117,000
State Building and Higher Education Construction Bond Redemption Fund 1967 Appropriation . . . . .	\$	8,034,700
State Building (Expo 74) Bond Redemption Fund 1973A Appropriation . . . . .	\$	375,900
State Building Bond Redemption Fund 1973 Appropriation . . . . .	\$	3,796,000
State Higher Education Bond Redemption Fund 1973 Appropriation . . . . .	\$	4,379,300
State Building Authority Bond Redemption Fund Appropriation . . . . .	\$	9,401,000
Community College Capital Improvement Bond Redemption Fund 1972 Appropriation . . . . .	\$	7,514,400
State Higher Education Bond Redemption Fund 1974 Appropriation . . . . .	\$	1,182,900
Waste Disposal Facilities Bond Redemption Fund Appropriation . . . . .	\$	64,569,200
Water Supply Facilities Bond Redemption Fund Appropriation . . . . .	\$	11,126,800
Recreation Improvements Bond Redemption Fund Appropriation . . . . .	\$	5,996,200
Social and Health Services Facilities 1972 Bond Redemption Fund Appropriation . . . . .	\$	3,714,100

Outdoor Recreation Bond Redemption Fund		
1967 Appropriation .....	\$	6,298,000
Indian Cultural Center Construction Bond Re-		
demption Fund 1976 Appropriation .....	\$	124,200
Fisheries Bond Redemption Fund 1976 Appo-		
riation .....	\$	762,600
Higher Education Bond Redemption Fund 1975		
Appropriation .....	\$	2,167,100
State Building Bond Retirement Fund 1975		
Appropriation .....	\$	421,900
Social and Health Services Bond Redemption		
Fund 1976 Appropriation .....	\$	9,474,800
Emergency Water Projects Bond Retirement		
Fund 1977 Appropriation .....	\$	2,614,000
Higher Education Bond Redemption Fund 1977		
Appropriation .....	\$	19,264,000
Salmon Enhancement Bond Redemption Fund		
1977 Appropriation .....	\$	4,328,700
Fire Service Training Center Bond Retirement		
Fund 1977 Appropriation .....	\$	850,500
State General Obligation Bond Retirement		
Bond 1979 Appropriation .....	\$	339,761,200
Total Appropriation .....	\$	511,641,700

**NEW SECTION. Sec. 704. FOR THE STATE TREASURER—  
BOND RETIREMENT AND INTEREST, INCLUDING ONGOING  
BOND REGISTRATION AND TRANSFER CHARGES: FOR GEN-  
ERAL OBLIGATION DEBT TO BE REIMBURSED BY ENTERPRISE  
ACTIVITIES**

State Convention and Trade Center Ac-		
count Appropriation .....	\$	29,443,500
University of Washington Hospital Bond Re-		
retirement Fund 1975 Appropriation .....	\$	1,171,600
Office-Laboratory Facilities Bond Redemption		
Fund Appropriation .....	\$	273,700
Higher Education Bond Retirement Fund 1979		
Appropriation .....	\$	2,556,600
State General Obligation Bond Retirement		
Fund 1979 Appropriation .....	\$	9,249,000
Spokane River Toll Bridge Revolving Account		
Appropriation .....	\$	882,100
Total Appropriation .....	\$	43,576,500

**NEW SECTION. Sec. 705. FOR THE STATE TREASURER—  
BOND RETIREMENT AND INTEREST, INCLUDING ONGOING**

**BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE**

Community College Refunding Bond Retirement Fund 1974 Appropriation .....	\$	9,756,200
Community College Capital Construction Bond Redemption Fund 1975, 1976, 1977 Appropriation .....	\$	10,773,500
Higher Education Bond Retirement Fund 1979 Appropriation .....	\$	10,268,800
Washington State University Bond Redemption Fund 1977 Appropriation .....	\$	539,200
Higher Education Refunding Bond Redemption Fund 1977 Appropriation .....	\$	7,801,200
State General Obligation Bond Retirement Fund 1979 Appropriation .....	\$	29,346,300
Total Appropriation .....	\$	68,485,200

**NEW SECTION. Sec. 706. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, INCLUDING ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT TO BE PAID BY MOTOR VEHICLE FUND REVENUE**

Highway Bond Retirement Fund Appropriation .....	\$	195,489,500
Ferry Bond Retirement Fund 1977 Appropriation .....	\$	26,531,100
Total Appropriation .....	\$	222,020,600

**NEW SECTION. Sec. 707. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, INCLUDING ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT TO BE PAID BY STATUTORILY PRESCRIBED REVENUE**

Common School Building Bond Redemption Fund 1967 Appropriation .....	\$	6,906,000
State Building Bond Redemption Fund 1967 Appropriation .....	\$	655,600
State Building and Parking Bond Redemption Fund 1969 Appropriation .....	\$	2,450,900
Total Appropriation this Section .....	\$	10,012,500
Total Bond Retirement and Interest Appropriations, Sections 703 through 707 .....	\$	855,736,200

**NEW SECTION. Sec. 708. FOR THE GOVERNOR—EMERGENCY FUND**

General Fund Appropriation .....	\$	2,000,000
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The appropriation in this section is for the governor's emergency fund to be allocated for the carrying out of the critically necessary work of any agency.

**\*NEW SECTION. Sec. 709. FOR THE GOVERNOR—INDIAN CLAIMS**

General Fund Appropriation . . . . .	\$ 4,925,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation is provided solely for implementation of the Puyallup tribal settlement agreement, as provided in Substitute House Bill No. 1788 and Engrossed Senate Bill No. 5734. If neither bill is enacted by June 30, 1989, this appropriation shall lapse.

(2) No portion of this appropriation may be spent, released, transferred, or placed into escrow until all of the following have occurred:

(a) The United States Congress has passed (and the President of the United States has signed, if necessary) legislation providing approximately \$77,250,000 to the Puyallup Indian Tribe (the "tribe") as described in the "Agreement between the Puyallup Tribe of Indians, local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners," dated August 27, 1988 (the "agreement").

(b) The local governments of Pierce county, the city of Tacoma, the city of Fife, the city of Puyallup, and the Port of Tacoma have among them agreed to pay approximately \$52,134,000 to the tribe according to the terms of the agreement.

***(3) The legislature recognizes the need for consistency and finality in property settlement agreements in order for economic expansion to benefit the community. The attorney general shall appear for and represent individual owners of owner-occupied residential real estate before the state and federal courts in all cases in which an individual tribal member of a tribe signatory to the agreement has instituted an action or proceeding raising a claim of Indian title for land located within the properties comprising the agreement.***

\*Sec. 709 was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 710. FOR THE GOVERNOR—TORT DEFENSE SERVICES**

General Fund Appropriation . . . . .	\$ 1,500,000
Special Fund Agency Tort Defense Services	
Revolving Fund Appropriation . . . . .	\$ 1,292,000
Total Appropriation . . . . .	\$ 2,792,000

The appropriations in this section are subject to the following conditions and limitations: To facilitate payment of tort defense services from special funds, the state treasurer is directed to transfer sufficient moneys

from each special fund to the special fund tort defense services revolving fund, hereby created, in accordance with schedules provided by the office of financial management. The governor shall distribute the moneys appropriated in this section to agencies to pay for tort defense services.

**NEW SECTION. Sec. 711. DEPARTMENT OF PUBLIC HEALTH—TRANSITION**

General Fund Appropriation . . . . . \$ 1,000,000

The appropriation in this section is subject to the following conditions and limitations: If a department of public health or a department of health is not established by law by June 30, 1989, this appropriation shall lapse.

**NEW SECTION. Sec. 712. FOR BELATED CLAIMS**

(1) There is appropriated to the office of financial management for payment of supplies and services furnished in previous biennia, from the General Fund . . . . . \$ 1,140,000

(2) 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 from the effective date of this act to June 30, 1991, except as otherwise noted.

To reimburse the general fund for expenditures from belated claims appropriations to be disbursed on vouchers approved by the office of financial management:

Medical Disciplinary Account . . . . .	\$ 520
Institutional Impact Account . . . . .	\$ 26,153
ORV (Off-Road-Vehicle) Account . . . . .	\$ 23
Hospital Commission Account . . . . .	\$ 15,224
Centennial Commission Account . . . . .	\$ 940
Public Safety and Education Account . . . . .	\$ 1151
Health Professions Account . . . . .	\$ 734
Forest Development Account . . . . .	\$ 6,122
Real Estate Commission Account . . . . .	\$ 1,614
Reclamation Revolving Account . . . . .	\$ 103
Landowner Contingency Forest Fire Suppres- sion Account . . . . .	\$ 600
Capitol Building Construction Account . . . . .	\$ 40,251
Resource Management Cost Account . . . . .	\$ 9,295
Litter Control Account . . . . .	\$ 34,305
State Building Construction Account . . . . .	\$ 35
Outdoor Recreation Account . . . . .	\$ 1,958
Local Governance Study Commission Account . . . . .	\$ 42
Grade Crossing Protective Fund . . . . .	\$ 1,029
State Patrol Highway Account . . . . .	\$ 25,745
Motorcycle Safety Education Fund . . . . .	\$ 266
Fire Service Training Account . . . . .	\$ 447

Seed Fund .....	\$	3,023
Electrical License Fund .....	\$	724
State Wildlife Fund .....	\$	20,500
Highway Safety Fund .....	\$	7,774
Motor Vehicle Fund .....	\$	14,046
Puget Sound Ferry Operations Account .....	\$	12
Public Service Revolving Fund .....	\$	6,042
Insurance Commissioner's Regulatory Account .....	\$	1,910
State Treasurer's Service Fund .....	\$	1,053
Legal Services Revolving Fund .....	\$	2,557
Municipal Revolving Fund .....	\$	5,671
Department of Personnel Service Fund .....	\$	6,472
State Auditing Services Revolving Fund .....	\$	1,240
Liquor Revolving Fund .....	\$	15,445
Department of Retirement Systems Expense Fund .....	\$	2,982
Accident Fund .....	\$	62,964
Medical Aid Fund .....	\$	57,948
Western Library Network Computer System Revolving Fund .....	\$	460
Pressure Systems Safety Fund .....	\$	32

**NEW SECTION. Sec. 713. FOR SUNDRY CLAIMS**

The following sums, or so much thereof as are necessary, are appropriated from the general fund, unless otherwise indicated, for the payment of court judgments and for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of the department of general administration, except as otherwise provided, as follows:

- (1) For transfer to the Tort Claims Revolving Fund to reimburse the Tort Claims Revolving Fund for payments made to Lori Ann Newman per order of Pierce County Superior Court, Cause No. 85-2-06030-5 .....
- (2) Juan Manuel Palomarez, in settlement of all claims for expenses per order of Yakima County Superior Court, Cause No. 86-1-01381-0, pursuant to RCW 9.01.200, including interest .....
- (3) Michael Ringo, in settlement of all claims for expenses per order of Kitsap County Superior Court, Cause No. 87-1-00115-4, pursuant to RCW 9.01.200, including interest .....

(4) Lee Arthur Jackson, in settlement of all claims for expenses per order of Spokane County Superior Court, Cause No. 87-1-00516-1, pursuant to RCW 9.01.200, including interest . . . . .	\$	11,946.92
(5) Thomas A. Simmons, in settlement of all claims for expenses per order of Airport District Court, King County, Cause No. POS 94143, pursuant to RCW 9.01.200, including interest . . . . .	\$	2,781.87
(6) Daniel L. Boyer, in settlement of all claims for expenses per order of Wahkiakum County Superior Court, Cause No. CR-296, pursuant to RCW 9.01.200, including interest . . . . .	\$	4,264.05
(7) Alex Rooney, in settlement of all claims for expenses per order of Mason County Superior Court, Cause No. 87-1-00074-5, pursuant to RCW 9.01.200, including interest . . . . .	\$	31,687.80
(8) Kevin Keniston, in settlement of all claims for expenses per order of Airport District Court, King County, Cause No. 85-188358, pursuant to RCW 9.01.200, including interest . . . . .	\$	2,862.77
(9) Richard Woods, in settlement of all claims for expenses per order of Pierce County District Court No. 1, Cause No. 88-661977-9, pursuant to RCW 9.01.200, including interest . . . . .	\$	3,264.21
(10) Donald L. Bakko, in settlement of all claims for expenses per order of Cowlitz County District Court, Cause No. 13818/88-2168, pursuant to RCW 9.01-200, including interest . . . . .	\$	3,353.09
(11) Curtis A. Fifield, in settlement of all claims for expenses per order of Aukeen District Court, King County, Cause No. K-91052, pursuant to RCW 9.01.200, including interest . . . . .	\$	4,782.20
(12) Richard J. Giakovmis, in settlement of all claims for expenses per order of Grant County Superior Court, Cause No. 86-2-00119-7 . . . . .	\$	6,437.50



(13) Edward Frank Simpson, in settlement of all claims for expenses per order of Spokane County Superior Court, Cause No. 88-1-00710-2, pursuant to RCW 9.01.200, including interest . . . . .	\$	12,454.06
(14) Lisa Marie Jones, payment of judgment against The Evergreen State College, per order of Thurston County Superior Court, Cause No. 87-2-01331-3 . . . . .	\$	22,900.00
(15) Mary F. Simmerer Lewis and Timothy P. Lewis, payment of judgment against The Evergreen State College, per order of Thurston County Superior Court, Cause No. 87-2-01331-3 . . . . .	\$	6,000.00
(16) Quigg Bros.-McDonald, Inc., payment based upon consent decree against Bekaert Steel Wire, per order of King County Superior Court, Cause No. 87-2-10275-1 and Stipulation of Settlement No. C88-289TB entered in the U.S. District Court, Western District of Washington . . . . .	\$	8,571.00
(17) Clyde Waverly Fondern, in settlement of all claims for expenses per order of Klickitat County Superior Court, Cause No. C-2100, pursuant to RCW 9.01.200, including interest . . . . .	\$	128,601.04
(18) Compensation to the following for all pending claims of damage to crops by game: PROVIDED, That payment shall be made from the Wildlife Fund:		
(a) Phyllis L. Thompson, on behalf of Hidden Valley Nursery . . . . .	\$	3,587.92
(b) Harold J. Weber . . . . .	\$	6,145.76
(c) Joe C. Grentz . . . . .	\$	11,591.75

**NEW SECTION. Sec. 714. FOR THE GOVERNOR—COMPENSATION—SALARY AND INSURANCE BENEFITS**

General Fund Appropriation—State . . . . .	\$	65,080,000
General Fund Appropriation—Federal . . . . .	\$	20,015,000
Special Fund Salary and Insurance Contribution		
Increase Revolving Fund Appropriation . . . . .	\$	47,638,000
Total Appropriation . . . . .	\$	132,733,000

The appropriations in this section, or so much thereof as may be necessary, shall be expended solely for the purposes designated in this section and are subject to the conditions and limitations specified in this section.

(1) \$40,060,000 of the general fund—state appropriation, \$13,311,000 of the general fund—federal appropriation, and \$31,888,000 of the special fund salary and insurance contribution increase revolving fund appropriation are provided for a 2.5 percent across-the-board salary increase effective January 1, 1990, and an additional 6.0 percent across-the-board salary increase effective January 1, 1991, for all classified and exempt employees under the state personnel board (SPB), and commissioned officers of the Washington state patrol. These increases shall be implemented in compliance and conformity with all requirements of the comparable worth agreement ratified by 1986 Senate Concurrent Resolution No. 126, where applicable.

(2) The governor shall allocate to state agencies from the general fund—state appropriation \$3,327,000 for fiscal year 1990 and \$6,654,000 for fiscal year 1991, from the general fund—federal appropriation \$513,000 for fiscal year 1990 and \$1,027,000 for fiscal year 1991, and from the special fund salary and insurance contribution increase revolving fund appropriation \$2,587,000 for fiscal year 1990 and \$5,173,000 for fiscal year 1991 to fulfill the 1989–91 obligations of the comparable worth agreement ratified by 1986 Senate Concurrent Resolution No. 126.

(3)(a) The monthly contributions for insurance benefit premiums shall not exceed \$239.86 per eligible employee.

(b) The monthly contributions for the margin in the self-insured medical and dental plans and for the operating costs of the health care authority shall not exceed \$16.21 per eligible employee.

(c) Any returns of funds to the health care authority resulting from favorable claims experienced during the 1989–91 biennium shall be held in reserve within the state employees insurance account until appropriated by the legislature.

(d) Funds provided under this section, including funds resulting from dividends or refunds, shall not be used to increase employee insurance benefits over the level of services provided on the effective date of this act. Contributions by any county, municipal, or other political subdivision to which coverage is extended after the effective date of this act shall not receive the benefit of any surplus funds attributable to premiums paid prior to the date on which coverage is extended.

(4) To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special fund salary and insurance contribution increase revolving fund in accordance with schedules provided by the office of financial management.

(5) In calculating individual agency allocations for this section, the office of financial management shall calculate the allocation of each subsection separately. The separate allocations for each agency may be combined under a single appropriation code for improved efficiency. The office of financial management shall transmit a list of agency allocations by subsection to the senate committee on ways and means and the house of representatives committee on appropriations.

(6) No salary increase may be paid under this section to any person whose salary has been Y-rated pursuant to rules adopted by the state personnel board.

(7) Moneys from the appropriation in this section may be expended for salary and benefit increases for ferry workers in accordance with the 1989-91 transportation appropriations act.

**NEW SECTION. Sec. 715. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—CONTRIBUTIONS TO RETIREMENT SYSTEMS**

The appropriations in this section are subject to the following conditions and limitations: The appropriations shall be made on a quarterly basis.

(1) There is appropriated for state contributions to the law enforcement officers' and fire fighters' retirement system:

	FY 1990	FY 1991
General Fund Appropriation . . . . .	\$ 63,000,000	62,167,000
Total Appropriation . . . . .	\$125,167,000	

The appropriation in this subsection is subject to the following conditions and limitations: If Substitute Senate Bill No. 5418 is enacted before June 30, 1989, the FY 1991 appropriation in this subsection shall lapse.

(2) There is appropriated for contributions to the judicial retirement system:

	FY 1990	FY 1991
General Fund Appropriation . . . . .	\$ 1,100,000	1,100,000
Total Appropriation . . . . .	\$2,200,000	

(3) There is appropriated for contributions to the judges retirement system:

	FY 1990	FY 1991
General Fund Appropriation . . . . .	\$ 250,000	250,000
Total Appropriation . . . . .	\$500,000	

(4) If Substitute Senate Bill No. 5418 is enacted by June 30, 1989, the initial employer trust fund contribution rate for all employers of members of the retirement system governed by chapter 41.32 RCW (the teachers' retirement system) shall be set at 11.34% of earnable compensation, beginning July 1, 1989, and 12.60% of earnable compensation, beginning

September 1, 1990. If Substitute Senate Bill No. 5418 is not enacted by June 30, 1989, the initial employer trust fund contribution rate for all employers of members of the retirement system governed by chapter 41.32 RCW (the teachers' retirement system) shall be set at 11.34% of earnable compensation, beginning July 1, 1989.

(5) If Substitute Senate Bill No. 5418 is enacted by June 30, 1989, the initial employer trust fund contribution rate for all employers of members of the retirement system governed by chapter 41.40 RCW (the public employees' retirement system) shall be set at 5.99% of compensation earnable, beginning July 1, 1989, and 7.1% of earnable compensation, beginning September 1, 1990. If Substitute Senate Bill No. 5418 is not enacted by June 30, 1989, the initial employer trust fund contribution rate for all employers of members of the retirement system governed by chapter 41.40 RCW (the public employees' retirement system) shall be set at 5.99% of compensation earnable, beginning July 1, 1989.

(6) The employer rate for all employers of members of the retirement system governed by chapter 43.43 RCW (the state patrol retirement system) shall be set at 19.88% of compensation for the 1989-91 biennium.

**NEW SECTION. Sec. 716. FOR THE OFFICE OF FINANCIAL MANAGEMENT—CONTRIBUTIONS TO RETIREMENT SYSTEMS**

	FY 1990	FY 1991
General Fund—State Appropriation . . . . \$	2,334,000	9,283,000
General Fund—Federal Appropriation . . \$	480,000	2,012,000
Retirement Contribution Increase Revolving Fund Appropriation . . . . . \$	1,954,000	9,494,000
Total Appropriation . . . . .	\$25,557,000	

The appropriation in this section is subject to the following conditions and limitations:

(1) \$231,000 of the general fund—state appropriation, or as much thereof as may be necessary, shall be distributed to state agencies to increase state contributions to the public employees' retirement system.

(2) \$4,108,000 of the general fund—state appropriation, \$948,000 of the general fund—federal appropriation, and \$4,349,000 of the retirement contribution increase revolving fund appropriation, or as much thereof as may be necessary, shall be distributed to state agencies to increase state contributions to the public employees' retirement system resulting from Engrossed Substitute House Bill No. 1322. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(3) \$6,544,000 of the general fund—state appropriation, \$1,486,000 of the general fund—federal appropriation, and \$7,157,000 of the retirement contribution increase revolving fund appropriation, or as much thereof as may be necessary, shall be distributed to state agencies to increase state

contributions to the public employees' retirement system resulting from Engrossed Substitute Senate Bill No. 5418. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(4) \$343,000, or as much as may be necessary, shall be distributed to state agencies to increase state contributions to the teachers' retirement fund resulting from Engrossed Substitute House Bill No. 1322. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

(5) \$391,000, or as much thereof as may be necessary, shall be distributed to state agencies to increase state contributions to the teachers' retirement fund resulting from Substitute Senate Bill No. 5418. If the bill is not enacted by June 30, 1989, the amount provided in this subsection shall lapse.

**NEW SECTION. Sec. 717. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—TRANSFERS**

General Fund Appropriation: For transfer to the Department of Retirement Systems Expense Fund . . . . .	\$	28,000
Motor Vehicle Fund—State Patrol Highway Account Appropriation: For transfer to the Department of Retirement Systems Expense Fund . . . . .	\$	125,000

**NEW SECTION. Sec. 718. FOR THE STATE TREASURER—TRANSFERS**

General Fund Appropriation: For transfer to the Institutional Impact Account . . . . .	\$	332,536
General Government Special Revenue Fund—State Treasurer's Service Account Appropriation: For transfer to the general fund on or before July 20, 1991, an amount up to \$10,000,000 in excess of the cash requirements in the State Treasurer's Service Account for fiscal year 1992, for credit to the fiscal year in which earned . . . . .	\$	10,000,000
General Fund Appropriation: For transfer to the Natural Resources Fund—Water Quality Account . . . . .	\$	15,378,000
Data Processing Revolving Account: For transfer to the General Fund . . . . .	\$	2,400,000
Public Facilities Construction Loan and Grant Revolving Fund: For transfer to the General Fund . . . . .	\$	3,110,000
Puget Sound Ferry Operations Account: For transfer to the Tort Claims Revolving		

Fund for claims paid on behalf of the department of transportation, Washington state ferry system during the period July 1, 1989, through June 30, 1991 . . . . .	\$	1,353,000
Motor Vehicle Fund: For transfer to the Tort Claims Revolving Fund for claims paid on behalf of the department of transportation and the state patrol during the period July 1, 1989, through June 30, 1991 . . . . .	\$	14,000,000
Resource Cost Management Cost Account: For transfer to the University of Washington Bond Retirement Account . . . . .	\$	15,000,000
Water Quality Account Appropriation: For transfer to the water pollution revolving fund. Transfers shall be made at intervals coinciding with deposits of federal capitalization grant money into the revolving fund. The amounts transferred shall not exceed the match required for each federal deposit . . . . .	\$	15,800,000
Building Code Council Account Appropriation: For transfer to the general fund . . . . .	\$	210,000
General Fund Appropriation, FY 1991: For transfer to the law enforcement officers' and fire fighters' retirement system as provided in Substitute Senate Bill No. 5418. If the bill is not enacted by June 30, 1989, this appropriation shall lapse . . . . .	\$	62,167,000
Conservation Areas Account: For transfer to the Natural Resources Conservation Area Stewardship Account . . . . .	\$	364,000

PART VIII  
MISCELLANEOUS

**NEW SECTION.** Sec. 801. The appropriations contained in this act are maximum expenditure authorizations. Pursuant to RCW 43.88.037, moneys disbursed from the treasury on the basis of formalized loan agreements with other governmental entities shall be treated as loans and are to be recorded as loans receivable and not as expenditures for accounting purposes. To the extent that moneys are disbursed on a loan basis, the corresponding appropriation shall be reduced by the amount of loan moneys disbursed from the treasury during the 1989-91 biennium.

**NEW SECTION.** Sec. 802. Agencies shall comply with the following requirements regarding information systems projects when specifically directed to do so by this act.

(1) The agency shall produce a feasibility study for each information systems project in accordance with published department of information services instructions. In addition to department of information services requirements, the study shall examine and evaluate the costs and benefits of maintaining status quo.

(2) The agency shall produce a project management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. The plan shall include, but is not limited to, the following elements: A description of the problem or opportunity that the information systems project is intended to address; a statement of project objectives and assumptions; definition of phases, tasks, and activities to be accomplished and the estimated cost of each phase; a description of how the agency will facilitate responsibilities of oversight agencies; a description of key decision points in the project life cycle; a description of variance control measures; a definitive schedule that shows the elapsed time estimated to complete the project and when each task is to be started and completed; and a description of resource requirements to accomplish the activities within specified time, cost, and functionality constraints.

(3) A copy of each feasibility study and project management plan shall be provided to the department of information services, the office of financial management, and appropriate legislative committees. Authority to expend any funds for individual information systems projects is conditioned on approval of the relevant feasibility study and project management plan by the department of information services and the office of financial management.

(4) A project status report shall be submitted to the department of information services, the office of financial management, and appropriate legislative committees for each project prior to reaching key decision points identified in the project management plan. Project status reports shall examine and evaluate project management, accomplishments, budget, action to address variances, risk management, cost and benefits analysis, and other aspects critical to completion of a project.

Work shall not commence on any task in a subsequent phase of a project until the status report for the preceding key decision point has been approved by the department of information services and the office of financial management.

(5) If a project review is requested in accordance with department of information services policies, the reviews shall examine and evaluate: System requirements specifications; scope; system architecture; change controls; documentation; user involvement; training; availability and capability of resources; programming languages and techniques; system inputs and outputs; plans for testing, conversion, implementation, and post-implementation; and

other aspects critical to successful construction, integration, and implementation of automated systems. Copies of project review written reports shall be forwarded to the office of financial management and appropriate legislative committees by the agency.

(6) A written post-implementation review report shall be prepared by the agency for each information systems project in accordance with published department of information services instructions. In addition to the information requested pursuant to the department of information services instructions, the post-implementation report shall evaluate the degree to which a project accomplished its major objectives including, but not limited to, a comparison of original cost and benefit estimates to actual costs and benefits achieved. Copies of the post-implementation review report shall be provided to the department of information services, the office of financial management, and appropriate legislative committees.

**NEW SECTION.** Sec. 803. The department of information services will act as lead agency in coordinating video telecommunications services for state agencies. As lead agency, the department shall develop standards and common specifications for leased and purchased telecommunications equipment and assist state agencies in developing a video telecommunications expenditure plan. No agency may spend any portion of any appropriation in this act for new video telecommunication equipment, new video telecommunication transmission, or new video telecommunication programming, or for expanding current video telecommunication systems without first complying with chapter 43.105 RCW, including but not limited to RCW 43.105.041(2), and without first submitting a video telecommunications expenditure plan, in accordance with the policies of the department of information services, for review and assessment by the department of information services under RCW 43.105.052. Prior to any such expenditure by a public school, a video telecommunications expenditure plan shall be approved by the superintendent of public instruction. The office of the superintendent of public instruction shall submit the plans to the department of information services in a form prescribed by the department. The office of the superintendent of public instruction shall coordinate the use of video telecommunications in public schools by providing educational information to local school districts and shall assist local school districts and educational service districts in telecommunications planning and curriculum development. Prior to any such expenditure by a public institution of postsecondary education, a telecommunications expenditure plan shall be approved by the higher education coordinating board. The higher education coordinating board shall coordinate the use of video telecommunications for instruction and instructional support in postsecondary education, including the review and approval of instructional telecommunications course offerings.

**\*NEW SECTION.** Sec. 804. *Prior to submitting any request to the department of personnel for personnel reclassifications or other modifications to*



*any compensation plans or schedules, an agency shall submit to the office of financial management a report describing the fiscal impact of the request and a description of the moneys available to the agency to fund the request. The office of financial management, pursuant to its statutory duties under RCW 43.88.160(1)(c), shall review the report. The results of that review shall be submitted to the requesting agency, the department of personnel, the senate committee on ways and means, and the house of representatives committee on appropriations prior to action on the request by the personnel board or its successor.*

\*Sec. 804 was vetoed, see message at end of chapter.

***\*NEW SECTION. Sec. 805. Except for the appropriations in sections 107 through 112 of this act, the general fund—state appropriations in this act are subject to the following conditions and limitations: For any agency, the percentage of its total 1989–91 biennial general fund—state appropriations spent for personal service contracts shall not exceed the percentage of its total 1987–89 biennial general fund—state appropriations spent for personal service contracts, unless such excess expenditures are approved in advance by the director of the office of financial management for good cause.***

\*Sec. 805 was vetoed, see message at end of chapter.

***NEW SECTION. Sec. 806. Whenever allocations are made from the governor's emergency fund appropriation to an agency that is financed in whole or in part by other than general fund moneys, the director of financial management may direct the repayment of such allocated amount to the general fund from any balance in the fund or funds which finance the agency. No appropriation shall be necessary to effect such repayment.***

***NEW SECTION. Sec. 807. In addition to the amounts appropriated in this act for revenue for distribution, state contributions to the law enforcement officers' and fire fighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under any proper bond covenant made in accordance with law.***

***NEW SECTION. Sec. 808. In addition to such other appropriations as are made by this act, there is hereby appropriated to the state finance committee from legally available bond proceeds in the applicable construction or building funds and accounts such amounts as are necessary to pay the expenses incurred in the issuance and sale of the subject bonds.***

***\*NEW SECTION. Sec. 809. It is the intent of the legislature that, unless otherwise provided in this act or in the legislative budget notes for the***

*1989-91 biennium, new programs initiated in this act are funded for the entire fiscal biennium. To the extent feasible, funds appropriated for such programs shall be allotted by the office of financial management and expended by the agency at a uniform rate.*

*\*Sec. 809 was vetoed, see message at end of chapter.*

*\*Sec. 810. Section 10, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 505, chapter 405, Laws of 1985 and RCW 9.46.100 are each amended to read as follows:*

*There is hereby created a fund to be known as the "gambling revolving fund" which shall consist of all moneys receivable for licensing, penalties, forfeitures, and all other moneys, income, or revenue received by the commission. The state treasurer shall be custodian of the fund. All moneys received by the commission or any employee thereof, except for change funds and an amount of petty cash as fixed by rule or regulation of the commission, shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the gambling revolving fund. Disbursements from the revolving fund shall be on authorization of the commission or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the gambling revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund. All expenses relative to commission business, including but not limited to salaries and expenses of the director and other commission employees shall be paid from the gambling revolving fund.*

*The ~~((office of financial management may direct the))~~ state treasurer ~~((to loan))~~ shall transfer to the general fund ~~((an amount not to exceed \$1,400,000))~~ two million dollars from the gambling revolving fund for the ~~((1983-85))~~ 1989-91 fiscal biennium.*

*\*Sec. 810 was vetoed, see message at end of chapter.*

*Sec. 811. Section 7, chapter 13, Laws of 1983 1st ex. sess. as amended by section 710, chapter 289, Laws of 1988 and RCW 50.16.070 are each amended to read as follows:*

*The federal interest payment fund shall consist of contributions payable by each employer (except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, employers who are required to make payments in lieu of contributions, and employers paying contributions under RCW 50.44.035) for any calendar quarter which begins on or after January 1, 1984, and for which the commissioner determines that the department will have an outstanding balance of accruing federal interest at the end of the calendar quarter. The amount of wages subject to tax shall be determined according to RCW 50.24.010. The tax rate applicable to wages paid during the calendar quarter shall be determined by the commissioner and shall not exceed fifteen one-hundredths of one percent. In determining whether to require contributions*

as authorized by this section, the commissioner shall consider the current balance in the federal interest payment fund and the projected amount of interest which will be due and payable as of the following September 30. Except as appropriated for the fiscal biennium ending June 30, ~~((1989))~~ 1991, any excess moneys in the federal interest payment fund shall be retained in the fund for future interest payments.

Contributions under this section shall become due and be paid by each employer in accordance with such rules as the commissioner may prescribe and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

In the payment of any contributions under this section, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

**NEW SECTION.** Sec. 812. The sum of sixty million dollars is appropriated for the biennium ending June 30, 1989, from the general fund to the state treasurer for immediate transfer to the budget stabilization account pursuant to RCW 43.88.525 and 43.88.530.

**\*Sec. 813. Section 338, chapter 258, Laws of 1984 as amended by section 27, chapter 57, Laws of 1985 and RCW 43.08.250 are each amended to read as follows:**

***The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, winter recreation parking, and state game programs. All earnings of investments of balances in the public safety and education account shall be credited to the general fund.***

**On July 1, 1989, the state treasurer shall transfer to the general fund from the public safety and education account the sum of two million dollars.**

**\*Sec. 813 was vetoed, see message at end of chapter.**

**NEW SECTION.** Sec. 814. Notwithstanding RCW 43.01.090 the house of representatives, the senate, and the permanent statutory committees shall pay expenses quarterly to the department of general administration facilities and services revolving fund for services rendered by the department for operations, maintenance, and supplies relating to buildings, structures, and facilities used by the legislature for the biennium beginning July 1, 1989.

**NEW SECTION.** Sec. 815. Amounts received by an agency as reimbursements pursuant to RCW 39.34.130 shall be considered as returned

loans of materials supplied or services rendered. Such amounts may be expended as a part of the original appropriation of the fund to which it belongs, without further or additional appropriation, subject to conditions and procedures prescribed by the director of financial management, which shall provide for determination of full costs, disclosure of such reimbursements in the governor's budget, maximum interagency usage of data processing equipment and services, and such restrictions as will promote more economical operations of state government without incurring continuing costs beyond those reimbursed.

NEW SECTION. Sec. 816. The appropriations of moneys and the designation of funds and accounts by this and other acts of the 1989 legislature shall be construed in a manner consistent with legislation enacted by the 1985 and 1987 legislatures to conform state funds and accounts with generally accepted accounting principles.

NEW SECTION. Sec. 817. 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. 818. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the Senate May 10, 1989.

Passed the House May 10, 1989.

Approved by the Governor June 2, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State June 2, 1989.

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

"I am returning herewith, without my approval as to sections 123(1),(3),(4),(5),(6), 125(4), 208(3), 209(1), 213(7),(8), 214(4), 218(6), 221(9),(12),(17),(18), 222(1),(2), 225(2), 230(2), 304(7), 313(4), 316(1), 503(10), 601(2), 602(2), 610(2), 709(3), 804, 805, 809, 810, and 813 of Engrossed Substitute Senate Bill No. 5352, entitled:

"AN ACT Relating to fiscal matters; making appropriations and authorizing expenditures for the operations of state agencies for the fiscal biennium beginning July 1, 1989, and ending June 30, 1991."

My reasons for vetoing these sections are as follows:

Section 123(1), page 12, Motor Vehicle Savings

Subsection 1 requires that \$3,200,000 General Fund-State be placed in reserve as a consequence of savings generated by implementation of the motor vehicle review team report. That report identifies potential savings once implementation of the recommendations occur; however, it does not estimate savings to the General Fund-State, separate from savings to other funds. It is premature to estimate and require reserving of General Fund-State monies until planning for the implementation has been completed and the specific sources of savings are identified along with the type of benefiting budget.

Section 123(3), page 13, Handicapped Program Enrollment

Subsection 3 requires forecasting of K-12 handicapped enrollment by the Office of Financial Management (OFM). OFM has normally provided forecasts of budget drivers deemed critical to budget analysis and development, including forecasting K-12 handicapped enrollment. The agency will continue to do this work within its available resources. Specific direction in the budget is unnecessary.

Section 123(4), page 13, Handicapped Education Study

Subsection 4 reduces flexibility in the Office of Financial Management by requiring it to spend \$200,000 General Fund-State appropriation solely for a study of handicapped education. Removing this provision will allow the agency to more effectively perform a study of handicapped education, consistent with the goal of this provision and provide a report by December 1, 1989.

Section 123(5), page 13, Master License Center Transfer

Subsection 5 provides that if the Master License Center does not have sufficient funds for the 1989-91 biennium, then the Office of Financial Management shall transfer amounts associated with savings in benefiting agencies to Master License Center. This strategy was started in the current biennium and abandoned due to difficulties in estimating savings in the benefiting agencies. There is no reason to believe it would be successful for the 1989-91 biennium.

Section 123(6), page 13, Architectural Cost Specialist

Subsection 6 provides for \$130,000 of the General Fund-State appropriation solely for an architectural or structural cost specialist in the Office of Financial Management for analysis related to the capital budget. While the agency does need this additional analysis, my veto provides the agency with the flexibility to obtain this assistance either by hiring staff or seeking consultation.

Section 125(4), page 14, Salary Survey Process

This subsection provides for legislative staff oversight of the Department of Personnel in the salary survey process. The procedures and methodology of the salary survey are clearly defined in statute. Legislative staff oversight would infringe upon the agency's performance of the salary survey process within these statutory requirements.

Section 208(3), page 32, Consolidated Emergency Assistance Program

This subsection directs the Department of Social and Health Services to eliminate the Consolidated Emergency Assistance Program. The program provides assistance to families and pregnant women in emergent circumstances who are not eligible for any other state programs. The proviso does not supersede existing statutory provisions establishing this program. Additionally, elimination of the program might violate federal requirements under the Federal Catastrophic Care Act of 1988.

Section 209(1), page 32, General Assistance-Unemployable

This subsection requires the Department of Social and Health Services to conserve the monies appropriated for the General Assistance-Unemployable (GA-U) program so that assistance is available throughout the biennium. The requirement has the effect of limiting expenditures to the current forecast.

Forecasts of demand for income assistance programs are revised during budget periods due to changes in predictive variables. An additional factor affecting the GA-U forecast is the revision to the Alcohol and Drug Abuse Treatment and Support Act (ADATSA) in section 212 of this act and in Reengrossed Substitute Senate Bill No. 5897. Clients who will be eligible for ADATSA shelter under the revised standards also will be eligible for GA-U. Although these clients will be eligible for either ADATSA or GA-U, all of the funding was appropriated to the ADATSA program.

If actual demand for assistance exceeds the current forecast during the biennium, then the Department of Social and Health Services would have to apply a ratable reduction to the grant standard. I do not support the imposition of a ratable reduction as the only appropriate method to manage unpredictable caseload growth.

Section 213(7), page 36, Chiropractic Services

Section 213(7) prohibits the Department of Social and Health Services from providing chiropractic services as an optional service under the Medical Assistance program. Since many eligible recipients rely on this type of treatment, to not allow for this service would be inconsistent with the overall objectives of the Medical Assistance program.

Section 213(8), page 35, Medicaid Disproportionate Share

Section 213(8) requires that the Department of Social and Health Services expend 57 percent of the medicaid disproportionate share appropriation in Fiscal Year 1990 and requires continuation of payment advances for Harborview. This language is unduly prescriptive and limits the Department's discretion in employing periodic payment advances.

Section 214(4), page 37, Allocation of Funds to Community Health Clinics

This subsection ensures that each clinic receives at least 95 percent of the amount received in the prior fiscal year. The Department of Social and Health Services is also required to promulgate rules to develop an allocation formula and eligibility criteria for distribution and receipt of program monies. It is my intent that community clinics have a reasonably predictable funding level from this appropriation. However, the Department needs administrative flexibility to contract with clinics which best provide required services, or with clinics in health care access problem areas. I will direct the Department of Social and Health Services to promulgate rules under RCW 34.05 to develop an allocation formula for distributing money to community health clinics and to develop eligibility criteria for receipt of program monies.

Section 218(6), page 41, Foster Care Financial Participation Schedule

This subsection sets a financial participation schedule for foster care support collections. This proviso, if enacted, would be inoperative, as it would not supersede existing statutes which require the use of the current child support schedule as the means test for foster care collections.

Section 221(9), page 44, Bordertowns

Subsection 9 requires the Department of Community Development to report to the Legislature on the distribution and the amount of grants to bordertowns. Funding for the grants is provided in RCW 66.08.195 as a set percentage of the Liquor Control Board excess funds for distribution. The requirement that the amount of the distribution be substantially equal to the current level of expenditure is technically unworkable. The Liquor Control Board cannot control factors such as liquor sales that generate the excess funds to that level of specificity. Neither does the Liquor Control Board have the option to distribute the excess funds in any manner other than that required by statute. I will ask the Department of Community Development to report to the Legislature the amount of excess funds generated by the three-tenths of one percent statutory requirement that are distributed to bordertowns.

Section 221(12), page 45, Lewis County Technological Demonstration Project

Subsection 12 provides \$475,000 to continue the Lewis County Technological Demonstration project. Funding for this project, a mobile vocational training program unit operated in conjunction with the school district, was not included in the Department of Community Development's budget recommendation. Vetoing this subsection provides the agency the flexibility, subject to the Office of Financial Management's allotment control, to adapt its appropriations to address the agency's most serious needs. A portion of these funds will be used to complete the pilot project and address the intent of the original legislation.

Section 221(17), page 45, High Risk Youth

Subsection 17 provides \$400,000 for a pilot demonstration project for high risk youth pursuant to Engrossed Second Substitute Senate Bill No. 5624. Inasmuch as the bill did not pass, removal of the subsection will allow the agency the flexibility to better manage within financial constraints.

Section 221(18), page 45-46, Growth Strategies Commission

Subsection 18 establishes the Growth Strategies Commission in the Department of Community Development, consisting of 17 members appointed by legislative leadership, six of whom are legislative members. I applaud those legislators with the foresight to recognize that growth strategies planning is essential to the state. However, it is inappropriate to use appropriations to an executive agency to support what is essentially a legislative effort. I will, establish a Growth Strategies Commission by executive order that will include legislative representation among its members.

Section 222(1)(2), page 46, Human Rights Commission

Subsections 1 and 2 were included in my executive request budget, and would require the agency to manage federal cases and the use of Attorney General services within specific dollar constraints. These constraints were tied to the budget level that I recommended to the Legislature. The intent of the provisoes was that the agency would use state dollars to requalify for the federal dollars in the next contract negotiations with the federal government. Since the Legislature did not provide appropriations for this purpose, the provisoes are unduly restrictive to the agency trying to manage within severely limited resources.

Section 225(2), page 47, Family and Medical Leave Act

This subsection reduces flexibility in the Department of Labor and Industries' budget by requiring it to expend \$300,000 of the General Fund-State appropriation solely for the Family and Medical Leave Act. Funding for this activity was not added to the Department's budget and must be absorbed in existing programs. The agency plans to support the program implemented in Reengrossed Substitute House Bill No. 1581.

Section 230(2), page 48, Hospital Data Collection

This subsection reduces flexibility in the Department of Health's budget by requiring expenditure of this appropriation solely for hospital data collection. While it is clear that hospital data collection is an important function of the new department, it may be possible to utilize some of the available resources for other essential health-related activities.

Section 304(7), page 55, Department of Ecology

This subsection provides \$1,000,000 from the solid waste management account to assist local governments pursuant to section 7 of Engrossed Substitute House Bill No. 1671. Section 7 of that bill was vetoed, which makes this subsection moot. The veto of this subsection is not intended to forsake its intent. Therefore, I am directing the Department of Ecology to make \$1,000,000 available from the Solid Waste Management Account to local governments for the development of materials to promote waste reduction and recycling.

Section 313(4), page 64, Simpson Hatchery

Subsection 4 provides \$276,000 solely for the maintenance of current operations at the Simpson Hatchery. Problems with water quality in the Chehalis River have greatly reduced the survival level of fry. Funding has previously been provided to assess the problem and, if possible, recommend a solution. The field work for that study will be completed this year and it is anticipated that the results should be complete in late spring of 1990. Until a solution to the problem is recommended, continued operation of the hatchery is not a prudent use of limited public funds. If the water quality problems can be corrected, a portion of this \$276,000 shall be used to implement the solution. Funds not so utilized shall be held in reserve.

Additionally, subsection 5 provides \$1,810,000 for recreational salmon enhancement projects. While I support expenditures for recreational salmon enhancement,

restricting them solely for recreational projects is impractical. Due to the migratory nature of salmon, and the complex management activities of both commercial and recreational fisheries, it is not possible to ensure that recreational anglers are the sole beneficiaries of the enhancement projects.

While I am not vetoing the specific language in subsection 5, I want to assure the Legislature that this funding will be used for recreationally oriented salmon enhancement.

Section 316(1), page 68, Common School Construction

Section 316 allows lands and timber to be taken out of trust status and reserved for wildlife habitat, recreation or conservation. The trust funds would be compensated for the timber, and land of equal value would be traded for the land being removed from the trust.

Subsection 1 requires that the lands and timber purchased by the Department of Natural Resources for purposes of this section shall be based on a finding by the Board of Natural Resources in consultation with the House Appropriations Committee and the Senate Ways and Means Committee. The Board of Natural Resources is responsible for the management of the trusts. Requiring consultation with the legislative fiscal committees is an intrusion on the authority of the Board and hinders its ability to fulfill its trust responsibilities.

In addition, the requirement that the Board "find" that the timber "should not be harvested" may prove an impediment to accomplishing the intent of the section. The Board is charged with maximizing the return to the trust funds as trustees. No criteria is specified as a basis for determining which timber should not be harvested. For the Board to find that trust land timber should not be harvested would be in conflict with the Board's mission to maximize benefit to the trust funds.

Without subsection 1, the Board will be able to determine which timber would be desirable not to harvest at this time, for reasons consistent with its statutory trust obligations. Vetoing this subsection will permit the intent of the section to be accomplished without undue restrictions.

Section 503(10), page 84, School Administrator Salary Increases

This subsection limits salary increases for school administrators next biennium to the percentage increase provided by the Legislature. This restriction would unduly limit the ability of local school directors to address the unique needs of their individual districts. The Legislature has given the school system less state funds for school administrator salary increases. This alone will act to limit salary increases. This subsection also requires annual justification of average salary increases in excess of the increase in state-funded salary increases provided by the Legislature. Currently, school districts report salaries for all staff annually. Repeating local debates to justify salary increases for school administrators would be a meaningless reporting requirement that has no relationship to assessing or improving the quality of education available to our children.

Section 601(2), page 102, Student Quality Standard

Section 601(2) of the bill provides for a target level of spending per full time equivalent student at each of the institutions for the entire biennium. A certain level of flexibility is provided in meeting the target, and penalties are stated for variances greater than 2 percent.

I concur with the established method of controlling amounts spent per student. I also agree with the philosophy of setting penalties to ensure compliance with legislative priorities. However, I cannot agree with the penalty clause, since it is too restrictive in that it applies after the first year of the biennium. The target level of spending is based on the biennial budget and any corresponding penalty should be based on an institution's ability to meet the target over a biennium.

Section 602(2), page 106, Community College Faculty



Section 602(2) of the bill places restrictions on the use of enhancement dollars to convert part-time faculty to full-time status at some of the community colleges. This restriction would unduly limit the flexibility of the colleges to manage faculty hiring practices to accomplish the colleges' goals and objectives.

Section 610(2), page 111, State Writing Project

Section 610(2) of the bill provides that \$50,000 of the Higher Education Coordinating Board's (HECB) budget be used to establish a state writing project for public school teachers.

During a time of continued legislative demands of the HECB for centralized information, reporting, and program review involving our colleges and universities, the Legislature reduced the HECB base budget by \$250,000. Veto of this proviso will help the HECB to continue high priority services to the Legislature and executives.

Section 709(3), page 119, For the Governor—Indian Claims

This subsection imposes a requirement on the Attorney General to appear for, and represent owners of, owner-occupied real estate in all cases in which a member of a tribe signatory to the agreement raises a claim of Indian title for land within the properties comprising the agreement. No precedent exists for Attorney General representation of private citizens related to property matters. Other recourse for legal assistance is available to private citizens, typically through their title insurance. Required involvement of the Attorney General in such matters would create unacceptable difficulty in the Attorney General's management of resources appropriated for the specific statutory responsibilities of the office.

Section 804, page 134, OFM Review of Compensation Plans

This section would require all agencies to route through the Office of Financial Management (OFM) any request to the Department of Personnel for reclassification or modifications of any compensation plans or schedules prior to submittal to the State Personnel Board for action. While I agree with the intent of this language, which is to strengthen the review process of actions before the State Personnel Board, as written, this section would be prohibitively difficult to administer. The Office of Financial Management currently review such actions of cabinet agencies based on specific criteria. The language of this section requires that all classification actions be reviewed by OFM regardless of their degree of significance. Lacking provisions to establish thresholds and limits under which to administer this review, the bureaucratic entanglements outweigh the benefits of this section.

Section 805, page 134, Personal Service Contracts

Section 805 requires the Office of Financial Management to approve in advance any General Fund-State personal service contract expenditures that exceed prior biennium percentages.

This provision is vague and unworkable. From a policy standpoint, it makes little sense to relate contract expenditures in two different biennia, because these types of expenditures are often project in nature. Administratively, the prior biennium's percentage of personal service contracts creates an arbitrary benchmark that would be difficult to calculate or impose. There are no legislative appropriations for 1989-91 person service contracts by fund source; and final 1987-89 percentages will not be available until biennial close-out of statewide accounting records, several months after the limitations are supposedly in place.

I am also concerned by the language that exempts appropriations in the judicial agencies. This implies that all other elected officials are covered by the restrictions contained in Section 805. Since the Office of Financial Management does not presently have any authority over allotments for all other elected officials, there is an apparent conflict between the appropriations act and the State Budget, Accounting and Reporting Act (RCW 43.88).

Section 809, page 135, Biennial Funding

The statement that new programs are funded for the entire biennium, unless otherwise provided in either the appropriations act or legislative notes, raises some disturbing questions about the legal status of legislative notes. Although I recognize that this language was intended to minimize "bow-wave" impacts, agencies are already required to allot expenditures in conformance with legislative intent. Legislative notes are the work of legislative staff, not elected representatives, and these documents are sometimes prepared months after appropriations are enacted. Legislative intent should be defined by legislators in the appropriations act and not subject to retroactive elaboration.

Section 810, page 135, Gambling Revolving Fund Transfer

This section transfers \$2,000,000 from the Gambling Revolving Fund to the General Fund during the 1989-91 fiscal biennium. The Gambling Revolving Fund, established as an allotted but nonappropriated fund in the Gambling Commission's enabling statute (RCW 9.46), receives revenues from licensing, penalties, forfeitures, and other gambling-specific sources to support the regulation and enforcement of charitable and social gambling activities in this state. These statutes direct that gambling activities produce a revenue stream—at local government option—for local government, but they do not expressly provide for these funds as a source of revenue for the General Fund. The transfer of funds provided by this section is inappropriate.

Veto of this section preserves the financial reserve of the Gambling Commission's operations and the Gambling Revolving Fund, and allows the Commission to continue to manage its revenue stream and the working capital requirements of the agency. I ask that license, penalty, forfeiture, and other revenue source rates be retained at existing levels but not decreased, until such point as the working capital requirements of the agency warrant increases in one or more of the rates.

Section 813, page 137, Public Safety and Education Account Transfer

This section transfers \$2,000,000 from the Public Safety and Education Account (PSEA) to the General Fund on July 1, 1989. The PSEA has a history of volatile revenue collections. After the decline in the most recent revenue forecast for PSEA, allowing this transfer would require agencies expending from this account to begin the biennium with pro rata expenditure allotment reductions. This budget, combined with other legislation, provides a General Fund reserve of less than \$40,000,000. I do not believe that is an adequate reserve; however, I do not feel it is appropriate to force expenditure reductions in the PSEA to add to the General Fund reserve.

With the exceptions of sections 123(1),(3),(4),(5),(6), 125(4), 208(3), 209(1), 213(7),(8), 214(4), 218(6), 221(9),(12),(17),(18), 222(1),(2), 225(2), 230(2), 304(7), 313(4), 316(1), 503(10), 601(2), 602(2), 610(2), 709(3), 804, 805, 809, 810, and 813 of Engrossed Substitute Senate Bill 5352 is approved."

# **WASHINGTON LAWS**

**1989 SECOND EXTRAORDINARY SESSION**



CHAPTER 1

[Senate Bill No. 5233]

RESIDENTIAL BURGLARY

[Act prior to veto override: See chapter 412, Regular Session, supra.]

AN ACT Relating to burglary; amending RCW 9A.52.030; reenacting and amending RCW 9.94A.320; adding a new section to chapter 9A.52 RCW; prescribing penalties; and providing an effective date.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 9A.52 RCW to read as follows:

(1) A person is guilty of residential burglary if, with intent to commit a crime against a person or property therein, the person enters or remains unlawfully in a dwelling other than a vehicle.

(2) Residential burglary is a class B felony. In establishing sentencing guidelines and disposition standards, the sentencing guidelines commission and the juvenile disposition standards commission shall consider residential burglary as a more serious offense than second degree burglary.

Sec. 2. Section 9A.52.030, chapter 260, Laws of 1975 1st ex. sess. as amended by section 7, chapter 38, Laws of 1975-'76 2nd ex. sess. and RCW 9A.52.030 are each amended to read as follows:

(1) A person is guilty of burglary in the second degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a building other than a vehicle or a dwelling.

(2) Burglary in the second degree is a class B felony.

Sec. 3. Section 2, chapter 62, Laws of 1988, section 12, chapter 145, Laws of 1988, and section 2, chapter 218, Laws of 1988 and RCW 9.94A-.320 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XIV	Aggravated Murder 1 (RCW 10.95.020)
XIII	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XII	Murder 2 (RCW 9A.32.050)
XI	Assault 1 (RCW 9A.36.011)
X	Kidnapping 1 (RCW 9A.40.020) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073)

- Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1))  
Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 and 3 years junior (RCW 69.50.406)  
Leading Organized Crime (RCW 9A.82.060(1)(a))
- IX** Robbery 1 (RCW 9A.56.200)  
Manslaughter 1 (RCW 9A.32.060)  
Explosive devices prohibited (RCW 70.74.180)  
Endangering life and property by explosives with threat to human being (RCW 70.74.270)  
Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)  
Sexual Exploitation, Under 16 (RCW 9.68A.040(2)(a))  
Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- VIII** Arson 1 (RCW 9A.48.020)  
Rape 2 (RCW 9A.44.050)  
Rape of a Child 2 (RCW 9A.44.076)  
Child Molestation 1 (RCW 9A.44.083)  
Promoting Prostitution 1 (RCW 9A.88.070)  
Selling heroin for profit (RCW 69.50.410)
- VII** Burglary 1 (RCW 9A.52.020)  
Vehicular Homicide (RCW 46.61.520)  
Introducing Contraband 1 (RCW 9A.76.140)  
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))  
Sexual Exploitation, Under 18 (RCW 9.68A.040(2)(b))  
Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)  
Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- VI** Bribery (RCW 9A.68.010)  
Manslaughter 2 (RCW 9A.32.070)  
Child Molestation 2 (RCW 9A.44.086)  
Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)  
Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))  
Endangering life and property by explosives with no threat to human being (RCW 70.74.270)  
Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b))  
Incest 1 (RCW 9A.64.020(1))

- Selling for profit (controlled or counterfeit) any controlled substance (except heroin) (RCW 69.50.410)  
 Manufacture, deliver, or possess with intent to deliver heroin or narcotics from Schedule I or II (RCW 69.50.401(a)(1)(i))  
 Intimidating a Judge (RCW 9A.72.160)
- V Criminal Mistreatment 1 (RCW 9A.42.020)  
 Rape 3 (RCW 9A.44.060)  
 Kidnapping 2 (RCW 9A.40.030)  
 Extortion 1 (RCW 9A.56.120)  
 Incest 2 (RCW 9A.64.020(2))  
 Perjury 1 (RCW 9A.72.020)  
 Extortionate Extension of Credit (RCW 9A.82.020)  
 Advancing money or property for extortionate extension of credit (RCW 9A.82.030)  
 Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)  
 Rendering Criminal Assistance 1 (RCW 9A.76.070)
- IV Residential Burglary (RCW 9A.52.—) (section 1 of this act)  
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 Bribing a Witness/Bribe Received by Witness (RCW 9A.72-.090, 9A.72.100)  
 Malicious Harassment (RCW 9A.36.080)  
 Willful Failure to Return from Furlough (RCW 72.66.060)  
 Hit and Run — Injury Accident (RCW 46.52.020(4))  
 Vehicular Assault (RCW 46.61.522)  
 Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I–V (except marijuana) (RCW 69.50.401(a)(1)(ii) through (iv))  
 Influencing Outcome of Sporting Event (RCW 9A.82.070)  
 Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))  
 Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal mistreatment 2 (RCW 9A.42.030)  
 Sexual Misconduct with a Minor 1 (RCW 9A.44.093)  
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 Unlawful Imprisonment (RCW 9A.40.040)

- Assault 3 (RCW 9A.36.031)
- Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 1 (RCW 9A.56.080)
- II Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- ~~((Burglary 2 (RCW 9A.52.030)))~~
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
- I Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- Malicious Mischief 2 (RCW 9A.48.080)
- Reckless Burning 1 (RCW 9A.48.040)
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)



Forged Prescription for a Controlled Substance (RCW 69.50.403)

Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (RCW 69.50.401(d))

NEW SECTION. Sec. 4. This act shall take effect July 1, 1990.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by the Governor May 13, 1989, with the exception of certain items which were vetoed.

Veto of item overridden by the Senate May 19, 1989.

Veto of same item overridden by the House May 20, 1989.

Filed in Office of Secretary of State May 13, 1989.

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

"I am returning herewith, without my approval as to section 3, Engrossed Senate Bill No. 5233 entitled:

"AN ACT Relating to burglary."

This legislation creates a new crime of residential burglary for those incidents in which an individual enters a dwelling for the purposes of committing "a crime against persons or property therein". The existing crime of burglary in the second degree is retained for cases involving buildings other than dwellings.

Section 3 of this measure increases the seriousness level of second degree burglary from range II to range III and ranks the new crime of residential burglary at an even higher level, range IV. These rankings have significant fiscal impacts on both state and local governments that are not fully addressed. Although the Legislature included funds in the Omnibus Budget for the purposes of this act, they fall far short of meeting the Department of Correction's needs. In addition, no funds were provided to address the impacts on local jails.

I support the intent of this bill. Residential burglary is a particularly offensive crime that not only results in material loss, but shatters the sense of privacy people enjoy within their homes. Persons who invade homes in this manner must be punished.

However, attempting to address this issue has highlighted some of the inflexibility of the state's Sentencing Reform Act. Because of the sentencing structure created by the Act, little can be done in response to the problem of burglary other than to raise the seriousness level, as accomplished by section 3.

I am retaining the new definition of residential burglary created by this bill, and the instructions in section 1 requiring the Sentencing Guidelines Commission to consider residential burglary as a more serious offense than burglary in the second degree. Because the provisions of the bill do not take effect until July 1990, I believe this veto allows us to more fully consider the ramifications of this sentencing change.

The long-term financial impact on the state adult and juvenile systems will mandate significant additional commitment of both capital and operating funds. I am concerned that the full financial reality of passing this bill has not settled upon the Legislature. The Legislature should also consider the consistency of punishment level in this bill related to punishment for other criminal offenses.

Particular attention must also be paid to the effect these changes have on our local jail system. We can no longer continue to ignore the overcrowding and potentially dangerous conditions facing these facilities. At the same time the Legislature was enacting a measure extending eligibility for home detention programs to burglars, it was removing over fifty percent of the eligible inmates by the definition

change included in this bill. The Sentencing Guidelines Commission is the proper place to consider these system-wide impacts.

I am asking the Sentencing Guidelines Commission to take up this issue for the purpose of recommending a resolution to the 1990 Legislature. The commission will review the relative rankings of these crimes, and will explore the possibility of reordering the sentencing grid in such a way as to allow courts greater flexibility in determining appropriate sanctions. In addition, the Commission will review the potential for changing sentencing practices associated with rank changes, and the relationship of deadly weapons enhancements to these two offenses.

With the exception of section 3, Engrossed Senate Bill No. 5233 is approved."

Note: Secretary of the Senate's letter informing the Secretary of State that the Legislature has overridden an item of the Governor's veto is as follows:

The Honorable Ralph Munro  
Secretary of State  
State of Washington

Dear Mr. Secretary:

I am transmitting herewith ENROLLED SENATE BILL NO. 5233 as vetoed (Section 3) by Governor Booth Gardner on May 17, 1989.

The 1989 Second Special Session of the Fifty-First Legislature passed the measure notwithstanding Governor Gardner's veto of Section 3. The Senate overrode the Governor's veto of Section 3 by a vote of 38 yeas and 9 nays on May 19, 1989. The House of Representatives overrode the Governor's veto of Section 3 by a vote of 71 yeas and 9 nays on May 20, 1989.

Sincerely yours,

GORDON A. GOLOB  
Secretary of the Senate

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CHAPTER 2

[House Bill No. 2247]

PARENTING ACT—TECHNICAL CORRECTION

AN ACT Relating to a technical correction and clarification to the parenting act; amending RCW 26.09.181; and declaring an emergency.

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

Sec. 1. Section 7, chapter 460, Laws of 1987 as amended by section 8, chapter 375, Laws of 1989 and RCW 26.09.181 are each amended to read as follows:

(1) SUBMISSION OF PROPOSED PLANS. (a) In any proceeding under this chapter, except a modification, each party shall file and serve a proposed permanent parenting plan on or before the earliest date of:

(i) Thirty days after filing and service by either party of a notice for trial; or

(ii) One hundred eighty days after commencement of the action which one hundred eighty day period may be extended by stipulation of the parties.

(b) In proceedings for a modification of custody or a parenting plan, a proposed parenting plan shall be filed and served with the motion for modification and with the response to the motion for modification.

(c) No proposed permanent parenting plan shall be required after filing of an agreed permanent parenting plan, after entry of a final decree, or after dismissal of the cause of action.

(d) A party who files a proposed parenting plan in compliance with this section may move the court for an order of default adopting that party's parenting plan if the other party has failed to file a proposed parenting plan as required in this section.

(2) **AMENDING PROPOSED PARENTING PLANS.** Either party may file and serve an amended proposed permanent parenting plan according to the rules for amending pleadings.

(3) **GOOD FAITH PROPOSAL.** The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.

(4) **AGREED PERMANENT PARENTING PLANS.** The parents may make an agreed permanent parenting plan.

(5) **MANDATORY SETTLEMENT CONFERENCE.** Where mandatory settlement conferences are provided under court rule, the parents shall attend a mandatory settlement conference. The mandatory settlement conference shall be presided over by a judge or a court commissioner, who shall apply the criteria in RCW 26.09.187 and 26.09.191. The parents shall in good faith review the proposed terms of the parenting plans and any other issues relevant to the cause of action with the presiding judge or court commissioner. Facts and legal issues that are not then in dispute shall be entered as stipulations for purposes of final hearing or trial in the matter.

(6) **TRIAL SETTING.** Trial dates for actions involving minor children brought under this chapter shall receive priority.

(7) **ENTRY OF FINAL ORDER.** The final order or decree shall be entered not sooner than ninety days after filing and service.

~~((f))~~ This subsection does not apply to decrees of legal separation.

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

Passed the House May 18, 1989.

Passed the Senate May 19, 1989.

Approved by the Governor June 1, 1989.

Filed in Office of Secretary of State June 1, 1989.

CHAPTER 3

[Senate Bill No. 6155]

CHILD CARE FACILITY FUND—APPROPRIATION

AN ACT Relating to the child care facility fund; amending section 235, chapter —, Laws of 1989 1st ex. sess. (ESSB 5352) (uncodified); providing an effective date; and declaring an emergency.

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

Sec. 1. Section 235, chapter —, Laws of 1989 1st ex. sess. (ESSB 5352) (uncodified) is amended to read as follows:

FOR THE EMPLOYMENT SECURITY DEPARTMENT

\$1,175,000 from the administrative contingency fund—federal is appropriated solely for an interagency agreement with the department of trade and economic development to promote employer involvement in the development of child care services and facilities as provided in Second Substitute Senate Bill No. 6051. Of this amount, \$1,000,000 shall be deposited in the child care ((expansion grant)) facility fund. If the bill is not enacted by June 30, 1989, the amount provided in this section shall lapse.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the Senate May 20, 1989.

Passed the House May 20, 1989.

Approved by the Governor June 1, 1989.

Filed in Office of Secretary of State June 1, 1989.

CHAPTER 4

[Filed by Washington Citizens' Commission on Salaries for Elected Officials]

ELECTED OFFICIALS—SALARIES

AN ACT Relating to salaries of elected officials; and amending RCW 43.03.011, 43.03.012, and 43.03.013.

BE IT ENACTED BY THE WASHINGTON CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS:

Sec. 1. Section 1, chapter 1, Laws of 1987 1st ex. sess. and RCW 43.03.011 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

(1) ((Effective September 1, 1987:

(a) Governor ..... \$ 83,800

(b) Lieutenant governor .....	\$ 45,000
(c) Secretary of state .....	\$ 46,300
(d) State treasurer .....	\$ 54,250
(e) State auditor .....	\$ 55,250
(f) Attorney general .....	\$ 63,800
(g) Superintendent of public instruction .....	\$ 59,950
(h) Commissioner of public lands .....	\$ 59,950
(i) Insurance commissioner .....	\$ 53,700
<u>(2)) Effective July 1, 1988:</u>	
(a) Governor .....	\$ 93,900
(b) Lieutenant governor .....	\$ 48,800
(c) Secretary of state .....	\$ 50,200
(d) State treasurer .....	\$ 62,050
(e) State auditor .....	\$ 64,050
(f) Attorney general .....	\$ 72,200
(g) Superintendent of public instruction .....	\$ 66,600
(h) Commissioner of public lands .....	\$ 66,600
(i) Insurance commissioner .....	\$ 61,000
<u>(2) Effective September 4, 1989:</u>	
(a) Governor .....	\$ 96,700
(b) Lieutenant governor .....	\$ 51,100
(c) Secretary of state .....	\$ 52,600
(d) Treasurer .....	\$ 65,000
(e) Auditor .....	\$ 67,100
(f) Attorney general .....	\$ 75,700
(g) Superintendent of public instruction .....	\$ 69,800
(h) Commissioner of public lands .....	\$ 69,800
(i) Insurance commissioner .....	\$ 63,900
<u>(3) Effective September 3, 1990:</u>	
(a) Governor .....	\$ 99,600
(b) Lieutenant governor .....	\$ 52,600
(c) Secretary of state .....	\$ 54,200
(d) Treasurer .....	\$ 67,000
(e) Auditor .....	\$ 69,100
(f) Attorney general .....	\$ 78,000
(g) Superintendent of public instruction .....	\$ 71,900
(h) Commissioner of public lands .....	\$ 71,900
(i) Insurance commissioner .....	\$ 65,800

Sec. 2. Section 1, chapter 1, Laws of 1987 1st ex. sess. and RCW 43-.03.012 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

(1) ~~((Effective September 1, 1987:~~

(a) Justices of the supreme court .....	\$ 75,900
(b) Judges of the court of appeals.....	\$ 72,100
(c) Judges of the superior court .....	\$ 68,500
(d) Full-time judges of the district court .....	\$ 62,100
<u>(2)) Effective July 1, 1988:</u>	
(a) Justices of the supreme court .....	\$ 82,700
(b) Judges of the court of appeals.....	\$ 78,600
(c) Judges of the superior court .....	\$ 74,600
(d) Full-time judges of the district court .....	\$ 71,000
<u>(2) Effective September 4, 1989:</u>	
(a) Justices of the supreme court .....	\$ 86,700
(b) Judges of the court of appeals.....	\$ 82,400
(c) Judges of the superior court .....	\$ 78,200
(d) Full-time judges of the district court .....	\$ 74,400
<u>(3) Effective September 3, 1990:</u>	
(a) Justices of the supreme court .....	\$ 89,300
(b) Judges of the court of appeals.....	\$ 84,900
(c) Judges of the superior court .....	\$ 80,500
(d) Full-time judges of the district court .....	\$ 76,600

Sec. 3. Section 1, chapter 1, Laws of 1987 1st ex. sess. and RCW 43-.03.013 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

(1) ( <del>(\$15,500 effective September 1, 1987, and</del>	
<del>(2))</del> \$16,500 effective July 1, 1988.	
<u>(2) Effective September 4, 1989:</u>	
(a) Legislator .....	\$ 17,900
(b) Speaker of the house .....	\$ 19,700
(c) Senate majority leader .....	\$ 18,800
(d) Senate minority leader.....	\$ 18,800
(e) House minority leader .....	\$ 18,800
<u>(3) Effective September 3, 1990:</u>	
(a) Legislator .....	\$ 19,900
(b) Speaker of the house .....	\$ 21,900
(c) Senate majority leader .....	\$ 20,900
(d) Senate minority leader.....	\$ 20,900
(e) House minority leader .....	\$ 20,900

.....  
 Thomas G. McCarthy  
 Chairman  
 Washington State Citizens'

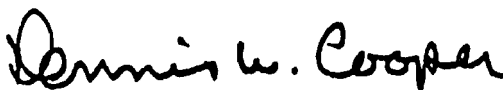
**Commission on Salaries for  
Elected Officials**

**Filed in Office of Secretary of State June 1, 1989.**

## AUTHENTICATION

I, Dennis W. Cooper, Code Reviser of the State of Washington, do hereby certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by the provisions of RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 1989 regular and first and second extraordinary sessions (51st Legislature), chapters 300 through 431, 1 through 19, and 1 through 4, respectively, as certified and transmitted to the Statute Law Committee by the Secretary of State pursuant to RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this twenty-third day of June, 1989.

A handwritten signature in black ink that reads "Dennis W. Cooper". The signature is written in a cursive style with a large initial "D" and "C".

DENNIS W. COOPER  
Code Reviser



**PROPOSED CONSTITUTIONAL AMENDMENT  
ADOPTED AT THE 1989 REGULAR SESSION  
FOR SUBMISSION TO THE VOTERS  
AT THE STATE GENERAL ELECTION, NOVEMBER 1989  
SENATE JOINT RESOLUTION NO. 8200**

**BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:**

**THAT, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article I, section — of the Constitution of the state of Washington to read as follows:**

Article I, section —. Effective law enforcement depends on cooperation from victims of crime. To ensure victims a meaningful role in the criminal justice system and to accord them due dignity and respect, victims of crime are hereby granted the following basic and fundamental rights.

Upon notifying the prosecuting attorney, a victim of a crime charged as a felony shall have the right to be informed of and, subject to the discretion of the individual presiding over the trial or court proceedings, attend trial and all other court proceedings the defendant has the right to attend, and to make a statement at sentencing and at any proceeding where the defendant's release is considered, subject to the same rules of procedure which govern the defendant's rights. In the event the victim is deceased, incompetent, a minor, or otherwise unavailable, the prosecuting attorney may identify a representative to appear to exercise the victim's rights. This provision shall not constitute a basis for error in favor of a defendant in a criminal proceeding nor a basis for providing a victim or the victim's representative with court appointed counsel.

**BE IT FURTHER RESOLVED,** That the secretary of state shall cause notice of the foregoing constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

Passed the Senate April 18, 1989.

Passed the House April 11, 1989.

Filed in Office of Secretary of State April 23, 1989.

PROPOSED CONSTITUTIONAL AMENDMENT  
 ADOPTED AT THE 1989 REGULAR SESSION  
 FOR SUBMISSION TO THE VOTERS  
 AT THE STATE GENERAL ELECTION, NOVEMBER 1989  
 SUBSTITUTE SENATE JOINT RESOLUTION NO. 8202

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article IV, section 31 of the Constitution of the state of Washington to read as follows:

Article IV, section 31. ~~((There shall be a commission on judicial conduct consisting of a judge selected by and from the court of appeals judges, a judge selected by and from the superior court judges, a judge selected by and from the district court judges, two persons admitted to the practice of law in this state selected by the state bar association, and four persons who are not attorneys appointed by the governor and confirmed by the senate.~~

~~The supreme court may censure, suspend, or remove a judge or justice for violating a rule of judicial conduct and may retire a judge or justice for disability which is permanent or is likely to become permanent and which seriously interferes with the performance of judicial duties.~~

~~The office of a judge or justice retired or removed by the supreme court becomes vacant, and that person is ineligible for judicial office until eligibility is reinstated by the supreme court. The salary of a removed judge or justice shall cease. The supreme court shall specify the effect upon salary when disciplinary action other than removal is taken. The supreme court may not discipline or retire a judge or justice until the commission on judicial conduct recommends after notice and hearing that action be taken and the supreme court conducts a hearing, after notice, to review commission proceedings and findings against a judge or justice.~~

~~Whenever the commission receives a complaint against a judge or justice, it shall first conduct proceedings for the purpose of determining whether sufficient reason exists for conducting a hearing or hearings to deal with the accusations. These initial proceedings shall be confidential, unless confidentiality is waived by the judge or justice, but all subsequent hearings conducted by the commission shall be open to members of the public.~~

~~Whenever the commission adopts a recommendation that a judge or justice be removed, the judge or justice shall be suspended immediately, with salary, from his or her judicial position until a final determination is made by the supreme court.~~

~~The legislature shall provide for commissioners' terms of office and compensation. The commission shall establish rules of procedure for commission proceedings including due process and confidentiality of proceedings:))~~

(1) There shall be a commission on judicial conduct, existing as an independent agency of the judicial branch, and consisting of a judge selected by and from the court of appeals judges, a judge selected by and from the superior court judges, a judge selected by and from the district court judges, two persons admitted to the practice of law in this state selected by the state bar association, and six persons who are not attorneys appointed by the governor.

(2) Whenever the commission receives a complaint against a judge or justice, or otherwise has reason to believe that a judge or justice should be admonished, reprimanded, censured, suspended, removed, or retired, the commission shall first investigate the complaint or belief and then conduct initial proceedings for the purpose of determining whether probable cause exists for conducting a public hearing or hearings to deal with the complaint or belief. The investigation and initial proceedings shall be confidential. Upon beginning an initial proceeding, the commission shall notify the judge or justice of the existence of and basis for the initial proceeding.

(3) Whenever the commission concludes, based on an initial proceeding, that there is probable cause to believe that a judge or justice has violated a rule of judicial conduct or that the judge or justice suffers from a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties, the commission shall conduct a public hearing or hearings and shall make public all those records of the initial proceeding that provide the basis for its conclusion. If the commission concludes that there is not probable cause, it shall notify the judge or justice of its conclusion.

(4) Upon the completion of the hearing or hearings, the commission in open session shall either dismiss the case, or shall admonish, reprimand, or censure the judge or justice, or shall censure the judge or justice and recommend to the supreme court the suspension or removal of the judge or justice, or shall recommend to the supreme court the retirement of the judge or justice. The commission may not recommend suspension or removal unless it censures the judge or justice for the violation serving as the basis for the recommendation. The commission may recommend retirement of a judge or justice for a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties.

(5) Upon the recommendation of the commission, the supreme court may suspend, remove, or retire a judge or justice. The office of a judge or justice retired or removed by the supreme court becomes vacant, and that

person is ineligible for judicial office until eligibility is reinstated by the supreme court. The salary of a removed judge or justice shall cease. The supreme court shall specify the effect upon salary when it suspends a judge or justice. The supreme court may not suspend, remove, or retire a judge or justice until the commission, after notice and hearing, recommends that action be taken, and the supreme court conducts a hearing, after notice, to review commission proceedings and findings against the judge or justice.

(6) Within thirty days after the commission admonishes, reprimands, or censures a judge or justice, the judge or justice shall have a right of appeal de novo to the supreme court.

(7) Any matter before the commission or supreme court may be disposed of by a stipulation entered into in a public proceeding. The stipulation shall be signed by the judge or justice and the commission or court. The stipulation may impose any terms and conditions deemed appropriate by the commission or court. A stipulation shall set forth all material facts relating to the proceeding and the conduct of the judge or justice.

(8) Whenever the commission adopts a recommendation that a judge or justice be removed, the judge or justice shall be suspended immediately, with salary, from his or her judicial position until a final determination is made by the supreme court.

(9) The legislature shall provide for commissioners' terms of office and compensation. The commission shall employ one or more investigative officers with appropriate professional training and experience. The investigative officers of the commission shall report directly to the commission. The commission shall also employ such administrative or other staff as are necessary to manage the affairs of the commission.

(10) The commission shall, to the extent that compliance does not conflict with this section, comply with laws of general applicability to state agencies with respect to rule-making procedures, and with respect to public notice of and attendance at commission proceedings other than initial proceedings. The commission shall establish rules of procedure for commission proceedings including due process and confidentiality of proceedings.

**BE IT FURTHER RESOLVED,** That the secretary of state shall cause notice of the foregoing constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Filed in Office of Secretary of State April 23, 1989.

PROPOSED CONSTITUTIONAL AMENDMENT  
ADOPTED AT THE 1989 REGULAR SESSION  
FOR SUBMISSION TO THE VOTERS  
AT THE STATE GENERAL ELECTION, NOVEMBER 1989  
SENATE JOINT RESOLUTION NO. 8210

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article VIII, section 10 of the Constitution of the state of Washington to read as follows:

Article VIII, section 10. Notwithstanding the provisions of section 7 of this Article, any county, city, town, quasi municipal corporation, municipal corporation, or political subdivision of the state which is engaged in the sale or distribution of water or energy may, as authorized by the legislature, use public moneys or credit derived from operating revenues from the sale of water or energy to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment for the conservation or more efficient use of water or energy in such structures or equipment. Except as provided in section 7 of this Article, an appropriate charge back shall be made for such extension of public moneys or credit and the same shall be a lien against the structure benefited or a security interest in the equipment benefited. Any financing for energy conservation authorized by this article shall only be used for conservation purposes in existing structures and shall not be used for any purpose which results in a conversion from one energy source to another.

BE IT FURTHER RESOLVED; That the secretary of state shall cause notice of the foregoing constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

Passed the Senate March 13, 1989.

Passed the House April 13, 1989.

Filed in Office of Secretary of State April 23, 1989.



**STATE OF WASHINGTON**  
OFFICE OF THE GOVERNOR

**OLYMPIA**  
98504-0413

**BOOTH GARDNER**  
GOVERNOR

Honorable Ralph Munro  
Secretary of State  
Legislative Bldg., AS-22,  
Olympia, Wash. 98504

Dear Ralph:

I am transmitting a corrected copy of my partial veto in Section 884 of Substitute Senate Bill No. 5521, "AN ACT Adopting the capital budget."

Page 117 is corrected to reflect my intent as indicated in the text of the veto message, see attached corrected page. My intent was only to remove the paragraph which begins with "The appropriation in this section is subject to . . ." and ends with "the state operating budget."

Please note this correction in your records and advise the Code Reviser of the correction.

Sincerely,

Booth Gardner  
Governor

cc:

Gordon Golob, Secretary of the Senate,  
Dennis Cooper, Code Reviser  
Len McComb, Acting Director, Office of Financial Management

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**TABLE: BILL NO. TO CHAPTER NO.**

Number		Chapter Number Laws of 1989	Number		Chapter Number Laws of 1989
ESSB	5441	178	SSB	5746	104
SSB	5443	337 PV	ESB	5756	145
SB	5452	156	ESSB	5759	239
SB	5464	127	SB	5771	73
SB	5466	246	SSB	5776	299 PV
SSB	5469	162	SSB	5782	109
SSB	5474	358 PV	SSB	5786	79
SB	5480	95	SSB	5790	98
SSB	5481	119	SSB	5807	44
SSB	5486	161	ESSB	5810	406
SSB	5488	131	SSB	5812	264
SB	5492	377	ESSB	5819	314
ESSB	5499	353	ESB	5824	122
SSB	5501	157	ESB	5826	253
SB	5502	148	SSB	5827	359
SSB	5506	181	ESB	5833	407
SSB	5521	12 E1 PV	ESSB	5838	67
ESSB	5531	77	ESSB	5850	390
ESB	5536	324	SB	5853	231
SSB	5543	291	SSB	5857	265
SB	5552	186	SB	5858	232
SSB	5553	163	SSB	5859	325
SSB	5560	331	SSB	5866	378
SSB	5561	293	ESSB	5868	153
RESSB	5566	422 PV	ESB	5871	149
SB	5579	100	SB	5874	82 PV
SB	5580	78	SSB	5886	123
ESB	5583	165	SB	5887	150
ESB	5590	91	SSB	5889	421 PV
SSB	5591	224	RESSB	5897	18 E1
SB	5592	196	SSB	5903	183
SB	5595	164	ESSB	5905	266
SSB	5614	125	SB	5907	267
SB	5617	66	ESSB	5911	424 PV
SB	5636	92	SB	5926	418 PV
SSB	5641	112	ESSB	5933	93
ESSB	5644	129	SSB	5947	408
SSB	5648	425 PV	SB	5950	317
E2SSB	5658	419 PV	2SSB	5960	409
2SSB	5660	126	SB	5983	80
SSB	5663	250	ESSB	5984	429
SB	5668	71	SB	5987	113
SB	5679	190	ESB	5990	103
SB	5680	140	SB	5991	410
SSB	5681	154	SSB	6003	69
SSB	5686	354	SB	6005	411
ESB	5689	179	SSB	6009	318
SB	5701	180	SB	6012	86 PV
ESSB	5713	386	SSB	6013	389
ESB	5715	117	ESSB	6033	322
SB	5731	97	SSB	6048	387
SSB	5733	72	2SSB	6051	430
SB	5736	321	SB	6057	118
SB	5737	208	RESSB	6074	8 E1
SB	5738	209	ESB	6076	203 PV

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**TABLE: BILL NO. TO CHAPTER NO.**

Number		Chapter Number Laws of 1989	Number		Chapter Number Laws of 1989
ESB	6095	7 E1	HB	1198	249
SB	6150	1 E1	HB	1205	50
ESB	6152	9 E1 PV	SHB	1208	382
SB	6155	3 E2	SHB	1217	308
			EHB	1220	105
			SHB	1221	301 PV
			EHB	1231	197
			HB	1239	138
			HB	1241	226
			EHB	1249	23
			SHB	1250	198
			SHB	1251	351 PV
			SHB	1252	114
			HB	1253	300
			SHB	1254	234 PV
			EHB	1258	169
			SHB	1259	41
			HB	1282	60
			EHB	1286	167
			SHB	1287	51
			HB	1290	54
			SHB	1305	302 PV
			ESHB	1322	272
			EHB	1330	62
			EHB	1334	310 PV
			ESHB	1337	247
			EHB	1342	214
			EHB	1348	52
			HB	1350	35
			HB	1354	237
			SHB	1355	57
			EHB	1358	175
			ESHB	1369	349 PV
			SHB	1370	217
			SHB	1379	59
			HB	1385	151
			SHB	1386	244
			SHB	1388	223
			EHB	1395	238
			SHB	1397	348 PV
			HB	1400	199
			SHB	1408	309
			SHB	1414	364
			ESHB	1415	245
			EHB	1418	70
			SHB	1426	365
			ESHB	1430	341
			EHB	1438	396
			ESHB	1444	233 PV
			HB	1445	254
			EHB	1454	53
			SHB	1455	227
			SHB	1457	259
			SHB	1458	177
			HB	1467	397

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SHB	1007	241
HB	1010	21
EHB	1019	394
HB	1020	275
HB	1024	30
HB	1025	47
EHB	1026	37
HB	1027	130
ESHB	1028	305 PV
SHB	1031	311 PV
HB	1032	136
HB	1033	137
HB	1038	16
SHB	1039	17
HB	1042	221
HB	1043	222
EHB	1047	251
EHB	1049	39
ESHB	1051	420 PV
SHB	1056	176
HB	1060	225
EHB	1062	48
SHB	1065	332 PV
SHB	1067	121
EHB	1070	276
SHB	1071	395
HB	1072	219
ESHB	1074	338
EHB	1077	173
HB	1085	345
ESHB	1086	346
SHB	1097	379
EHB	1103	347
ESHB	1104	240
SHB	1115	242
HB	1117	49
ESHB	1133	381
HB	1138	5
HB	1162	76
HB	1163	74
SHB	1168	40
SHB	1169	34
HB	1170	33
ESHB	1173	333
2SHB	1180	383
EHB	1182	13 E1
SHB	1183	281
EHB	1189	235
ESHB	1192	18

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**TABLE: BILL NO. TO CHAPTER NO.**

Number		Chapter Number Laws of 1989	Number		Chapter Number Laws of 1989
HB	1468	75	HB	1772	218
2SHB	1476	417 PV	SHB	1774	81 PV
HB	1478	352	HB	1776	194
ESHB	1479	3 E1 PV	EHB	1777	269
EHB	1480	56	EHB	1778	392 PV
SHB	1484	14 E1	SHB	1788	4 E1
HB	1485	166	E2SHB	1793	271 PV
EHB	1502	398	EHB	1794	356
SHB	1503	58	EHB	1802	328 PV
ESHB	1504	315	EHB	1841	371
HB	1512	15 E1	EHB	1844	216
EHB	1518	368	ESHB	1853	388
EHB	1520	327	SHB	1854	262 PV
HB	1524	185	SHB	1857	207
ESHB	1542	252	SHB	1858	212
EHB	1545	192	EHB	1862	289
SHB	1547	416 PV	ESHB	1864	372 PV
SHB	1548	55	HB	1872	288
ESHB	1553	279	HB	1885	139
SHB	1558	369	SHB	1889	413 PV
SHB	1560	260	SHB	1894	202 PV
SHB	1568	399	HB	1904	296
SHB	1569	362	HB	1912	6
SHB	1572	215	EHB	1917	414 PV
EHB	1573	141	SHB	1952	211
ESHB	1574	384	SHB	1956	255
ESHB	1581	11 E1	SHB	1958	258 PV
SHB	1599	3	SHB	1965	329
HB	1618	363	ESHB	1968	427 PV
ESHB	1619	270 PV	HB	1976	182
SHB	1630	343 PV	HB	1980	206
HB	1631	277	SHB	1983	373 PV
ESHB	1635	360 PV	HB	1993	257
SHB	1639	63	EHB	1996	261
EHB	1645	415 PV	ESHB	2000	355
SHB	1651	64	EHB	2001	286
HB	1656	428 PV	HB	2010	297 PV
SHB	1658	32	SHB	2011	316
EHB	1664	210	SHB	2012	298
ESHB	1671	431 PV	EHB	2013	184
HB	1689	68	SHB	2014	400
HB	1690	193	HB	2016	339
HB	1698	278	ESHB	2020	340
EHB	1709	189	SHB	2024	374 PV
SHB	1711	357 PV	SHB	2036	319
HB	1718	108	HB	2037	213
HB	1719	191	SHB	2041	342
HB	1729	220	HB	2045	142
ESHB	1737	5 E1 PV	EHB	2051	188
SHB	1756	282	HB	2053	287
HB	1757	263	HB	2054	401
SHB	1759	370	HB	2060	385 PV
EHB	1762	61	ESHB	2066	330
EHB	1768	256	SHB	2070	313 PV
HB	1769	290	EHB	2075	195

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**TABLE: BILL NO. TO CHAPTER NO.**

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SHB	2088	..... 228
HB	2118	..... 402
HB	2129	..... 236
EHB	2131	..... 344
EHB	2135	..... 229
ESHB	2136	..... 201
ESHB	2137	..... 423 PV
HB	2142	..... 285
EHB	2155	..... 375 PV
HB	2158	..... 65
HB	2161	..... 187
HB	2167	..... 274
EHB	2168	..... 376
EHB	2222	..... 380
HB	2242	..... 2 E1
HB	2244	..... 10 E1
HB	2245	..... 16 E1
HB	2247	..... 2 E2

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"E2" Denotes 1989 2nd ex. sess.



## RCW SECTIONS AFFECTED BY 1989 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
1.16.050	AMD	128	1	5.60.060	REEN 10 1
1.20	ADD	354	62,63	5.60.060	REMD 271 301
2	ADD	364	1-3	5.62.020	AMD 271 302
2.06	ADD	328	11	6.15.020	AMD 360 21
2.06.020	AMD	328	10	6.17.020	AMD 360 3
2.08.061	AMD	328	2	6.27.360	AMD 360 20
2.08.064	AMD	328	3	7	ADD 373 1-7
2.10.180	AMD	360	22	7.16	ADD 175 38
2.10.200	AMD	175	37	7.16.120	AMD 7 1
2.12.090	AMD	360	23	7.20.010	REP 373 28
2.14.080	AMD	139	3	7.20.020	REP 373 28
2.32.180	AMD	328	4	7.20.030	REP 373 28
2.42	ADD	358	1-8	7.20.040	REP 373 28
2.42.010	AMD	358	12	7.20.050	REP 373 28
2.42.020	AMD	358	13	7.20.060	REP 373 28
2.42.050	AMD	358	14	7.20.070	REP 373 28
2.48.180	AMD	117	13	7.20.080	REP 373 28
2.56.030	REMD	95	2	7.20.090	REP 373 28
2.64	ADD	367	4-10	7.20.100	REP 373 28
2.64.010	AMD	367	1	7.20.110	REP 373 28
2.64.020	AMD	367	2	7.20.120	REP 373 28
2.64.050	AMD	367	3	7.20.130	REP 373 28
2.64.091	REP	367	11	7.20.140	REP 373 28
2.64.110	REP	367	11	7.24.146	AMD 175 39
3.30.080	AMD	227	5	7.28.230	AMD 73 1
3.34.010	AMD	227	6	7.36.130	AMD 395 3
3.34.050	AMD	227	3	7.43.110	AMD 373 9
3.34.060	AMD	227	4	7.43.120	AMD 373 10
3.34.150	AMD	227	7	7.48.080	AMD 373 11
3.38	ADD	227	2	7.48A	ADD 70 1-8
4.12.040	AMD	15	1	7.68	ADD 5 E1 1,3
4.16	ADD	14	1	7.68.010	AMD 12 1
4.16.020	AMD	360	1	7.68.010	REP 5 E1 14
4.16.040	AMD	38	1	7.68.030	AMD 5 E1 2
4.16.080	AMD	38	2	7.68.035	AMD 252 29
4.16.200	AMD	333	8	7.68.070	AMD 12 2
4.16.340	AMD	317	2	7.68.070	AMD 5 E1 5
4.24	ADD	234	1,2,4	7.68.080	AMD 5 E1 6
4.24	ADD	292	1,2	7.68.110	AMD 175 40
4.24	ADD	413	3	7.80.160	AMD 373 12
4.24.310	AMD	223	1	8.25.170	REP 10 11
4.24.314	AMD	406	1	9.01.200	AMD 94 1
4.24.410	AMD	26	1	9.01.200	RECD 94 2
4.56.110	AMD	360	19	9.02.005	AMD 9 E1 202
4.56.210	AMD	360	2	9.08	ADD 359 1
4.92	ADD	413	2	9.08.070	AMD 359 2
4.92	ADD	419	2,3,5, 7-10,15	9.23.010	REP 373 28
4.92.060	AMD	403	2	9.41	ADD 231 3
4.92.070	AMD	403	3	9.41.098	AMD 222 8
4.92.110	AMD	419	14	9.41.150	AMD 132 1
4.92.130	AMD	419	4	9.41.200	AMD 231 2
4.92.140	REP	419	18	9.41.280	AMD 219 1
4.92.150	REMD	403	4	9.46.095	AMD 175 41
4.92.170	REP	419	18	9.46.140	AMD 175 42
5.56.061	AMD	373	8	9.46.293	AMD 8 1
				9.68A.011	AMD 32 1

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## RCW SECTIONS AFFECTED BY 1989 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.	
9.68A.040	AMD	32	2	9A	ADD 109	1-7
9.68A.050	AMD	32	3	9A.04.080	AMD 317	3
9.68A.060	AMD	32	4	9A.16	ADD 94	1
9.68A.070	AMD	32	5	9A.36	ADD 271	109
9.68A.080	AMD	32	6	9A.36.031	AMD 169	1
9.68A.090	AMD	32	7	9A.36.050	AMD 271	110
9.68A.100	AMD	32	8	9A.36.080	AMD 95	1
9.68A.110	AMD	32	9	9A.40.070	AMD 318	2
9.73	ADD	31	1	9A.40.080	AMD 318	5
9.73	ADD	271	201-204, 206,208, 210	9A.52	ADD 412	1
			209		(Effective 7/1/90)	
9.73.080	AMD	271	209	9A.52	ADD 1 E2	1
9.73.090	AMD	271	205		(Effective 7/1/90)	
9.73.120	AMD	271	207	9A.52.030	AMD 412	2
9.92	ADD	248	1,5		(Effective 7/1/90)	
9.92.150	REP	248	4	9A.52.030	AMD 1 E2	2
9.94A	ADD	252	3,9-17		(Effective 7/1/90)	
				9A.56	ADD 131	1
9.94A	ADD	252	18	9A.56.220	AMD 11	1
9.94A.030	REMD	252	2	9A.76.200	AMD 26	2
				9A.82	ADD 271	235
9.94A.030	REMD	394	1	9A.82.010	AMD 20	17
9.94A.120	REMD	252	4		(Effective 1/1/90)	
				9A.82.100	AMD 271	111
9.94A.140	AMD	252	5	10	ADD 271	213-226
				10.01.180	AMD 373	13
9.94A.142	AMD	252	6	10.14.120	AMD 373	14
				10.22.010	AMD 411	3
9.94A.150	REMD	248	2	10.46	ADD 332	7
9.94A.155	AMD	30	1	10.64	ADD 276	2,5
9.94A.156	AMD	30	2	10.73	ADD 395	1,2,4,9
9.94A.200	REMD	252	7	10.77	ADD 420	1,17
				10.77.010	AMD 420	3
9.94A.210	AMD	214	1	10.77.060	AMD 420	4
9.94A.260	AMD	214	2	10.77.090	AMD 420	5
9.94A.270	AMD	252	8	10.77.110	AMD 420	6
				10.77.120	AMD 420	7
9.94A.310	AMD	124	1	10.77.140	AMD 420	8
9.94A.310	AMD	271	101	10.77.163	AMD 420	9
9.94A.320	REMD	99	1	10.77.165	AMD 420	10
9.94A.320	REMD	271	102	10.77.200	AMD 420	11
9.94A.320	REMD	405	1	10.77.210	AMD 420	12
9.94A.320	REMD	1 E2	3	10.82	ADD 276	3
				10.98.050	AMD 6	1
9.94A.360	REMD	271	103	11.40	ADD 333	3-6
9.94A.370	AMD	124	2	11.40.010	AMD 333	1
9.94A.390	AMD	408	1	11.40.011	AMD 333	2
9.94A.440	AMD	332	2	11.40.030	AMD 333	7
9.95	ADD	259	2,5	11.64.022	AMD 373	15
9.95	ADD	276	4	11.86	ADD 34	1-7
9.95.009	AMD	259	1	11.86.010	REP 34	9
9.95.0011	AMD	259	4	11.86.020	REP 34	9
9.95.0012	REP	259	6	11.86.030	REP 34	9
9.95.062	AMD	276	1	11.86.040	REP 34	9
9.95.115	AMD	259	3	11.86.050	REP 34	9
				11.86.060	REP 34	9

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## RCW SECTIONS AFFECTED BY 1989 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
11.86.070	REP	34	9	15.32.190	REP 354 58
11.86.090	AMD	34	8	15.32.200	REP 354 58
11.94	ADD	211	2,3	15.32.220	AMD 354 6
11.94.010	AMD	211	1	15.32.230	REP 354 58
11.94.050	AMD	87	1	15.32.240	REP 354 58
	(Effective 10/1/89)			15.32.270	REP 354 58
11.95.060	AMD	33	1	15.32.280	REP 354 58
11.98.029	REEN	10	3	15.32.300	REP 354 58
11.98.070	AMD	40	7	15.32.310	REP 354 58
11.98.160	AMD	14	2	15.32.390	REP 354 58
11.100.035	AMD	97	1	15.32.400	REP 354 58
11.108.060	AMD	35	1	15.32.420	AMD 354 7
13.32A.150	AMD	269	1	15.32.470	REP 354 58
13.32A.160	AMD	269	2	15.32.480	REP 354 58
13.32A.170	AMD	269	3	15.32.500	AMD 354 8
13.32A.190	AMD	269	5	15.32.510	AMD 354 9
13.32A.250	AMD	269	4	15.32.520	AMD 354 10
13.32A.250	AMD	373	16	15.32.530	AMD 354 11
13.34.130	REMD	17	E1 17	15.32.570	AMD 354 12
13.34.145	AMD	17	E1 18	15.32.584	AMD 175 46
13.34.165	AMD	373	17	15.32.690	REP 354 58
13.40	ADD	271	115	15.32.692	REP 354 58
13.40	ADD	407	5-7	15.32.694	REP 354 58
13.40.020	AMD	407	1	15.32.698	REP 354 58
13.40.027	AMD	407	2	15.35.240	AMD 175 47
13.40.030	AMD	407	3	15.35.240	AMD 307 36
13.40.035	REP	407	10	15.36	ADD 9 E1 236
13.40.036	REP	407	10	15.36.011	AMD 354 13
13.40.060	AMD	71	1	15.36.020	AMD 354 14
	(Effective 9/1/89)			15.36.060	AMD 354 15
13.40.070	AMD	407	9	15.36.080	AMD 354 16
13.40.160	AMD	407	4	15.36.110	AMD 354 17
13.40.265	AMD	271	116	15.36.115	AMD 175 48
13.40.280	AMD	407	8	15.36.115	AMD 354 18
13.40.280	AMD	410	2	15.36.130	REP 354 58
15	ADD	5	1-27	15.36.290	REP 354 58
15	ADD	355	1-13	15.36.300	AMD 354 19
15.04	ADD	354	82	15.36.310	REP 354 58
15.13.350	AMD	175	43	15.36.425	AMD 354 20
15.14.010	AMD	354	84	15.36.450	REP 354 58
	(Effective 1/1/90)			15.36.460	AMD 354 21
15.14.080	AMD	175	44	15.36.470	AMD 354 22
15.24.010	AMD	354	53	15.36.520	AMD 354 23
15.24.020	AMD	354	54	15.36.540	AMD 354 24
15.24.030	AMD	354	55	15.36.550	AMD 354 25
15.24.040	AMD	354	56	15.36.560	REP 354 58
15.28.010	AMD	354	27	15.36.570	REP 354 58
15.28.160	AMD	354	28	15.36.580	AMD 354 26
15.30.090	AMD	175	45	15.36.595	AMD 175 49
15.32.010	AMD	354	1	15.37.080	AMD 175 50
15.32.051	AMD	354	2	15.49	ADD 354 70-81
15.32.080	AMD	354	3		(Effective 1/1/90)
15.32.100	AMD	354	4	15.49.010	REP 354 85
15.32.140	AMD	354	5		(Effective 1/1/90)
15.32.170	REP	354	58	15.49.020	REP 354 85
15.32.180	REP	354	58		(Effective 1/1/90)

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## RCW SECTIONS AFFECTED BY 1989 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
15.49.030	REP 354 (Effective 1/1/90)	85	15.49.300	REP 354 (Effective 1/1/90)	85
15.49.035	REP 354 (Effective 1/1/90)	85	15.49.320	REP 354 (Effective 1/1/90)	85
15.49.040	REP 354 (Effective 1/1/90)	85	15.49.340	REP 354 (Effective 1/1/90)	85
15.49.050	REP 354 (Effective 1/1/90)	85	15.49.430	REP 354 (Effective 1/1/90)	85
15.49.060	REP 354 (Effective 1/1/90)	85	15.49.440	REP 354 (Effective 1/1/90)	85
15.49.070	REP 354 (Effective 1/1/90)	85	15.49.450	REP 354 (Effective 1/1/90)	85
15.49.080	REP 354 (Effective 1/1/90)	85	15.53.9036	AMD 175	51
15.49.090	REP 354 (Effective 1/1/90)	85	15.58	ADD 354	57
15.49.100	REP 354 (Effective 1/1/90)	85	15.58	ADD 380	19,21, 29,30,32
15.49.110	REP 354 (Effective 1/1/90)	85	15.58.030	AMD 380	1
15.49.120	REP 354 (Effective 1/1/90)	85	15.58.040	AMD 380	2
15.49.130	REP 354 (Effective 1/1/90)	85	15.58.050	AMD 380	3
15.49.140	REP 354 (Effective 1/1/90)	85	15.58.060	AMD 380	4
15.49.150	REP 354 (Effective 1/1/90)	85	15.58.065	AMD 380	5
15.49.160	REP 354 (Effective 1/1/90)	85	15.58.070	AMD 380	6
15.49.170	REP 354 (Effective 1/1/90)	85	15.58.080	AMD 380	7
15.49.180	REP 354 (Effective 1/1/90)	85	15.58.110	AMD 380	8
15.49.190	REP 354 (Effective 1/1/90)	85	15.58.120	AMD 380	9
15.49.200	REP 354 (Effective 1/1/90)	85	15.58.130	AMD 380	10
15.49.210	REP 354 (Effective 1/1/90)	85	15.58.150	AMD 380	11
15.49.220	REP 354 (Effective 1/1/90)	85	15.58.160	AMD 380	12
15.49.230	REP 354 (Effective 1/1/90)	85	15.58.170	AMD 380	13
15.49.240	REP 354 (Effective 1/1/90)	85	15.58.180	AMD 380	14
15.49.250	REP 354 (Effective 1/1/90)	85	15.58.190	REP 380	74
15.49.260	REP 354 (Effective 1/1/90)	85	15.58.200	AMD 380	15
15.49.270	REP 354 (Effective 1/1/90)	85	15.58.210	AMD 380	16
15.49.280	REP 354 (Effective 1/1/90)	85	15.58.220	AMD 380	17
15.49.290	REP 354 (Effective 1/1/90)	85	15.58.230	AMD 380	18
			15.58.240	AMD 380	20
			15.58.250	AMD 380	22
			15.58.260	AMD 380	23
			15.58.280	AMD 380	24
			15.58.290	AMD 380	25
			15.58.330	AMD 380	26
			15.58.335	AMD 380	27
			15.58.340	AMD 380	28
			15.58.910	AMD 380	31
			15.58.930	REP 380	74
			15.60	ADD 354	64-68
			15.65.510	AMD 354	29
			15.80.590	AMD 175	52
			15.85.020	AMD 176	3
			15.85.050	AMD 11	2
			15.86	ADD 354	31,33
			15.86.020	AMD 354	32
			15.86.030	AMD 354 (Effective 1/1/91)	30
			15.86.040	REP 354	59
			15.86.070	AMD 354	34

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RCW	CH.	SEC.	RCW	CH.	SEC.		
16.04	ADD	286	2	16.57.295	REP	286	20
16.04.010	AMD	286	1	16.57.300	AMD	286	24
16.04.025	AMD	286	21	16.57.410	AMD	286	25
16.08.080	AMD	26	3	16.58.070	AMD	175	54
16.12.010	REP	286	20	16.65.445	AMD	175	55
16.12.020	REP	286	20	16.74.370	AMD	175	56
16.12.030	REP	286	20	17.10.080	AMD	175	57
16.12.070	REP	286	20	17.21	ADD	380	44,45, 61,64,66
16.12.080	REP	286	20				
16.12.090	REP	286	20	17.21.020	AMD	380	33
16.12.100	REP	286	20	17.21.030	AMD	380	34
16.12.110	REP	286	20	17.21.040	AMD	380	35
16.13.010	REP	286	20	17.21.050	AMD	175	58
16.13.020	AMD	286	11	17.21.050	AMD	380	36
16.13.020	RECD	286	18	17.21.070	AMD	380	37
16.13.025	REP	286	20	17.21.080	AMD	380	38
16.13.030	AMD	286	12	17.21.090	REP	380	74
16.13.030	RECD	286	18	17.21.100	AMD	380	39
16.13.040	RECD	286	19	17.21.110	AMD	380	40
16.13.050	RECD	286	18	17.21.120	REP	380	74
16.13.050	AMD	286	13	17.21.122	AMD	380	41
16.13.060	RECD	286	19	17.21.124	REP	380	74
16.13.070	RECD	286	19	17.21.126	AMD	380	42
16.13.080	RECD	286	19	17.21.129	AMD	380	43
16.13.090	REP	286	20	17.21.130	AMD	380	46
16.16.010	REP	286	20	17.21.140	AMD	380	47
16.16.020	AMD	286	3	17.21.150	AMD	380	48
16.16.020	RECD	286	18	17.21.160	AMD	380	49
16.16.030	REP	286	20	17.21.180	AMD	380	50
16.16.040	REP	286	20	17.21.190	AMD	380	51
16.16.050	REP	286	20	17.21.200	AMD	380	52
16.16.060	REP	286	20	17.21.205	REP	380	75
16.20.010	RECD	286	18		(Effective 1/1/90)		
16.20.010	AMD	286	15	17.21.220	AMD	380	53
16.20.020	RECD	286	19	17.21.230	AMD	380	54
16.20.030	RECD	286	19	17.21.240	AMD	380	55
16.20.035	AMD	286	17	17.21.250	AMD	380	56
16.20.035	RECD	286	19	17.21.260	AMD	380	57
16.20.040	REP	286	20	17.21.270	AMD	380	58
16.24.010	AMD	286	4	17.21.280	AMD	380	59
16.24.020	AMD	286	5	17.21.290	AMD	380	60
16.24.030	AMD	286	6	17.21.315	AMD	380	61
16.24.050	AMD	286	7	17.21.320	AMD	380	62
16.24.060	AMD	286	8	17.21.910	AMD	380	65
16.24.065	AMD	286	9	18	ADD	382	16
16.24.070	AMD	286	10		(Effective 9/1/89)		
16.24.090	AMD	286	14	18	ADD	382	1-15,17
16.28.160	RECD	286	18	18	ADD	414	4,9-22
16.28.160	AMD	286	16		(Effective 7/1/90)		
16.28.165	RECD	286	19	18	ADD	414	2,3,7, 8,23
16.28.170	REP	286	20				
16.36.110	AMD	354	35	18	ADD	9 E1	716-
16.49.454	AMD	175	53				723
16.52	ADD	359	3,5	18.08.450	AMD	175	59
16.57.010	AMD	286	22	18.11.070	AMD	307	43
16.57.290	AMD	286	23	18.20.020	AMD	329	1

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18.20.060	AMD	175	60	18.35.080	AMD 198 4
18.20.070	REP	175	185	18.35.090	AMD 198 5
18.25	ADD	258	12-14	18.35.105	AMD 198 6
18.25.015	AMD	258	1	18.35.150	AMD 198 7
18.25.020	AMD	258	3	18.35.190	AMD 198 8
18.25.030	AMD	258	4	18.35.230	AMD 198 9
18.25.070	AMD	258	5	18.35.240	AMD 198 10
18.25.090	AMD	258	6	18.35.250	AMD 198 11
18.26.010	AMD	258	7	18.36.136	REP 9 1
18.26.020	AMD	258	8	18.39	ADD 390 4,10,13
18.26.040	AMD	258	9	18.39.010	AMD 390 1
18.26.090	AMD	258	11	18.39.240	AMD 390 2
18.27.104	AMD	175	61	18.39.250	AMD 390 3
18.29	ADD	202	1-11,29	18.39.260	AMD 390 5
18.29.020	REP	202	33	18.39.280	AMD 390 6
18.29.031	REP	202	33	18.39.300	AMD 390 7
18.29.040	REP	202	33	18.39.320	AMD 390 8
18.29.060	AMD	202	12	18.39.330	AMD 390 9
18.29.070	REP	202	33	18.39.350	AMD 390 11
18.32	ADD	125	1	18.39.360	AMD 390 12
18.32	ADD	202	28,30	18.43.110	AMD 175 62
18.32.030	AMD	202	13	18.44.310	AMD 51 1
18.32.035	AMD	202	14	18.46.050	AMD 175 63
18.32.037	AMD	202	15	18.46.100	REP 175 185
18.32.040	AMD	202	16	18.51.050	AMD 372 1
18.32.070	REP	202	33	18.51.054	AMD 372 7
18.32.085	RECD	202	32	18.51.060	AMD 372 8
18.32.100	AMD	202	18	18.51.065	AMD 175 64
18.32.110	AMD	202	19	18.51.065	AMD 372 9
18.32.120	AMD	202	20	18.51.410	AMD 372 10
18.32.160	AMD	202	21	18.51.430	AMD 372 3
18.32.180	AMD	202	22	18.51.440	AMD 372 11
18.32.210	REP	202	33	18.51.460	AMD 372 12
18.32.220	AMD	202	23	18.51.500	AMD 372 4
18.32.225	REP	202	33	18.52A.020	AMD 300 13
18.32.290	RECD	202	32	18.52A.030	AMD 300 1
18.32.310	RECD	202	32	18.52A.040	AMD 300 2
18.32.320	RECD	202	32	18.52A.060	REP 300 16
18.32.322	RECD	202	32	18.52B.010	RECD 300 15
18.32.324	RECD	202	32	18.52B.010	AMD 300 3
18.32.326	RECD	202	32	18.52B.020	AMD 300 4
18.32.326	REP	9 E1	819	18.52B.020	RECD 300 15
18.32.328	RECD	202	32	18.52B.030	AMD 300 5
18.32.330	RECD	202	32	18.52B.030	RECD 300 15
18.32.340	RECD	202	32	18.52B.040	AMD 300 6
18.32.350	RECD	202	32	18.52B.040	RECD 300 15
18.32.360	RECD	202	32	18.52B.060	AMD 300 7
18.32.500	AMD	202	24	18.52B.060	RECD 300 15
18.32.520	AMD	202	25	18.52B.070	AMD 300 8
18.32.530	AMD	202	26	18.52B.070	RECD 300 15
18.34.040	REP	9 E1	819	18.52B.090	AMD 300 9
18.34.130	REP	9	1	18.52B.090	RECD 300 15
18.35	ADD	198	12	18.52B.100	RECD 300 15
18.35.020	AMD	198	1	18.52B.100	AMD 300 10
18.35.040	AMD	198	2	18.52B.130	RECD 300 15
18.35.050	AMD	198	3	18.52B.130	AMD 300 11

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18.52B.140	RECD	300	15	18.120.040	AMD	9 E1	305
18.52B.140	AMD	300	12	18.122.010	AMD	9 E1	306
18.53.010	AMD	36	1	18.122.020	AMD	9 E1	307
18.53.140	AMD	36	2	18.122.030	AMD	9 E1	308
18.54.050	AMD	175	65	18.122.050	AMD	9 E1	309
18.57.085	AMD	10	5	18.122.100	AMD	9 E1	310
18.64	ADD	9 E1	410	18.122.110	AMD	9 E1	311
18.64.005	AMD	9 E1	409	18.130	ADD	125	3
18.64.007	REP	9 E1	819	18.130.020	AMD	9 E1	312
18.64.009	AMD	9 E1	411	18.130.060	AMD	175	68
18.64.011	AMD	9 E1	412	18.130.070	AMD	373	19
18.64.040	AMD	9 E1	413	18.130.100	AMD	175	69
18.64.043	AMD	9 E1	414	18.130.110	AMD	175	70
18.64.044	AMD	352	1	18.130.180	AMD	270	33
18.64.044	AMD	9 E1	401	18.130.190	AMD	175	71
18.64.045	AMD	9 E1	416	18.130.190	AMD	373	20
18.64.046	AMD	9 E1	417	18.130.310	AMD	9 E1	313
18.64.047	AMD	9 E1	418	19	ADD	20	1-16
18.64.050	AMD	9 E1	419		(Effective 1/1/90)		
18.64.080	AMD	352	3	19	ADD	98	1-3
18.64.080	AMD	9 E1	403		(Effective 1/1/90)		
18.64.080	AMD	9 E1	420	19	ADD	117	1-11
18.64.140	AMD	9 E1	421	19.02.040	AMD	9 E1	316
18.64.165	AMD	352	4	19.02.050	AMD	9 E1	317
18.64.165	AMD	9 E1	404	19.02.085	AMD	170	1
18.64.245	AMD	352	2	19.27	ADD	246	5-7
18.64.245	AMD	9 E1	402	19.27	ADD	313	2
18.64A.010	AMD	9 E1	422	19.27	ADD	348	8
18.64A.030	AMD	9 E1	423	19.27.031	AMD	266	1
18.64A.050	AMD	9 E1	424	19.27.031	AMD	348	9
18.64A.060	AMD	9 E1	425	19.27.060	AMD	246	1
18.71.210	AMD	260	4	19.27.060	AMD	266	2
18.72.190	AMD	373	18	19.27.070	AMD	246	2
18.72.301	AMD	119	1	19.27.074	AMD	266	3
18.72.306	AMD	119	2	19.27.078	AMD	266	4
18.83.035	AMD	226	1	19.27.080	AMD	346	19
18.83.110	AMD	271	303		(Effective 7/1/90)		
18.85.110	AMD	161	1	19.27.085	AMD	256	1
18.85.140	AMD	161	2	19.27.090	AMD	266	5
	(Effective 1/1/91)			19.28.210	AMD	344	1
18.85.190	AMD	161	3	19.29.010	AMD	12	3
18.85.271	AMD	175	66	19.32	ADD	9 E1	238
18.85.343	AMD	175	67	19.52	ADD	138	1
18.88.030	AMD	114	1	19.52.020	AMD	14	3
18.88.050	AMD	114	2	19.52.030	AMD	14	7
18.88.070	AMD	114	3	19.52.900	AMD	8	2
18.88.130	AMD	114	4	19.77	ADD	72	10,13,14
18.88.140	AMD	114	5	19.77.010	AMD	72	1
18.88.150	AMD	114	6	19.77.020	AMD	72	2
18.88.180	REP	114	9	19.77.030	AMD	72	3
18.88.185	REP	114	9	19.77.040	AMD	72	4
18.88.280	AMD	114	7	19.77.050	AMD	72	5
18.88.285	AMD	114	8	19.77.080	AMD	72	6
18.92	ADD	125	2	19.77.100	REP	72	15
18.104	ADD	9 E1	237	19.77.110	AMD	72	7
18.120.020	REMD	300	14	19.77.120	REP	72	15

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19.77.130	AMD	72	8	23.86.070	AMD 307 9
19.77.140	AMD	72	9	23.86.080	AMD 307 10
19.77.150	AMD	72	11	23.86.090	AMD 307 23
19.77.900	AMD	72	12	23.86.100	AMD 307 24
19.85	ADD	374	5	23.86.110	REP 307 44
19.85.020	AMD	374	1	23.86.120	REP 307 44
19.85.030	AMD	175	72	23.86.130	REP 307 44
19.85.030	AMD	374	2	23.86.140	REP 307 44
19.85.040	AMD	175	73	23.86.150	REP 307 44
19.85.040	AMD	374	3	23.86.160	AMD 307 25
19.85.050	AMD	175	74	23.86.180	REP 307 44
19.86	ADD	359	4	23.86.195	AMD 307 26
19.94.190	AMD	354	36	23.86.210	AMD 307 27
19.118.021	AMD	347	1	23.86.220	AMD 307 28
19.118.041	AMD	347	2	23.86.230	AMD 307 29
19.118.061	AMD	347	3	23A.04.010	REP 165 204
19.118.080	AMD	347	4		(Effective 7/1/90)
19.118.090	AMD	347	5	23A.08.010	REP 165 204
19.118.100	AMD	347	6		(Effective 7/1/90)
19.118.110	AMD	347	7	23A.08.020	REP 165 204
19.118.150	AMD	347	8		(Effective 7/1/90)
19.118.160	AMD	347	9	23A.08.025	REP 165 204
19.120.010	AMD	11	3		(Effective 7/1/90)
19.134.010	AMD	303	1	23A.08.026	REP 165 204
19.134.020	AMD	303	2		(Effective 7/1/90)
20.01.010	AMD	354	37	23A.08.030	REP 165 204
20.01.030	AMD	307	37		(Effective 7/1/90)
20.01.030	AMD	354	38	23A.08.040	REP 165 204
20.01.040	AMD	354	39		(Effective 7/1/90)
20.01.330	AMD	354	40	23A.08.050	REP 165 204
20.01.370	AMD	354	41		(Effective 7/1/90)
20.01.380	AMD	354	42	23A.08.060	REP 165 204
20.01.460	AMD	354	43		(Effective 7/1/90)
20.01.600	REP	354	60	23A.08.070	REP 165 204
21.20.005	AMD	391	1		(Effective 7/1/90)
21.20.040	AMD	391	2	23A.08.080	REP 165 204
21.20.320	REMD	307	34		(Effective 7/1/90)
21.20.321	REP	307	44	23A.08.090	REP 165 204
22.09.011	AMD	354	44		(Effective 7/1/90)
22.09.020	AMD	354	45	23A.08.100	REP 165 204
22.09.290	AMD	354	46		(Effective 7/1/90)
22.09.700	REP	354	61	23A.08.110	REP 165 204
22.09.720	AMD	354	47		(Effective 7/1/90)
22.09.730	AMD	354	48	23A.08.120	REP 165 204
22.09.740	AMD	354	49		(Effective 7/1/90)
22.09.750	AMD	354	50	23A.08.130	REP 165 204
22.09.780	AMD	354	51		(Effective 7/1/90)
22.09.830	AMD	354	52	23A.08.135	REP 165 204
23.86	ADD	307	2,3,6, 8,11-22, 30-33,35		(Effective 7/1/90)
				23A.08.140	REP 165 204
					(Effective 7/1/90)
23.86.010	AMD	307	4	23A.08.150	REP 165 204
23.86.030	AMD	307	5		(Effective 7/1/90)
23.86.040	REP	307	44	23A.08.155	REP 165 204
23.86.050	AMD	307	7		(Effective 7/1/90)
23.86.060	REP	307	44		

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23A.08.180	REP 165 (Effective 7/1/90)	204	23A.08.390	REP 165 (Effective 7/1/90)	204
23A.08.190	REP 165 (Effective 7/1/90)	204	23A.08.395	REP 165 (Effective 7/1/90)	204
23A.08.195	REP 165 (Effective 7/1/90)	204	23A.08.400	REP 165 (Effective 7/1/90)	204
23A.08.200	REP 165 (Effective 7/1/90)	204	23A.08.410	REP 165 (Effective 7/1/90)	204
23A.08.205	REP 165 (Effective 7/1/90)	204	23A.08.420	REP 165 (Effective 7/1/90)	204
23A.08.220	REP 165 (Effective 7/1/90)	204	23A.08.425	REP 165 (Effective 7/1/90)	204
23A.08.230	REP 165 (Effective 7/1/90)	204	23A.08.435	REP 165 (Effective 7/1/90)	204
23A.08.240	REP 165 (Effective 7/1/90)	204	23A.08.445	REP 165 (Effective 7/1/90)	204
23A.08.250	REP 165 (Effective 7/1/90)	204	23A.08.450	REP 165 (Effective 7/1/90)	204
23A.08.255	REP 165 (Effective 7/1/90)	204	23A.08.460	REP 165 (Effective 7/1/90)	204
23A.08.260	REP 165 (Effective 7/1/90)	204	23A.08.470	REP 165 (Effective 7/1/90)	204
23A.08.265	REP 165 (Effective 7/1/90)	204	23A.08.490	REP 165 (Effective 7/1/90)	204
23A.08.270	REP 165 (Effective 7/1/90)	204	23A.08.500	REP 165 (Effective 7/1/90)	204
23A.08.280	REP 165 (Effective 7/1/90)	204	23A.12.010	REP 165 (Effective 7/1/90)	204
23A.08.290	REP 165 (Effective 7/1/90)	204	23A.12.020	REP 165 (Effective 7/1/90)	204
23A.08.300	REP 165 (Effective 7/1/90)	204	23A.12.030	REP 165 (Effective 7/1/90)	204
23A.08.305	REP 165 (Effective 7/1/90)	204	23A.12.040	REP 165 (Effective 7/1/90)	204
23A.08.310	REP 165 (Effective 7/1/90)	204	23A.12.060	REP 165 (Effective 7/1/90)	204
23A.08.320	REP 165 (Effective 7/1/90)	204	23A.16.010	REP 165 (Effective 7/1/90)	204
23A.08.325	REP 165 (Effective 7/1/90)	204	23A.16.020	REP 165 (Effective 7/1/90)	204
23A.08.330	REP 165 (Effective 7/1/90)	204	23A.16.030	REP 165 (Effective 7/1/90)	204
23A.08.340	REP 165 (Effective 7/1/90)	204	23A.16.040	REP 165 (Effective 7/1/90)	204
23A.08.343	REP 165 (Effective 7/1/90)	204	23A.16.050	REP 165 (Effective 7/1/90)	204
23A.08.345	REP 165 (Effective 7/1/90)	204	23A.16.060	REP 165 (Effective 7/1/90)	204
23A.08.350	REP 165 (Effective 7/1/90)	204	23A.16.075	REP 165 (Effective 7/1/90)	204
23A.08.360	REP 165 (Effective 7/1/90)	204	23A.16.080	REP 165 (Effective 7/1/90)	204
23A.08.370	REP 165 (Effective 7/1/90)	204	23A.20.010	REP 165 (Effective 7/1/90)	204
23A.08.380	REP 165 (Effective 7/1/90)	204	23A.20.020	REP 165 (Effective 7/1/90)	204

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23A.20.025	REP 165 (Effective 7/1/90)	204	23A.28.150	REP 165 (Effective 7/1/90)	204
23A.20.030	REP 165 (Effective 7/1/90)	204	23A.28.160	REP 165 (Effective 7/1/90)	204
23A.20.040	REP 165 (Effective 7/1/90)	204	23A.28.170	REP 165 (Effective 7/1/90)	204
23A.20.050	REP 165 (Effective 7/1/90)	204	23A.28.180	REP 165 (Effective 7/1/90)	204
23A.20.060	REP 165 (Effective 7/1/90)	204	23A.28.190	REP 165 (Effective 7/1/90)	204
23A.20.070	REP 165 (Effective 7/1/90)	204	23A.28.200	REP 165 (Effective 7/1/90)	204
23A.24.010	REP 165 (Effective 7/1/90)	204	23A.28.210	REP 165 (Effective 7/1/90)	204
23A.24.020	REP 165 (Effective 7/1/90)	204	23A.28.220	REP 165 (Effective 7/1/90)	204
23A.24.030	REP 165 (Effective 7/1/90)	204	23A.28.230	REP 165 (Effective 7/1/90)	204
23A.24.040	REP 165 (Effective 7/1/90)	204	23A.28.240	REP 165 (Effective 7/1/90)	204
23A.28.010	REP 165 (Effective 7/1/90)	204	23A.28.250	REP 165 (Effective 7/1/90)	204
23A.28.020	REP 165 (Effective 7/1/90)	204	23A.32.010	REP 165 (Effective 7/1/90)	204
23A.28.030	REP 165 (Effective 7/1/90)	204	23A.32.020	REP 165 (Effective 7/1/90)	204
23A.28.040	REP 165 (Effective 7/1/90)	204	23A.32.030	REP 165 (Effective 7/1/90)	204
23A.28.050	REP 165 (Effective 7/1/90)	204	23A.32.040	REP 165 (Effective 7/1/90)	204
23A.28.060	REP 165 (Effective 7/1/90)	204	23A.32.050	REP 165 (Effective 7/1/90)	204
23A.28.070	REP 165 (Effective 7/1/90)	204	23A.32.050	AMD 307	42
23A.28.080	REP 165 (Effective 7/1/90)	204	23A.32.060	REP 165 (Effective 7/1/90)	204
23A.28.090	REP 165 (Effective 7/1/90)	204	23A.32.070	REP 165 (Effective 7/1/90)	204
23A.28.100	REP 165 (Effective 7/1/90)	204	23A.32.072	REP 165 (Effective 7/1/90)	204
23A.28.110	REP 165 (Effective 7/1/90)	204	23A.32.073	REP 165 (Effective 7/1/90)	204
23A.28.120	REP 165 (Effective 7/1/90)	204	23A.32.075	REP 165 (Effective 7/1/90)	204
23A.28.125	REP 165 (Effective 7/1/90)	204	23A.32.080	REP 165 (Effective 7/1/90)	204
23A.28.127	REP 165 (Effective 7/1/90)	204	23A.32.090	REP 165 (Effective 7/1/90)	204
23A.28.129	REP 165 (Effective 7/1/90)	204	23A.32.100	REP 165 (Effective 7/1/90)	204
23A.28.130	REP 165 (Effective 7/1/90)	204	23A.32.130	REP 165 (Effective 7/1/90)	204
23A.28.135	REP 165 (Effective 7/1/90)	204	23A.32.140	REP 165 (Effective 7/1/90)	204
23A.28.141	REP 165 (Effective 7/1/90)	204	23A.32.150	REP 165 (Effective 7/1/90)	204

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RCW	CH.	SEC.	RCW	CH.	SEC.
23A.32.160	REP 165 (Effective 7/1/90)	204	23A.44.060	REP 165 (Effective 7/1/90)	204
23A.32.170	REP 165 (Effective 7/1/90)	204	23A.44.070	REP 165 (Effective 7/1/90)	204
23A.32.173	REP 165 (Effective 7/1/90)	204	23A.44.080	REP 165 (Effective 7/1/90)	204
23A.32.176	REP 165 (Effective 7/1/90)	204	23A.44.100	REP 165 (Effective 7/1/90)	204
23A.32.180	REP 165 (Effective 7/1/90)	204	23A.44.110	REP 165 (Effective 7/1/90)	204
23A.32.190	REP 165 (Effective 7/1/90)	204	23A.44.120	REP 165 (Effective 7/1/90)	204
23A.32.200	REP 165 (Effective 7/1/90)	204	23A.44.130	REP 165 (Effective 7/1/90)	204
23A.36.010	REP 165 (Effective 7/1/90)	204	23A.44.140	REP 165 (Effective 7/1/90)	204
23A.36.020	REP 165 (Effective 7/1/90)	204	23A.44.145	REP 165 (Effective 7/1/90)	204
23A.36.030	REP 165 (Effective 7/1/90)	204	23A.44.146	REP 165 (Effective 7/1/90)	204
23A.36.040	REP 165 (Effective 7/1/90)	204	23A.44.150	REP 165 (Effective 7/1/90)	204
23A.36.050	REP 165 (Effective 7/1/90)	204	23A.44.160	REP 165 (Effective 7/1/90)	204
23A.36.060	REP 165 (Effective 7/1/90)	204	23A.44.170	REP 165 (Effective 7/1/90)	204
23A.40.010	REP 165 (Effective 7/1/90)	204	23A.44.180	REP 165 (Effective 7/1/90)	204
23A.40.020	REP 165 (Effective 7/1/90)	204	23A.50.010	REP 165 (Effective 7/1/90)	204
23A.40.030	REP 165 (Effective 7/1/90)	204	23A.50.020	REP 165 (Effective 7/1/90)	204
23A.40.032	REP 165 (Effective 7/1/90)	204	23A.50.030	REP 165 (Effective 7/1/90)	204
23A.40.035	REP 165 (Effective 7/1/90)	204	23A.50.040	REP 165 (Effective 7/1/90)	204
23A.40.040	REP 165 (Effective 7/1/90)	204	23A.50.050	REP 165 (Effective 7/1/90)	204
23A.40.060	REP 165 (Effective 7/1/90)	204	23A.50.900	REP 165 (Effective 7/1/90)	204
23A.40.070	REP 165 (Effective 7/1/90)	204	23A.98.010	REP 165 (Effective 7/1/90)	204
23A.40.077	REP 165 (Effective 7/1/90)	204	23A.98.020	REP 165 (Effective 7/1/90)	204
23A.40.080	REP 165 (Effective 7/1/90)	204	23A.98.030	REP 165 (Effective 7/1/90)	204
23A.44.010	REP 165 (Effective 7/1/90)	204	23A.98.050	REP 165 (Effective 7/1/90)	204
23A.44.020	REP 165 (Effective 7/1/90)	204	23B	ADD 165	1-201
23A.44.030	REP 165 (Effective 7/1/90)	204	24.03	ADD 166	1
23A.44.040	REP 165 (Effective 7/1/90)	204	24.03	ADD 291	4-9
23A.44.050	REP 165 (Effective 7/1/90)	204	24.03.005	AMD 291	3
			24.03.045	AMD 291	10
			24.03.395	AMD 291	2
			24.06.360	AMD 307	38
			24.32.010	REP 307	44

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RCW	CH.	SEC.	RCW	CH.	SEC.		
24.32.020	REP	307	44	26.09.191	AMD	375	11
24.32.030	REP	307	44	26.09.220	AMD	375	12
24.32.040	REP	307	44	26.09.240	AMD	375	13
24.32.050	REP	307	44	26.09.260	AMD	318	3
24.32.060	REP	307	44	26.09.260	AMD	375	14
24.32.070	REP	307	44	26.09.270	AMD	375	15
24.32.080	REP	307	44	26.09.285	AMD	375	16
24.32.090	REP	307	44	26.09.907	AMD	375	17
24.32.100	REP	307	44	26.09.909	AMD	375	18
24.32.110	REP	307	44	26.10	ADD	375	32
24.32.150	REP	307	44	26.10.040	AMD	375	31
24.32.160	REP	307	44	26.10.060	AMD	375	19
24.32.200	REP	307	44	26.10.070	AMD	375	20
24.32.210	REP	307	44	26.10.160	AMD	326	2
24.32.240	REP	307	44	26.10.180	AMD	375	21
24.32.250	REP	307	44	26.10.190	AMD	375	24
24.32.260	REP	307	44	26.12.050	AMD	199	1
24.32.270	REP	307	44	26.12.080	AMD	375	22
24.32.280	REP	307	44	26.18	ADD	416	5,9
24.32.290	REP	307	44	26.18.020	AMD	416	2
24.32.300	REP	307	44	26.18.050	AMD	373	22
24.32.310	REP	307	44	26.18.100	AMD	416	10
24.32.320	REP	307	44	26.18.110	AMD	416	11
24.32.330	REP	307	44	26.19.020	AMD	175	76
24.32.340	REP	307	44	26.19.030	AMD	360	41
24.32.350	REP	307	44	26.23	ADD	360	33,34,40
24.32.355	REP	307	44	26.23.030	AMD	360	6
24.32.360	REP	307	44	26.23.040	AMD	360	39
24.32.400	REP	307	44		(Effective 7/1/90)		
24.32.410	REP	307	44	26.23.050	AMD	360	15
24.32.900	REP	307	44	26.23.060	AMD	360	32
24.34.020	AMD	175	75	26.23.100	AMD	360	31
26.04.165	AMD	9	E1 203	26.23.110	AMD	175	77
26.09	ADD	318	4	26.23.110	AMD	360	16
26.09	ADD	377	1	26.23.120	AMD	175	78
26.09.010	AMD	375	1	26.23.120	AMD	360	17
26.09.015	AMD	375	2	26.26	ADD	375	25
26.09.020	AMD	375	3	26.26	ADD	404	1-6
26.09.020	AMD	9	E1 204	26.26	ADD	416	4
26.09.050	AMD	375	29	26.26.040	AMD	55	4
26.09.060	AMD	360	37	26.26.130	AMD	360	18
26.09.070	AMD	375	4	26.26.130	AMD	375	23
26.09.080	AMD	375	5	26.26.131	REP	360	42
26.09.090	AMD	375	6	26.26.160	AMD	360	36
26.09.100	AMD	375	7	26.33	ADD	255	1
26.09.105	AMD	416	1	26.33	ADD	281	2-3
26.09.120	REMD	360	11	26.33.350	AMD	281	1
26.09.150	AMD	9	E1 205	26.44.030	REMD	22	1
26.09.150	AMD	375	30	26.44.067	AMD	373	23
26.09.160	AMD	318	1	26.50	ADD	375	26
26.09.170	AMD	416	3	26.50.020	AMD	375	28
26.09.181	AMD	375	8	26.50.060	AMD	411	1
26.09.181	AMD	2	E2 1	26.50.070	AMD	411	2
26.09.184	AMD	375	9	27.04.045	AMD	96	7
26.09.187	AMD	375	10	27.26	ADD	96	3-5,9
26.09.191	AMD	326	1	27.26.010	AMD	96	2

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RCW	CH.	SEC.	RCW	CH.	SEC.
27.26.010	REP 96	10	28A.70.040	AMD 402	1
	(Effective 6/30/97)		28A.70.042	AMD 29	2
27.26.020	REP 96	10	28A.70.160	AMD 320	1
	(Effective 6/30/97)		28A.70.180	AMD 320	2
27.26.030	REP 96	10	28A.70.400	AMD 253	2
	(Effective 6/30/97)		28A.70.408	AMD 253	3
27.26.040	REP 96	10	28A.87.120	AMD 269	6
	(Effective 6/30/97)		28A.120	ADD 271	311-313
27.26.050	REP 96	10	28A.120.010	AMD 233	1
	(Effective 6/30/97)		28A.120.016	AMD 233	2
27.26.060	REP 96	10	28A.120.020	AMD 233	3
	(Effective 6/30/97)		28A.120.032	AMD 233	5
27.34	ADD 82	2	28A.120.040	AMD 271	113
27.44	ADD 44	1-3	28A.120.062	AMD 209	1
27.44.010	REP 44	12	28A.120.064	AMD 209	2
27.53.030	AMD 44	6	28A.120.066	REP 209	3
27.53.060	AMD 44	7	28B	ADD 341	1-8
27.60.045	REP 82	4	28B	ADD 7	E1 3-7,
27.60.900	AMD 82	3			14
28A	ADD 233	6	28B.10	ADD 187	1
28A	ADD 310	1	28B.10	ADD 356	6
28A	ADD 320	3-5	28B.10	ADD 7	E1 10
28A.02.061	AMD 233	11	28B.10.802	AMD 254	2
28A.03.430	AMD 66	1	28B.10.806	AMD 254	3
28A.03.432	AMD 66	2	28B.10.808	AMD 254	4
28A.03.523	AMD 75	1	28B.10.810	AMD 254	5
28A.04	ADD 370	1	28B.10.871	AMD 187	2
28A.04.131	AMD 178	20	28B.15	ADD 290	2
	(Effective 10/1/89)		28B.15	ADD 340	1,3-6
28A.04.178	AMD 11	4	28B.15.013	AMD 175	79
28A.21	ADD 208	1	28B.15.014	AMD 306	3
28A.21.360	AMD 69	1	28B.15.014	AMD 290	3
28A.31	ADD 9	E1 239	28B.15.070	REMD 245	3
28A.41	ADD 233	10	28B.15.076	REMD 245	4
28A.41.053	AMD 400	2	28B.15.402	AMD 245	1
28A.41.112	AMD 16	E1 1	28B.15.527	AMD 245	5
28A.47.801	AMD 321	1	28B.15.620	AMD 306	4
28A.47.802	AMD 321	2	28B.15.740	AMD 340	2
28A.47.803	AMD 321	3	28B.20.450	AMD 12	4
28A.56.200	AMD 321	4	28B.20.454	AMD 12	5
28A.58	ADD 93	6	28B.25.020	AMD 7	E1 11
28A.58	ADD 118	1	28B.30.510	REP 7	E1 16
28A.58	ADD 206	1	28B.50.864	AMD 175	80
28A.58.035	AMD 86	2	28B.50.873	AMD 175	81
28A.58.085	AMD 83	1	28C.80	ADD 306	2
28A.58.096	AMD 69	2	28B.80	ADD 7	E1 2,8,9,
28A.58.098	AMD 11	5			12,13
28A.58.103	AMD 371	1	28B.85.090	AMD 175	82
28A.58.217	AMD 233	9	28B.104.020	AMD 115	1
28A.59.100	AMD 232	1	28B.104.020	AMD 9	E1 206
28A.60	ADD 263	2	28C.10.120	AMD 175	83
28A.61.030	AMD 325	1	29	ADD 4	1-8
28A.61.900	AMD 325	2	29.04.050	AMD 278	1
28A.67	ADD 146	1-3	29.04.130	REP 278	3
28A.67	ADD 271	244-247	29.04.135	REP 278	3
28A.70.040	AMD 29	1	29.04.140	AMD 278	2

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RCW	CH.	SEC.	RCW	CH.	SEC.			
29.10.180	AMD	261	1	34.05.485	AMD	175	23	
29.10.190	REP	261	2	34.05.488	AMD	175	24	
29.13.010	AMD	4	9	34.05.538	REP	175	185	
29.13.020	AMD	4	10	34.05.550	AMD	175	25	
29.13.060	REEN	10	7	34.05.566	AMD	175	26	
29.24	ADD	215	1,5,6	34.05.570	AMD	175	27	
29.24.020	AMD	215	2	34.05.574	AMD	175	28	
29.24.030	AMD	215	3	34.05.586	AMD	175	29	
29.24.040	AMD	215	4	34.08.040	AMD	175	31	
29.24.050	REP	215	9	34.08.050	AMD	175	32	
29.24.060	AMD	215	7	34.12.020	AMD	175	33	
29.24.070	AMD	215	8	34.12.060	AMD	175	34	
29.24.075	REP	215	9	34.12.120	AMD	175	35	
29.24.090	REP	215	9	35	ADD	271	239-242	
29.34.085	AMD	155	1	35.02	ADD	84	25	
30.04.060	AMD	180	1	35.02	ADD	267	3	
30.04.075	AMD	180	2	35.02.170	AMD	84	7	
30.04.112	AMD	220	1	35.02.190	AMD	76	2	
30.04.410	AMD	180	3	35.02.200	AMD	76	3	
30.12	ADD	180	7	35.02.200	AMD	267	1	
30.12.190	AMD	220	2	35.07	ADD	84	26	
30.22.190	AMD	220	3	35.10	ADD	84	27	
31	ADD	212	1-13	35.13	ADD	84	8,12-15, 22,24,28	
32.04	ADD	180	4					
32.04.220	AMD	180	5	35.13	ADD	351	8	
32.16	ADD	180	9	35.13.025	REP	351	10	
32.20	ADD	97	2	35.13.060	AMD	351	2	
32.20	ADD	180	8	35.13.125	AMD	351	3	
32.32.228	AMD	180	6	35.13.165	AMD	351	7	
33.24	ADD	97	3	35.16	ADD	84	29	
33.24.007	AMD	343	23	35.21	ADD	84	70	
	(Effective 3/1/90)			35.21	ADD	250	2	
34.04.115	REP	175	185	35.21	ADD	399	12	
34.05	ADD	175	30	35.21	ADD	431	33	
34.05.010	AMD	175	1	35.21.120	AMD	399	1	
34.05.030	AMD	175	2	35.21.130	AMD	431	51	
34.05.080	AMD	175	3	35.21.152	AMD	399	2	
34.05.220	AMD	175	4	35.21.154	AMD	399	3	
34.05.310	AMD	175	5	35.21.225	AMD	53	2	
34.05.315	AMD	175	6	35.21.714	AMD	103	1	
34.05.320	AMD	175	7	35.21.715	AMD	103	2	
34.05.335	AMD	175	8	35.21.790	AMD	84	10	
34.05.340	AMD	175	9	35.22	ADD	274	5	
34.05.350	AMD	175	10	35.22	ADD	335	7	
34.05.380	AMD	175	11	35.22	ADD	427	39	
34.05.413	AMD	175	12	35.22.620	AMD	431	59	
34.05.422	AMD	175	13	35.22.625	AMD	399	4	
34.05.425	AMD	175	14	35.23.351	AMD	399	5	
34.05.428	AMD	175	15	35.23.352	AMD	431	56	
34.05.440	AMD	175	16	35.23.353	REP	399	13	
34.05.446	AMD	175	17	35.31.040	AMD	74	1	
34.05.449	AMD	175	18	35.43	ADD	84	30	
34.05.461	AMD	175	19	35.43	ADD	4	EI	2
34.05.464	AMD	175	20	35.43.040	AMD	277	1	
34.05.470	AMD	175	21	35.43.120	AMD	243	1	
34.05.473	AMD	175	22	35.43.140	AMD	243	2	

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35.43.150	AMD	243	3	36.18.020	REMD 342	1
35.50.050	AMD	11	6		(Effective 8/1/89)	
35.58	ADD	396	1,2	36.21.040	REP	246
35.58	ADD	389	1	36.21.050	REP	246
35.61	ADD	84	31	36.21.060	REP	246
35.61	ADD	319	1,5,6	36.21.070	AMD	246
35.61.100	AMD	319	2	36.21.080	AMD	246
35.61.110	AMD	319	3	36.27	ADD	271
35.61.132	AMD	319	4	36.27.060	AMD	39
35.63	ADD	274	2	36.28A	ADD	366
35.63	ADD	335	4	36.32	ADD	244
35.63	ADD	427	36	36.32	ADD	274
35.67	ADD	84	32	36.32	ADD	335
35.68.075	AMD	173	1	36.32	ADD	427
35.68.076	AMD	175	84	36.32	ADD	4
35.80.010	AMD	133	1	36.32.080	AMD	16
35.80.020	AMD	133	2	36.32.090	AMD	16
35.80.030	AMD	133	3	36.32.120	AMD	378
35.82	ADD	363	6	36.32.250	REMD	244
35.82.020	AMD	363	1	36.32.250	REMD	431
35.82.070	AMD	363	2	36.32.265	AMD	399
35.82.080	AMD	363	3	36.58	ADD	431
35.82.090	AMD	363	4	36.58.010	AMD	431
35.91	ADD	84	33	36.58.030	AMD	431
35.92	ADD	84	34	36.58.040	AMD	431
35.92	ADD	249	1	36.58.040	AMD	399
35.92	ADD	421	3	36.58.090	AMD	399
35.92.020	AMD	399	6	36.69	ADD	184
35.92.022	REP	399	13	36.69	ADD	243
35.92.024	RECD	399	12	36.70	ADD	274
35.92.024	AMD	399	7	36.70	ADD	335
35.92.360	AMD	268	1	36.70	ADD	427
35.97.020	AMD	11	7	36.73.020	AMD	53
35A.02	ADD	84	35	36.73.040	AMD	53
35A.03	ADD	84	36	36.88	ADD	243
35A.05	ADD	84	37	36.93	ADD	84
35A.14	ADD	84	9,23,38	36.93	ADD	308
35A.14	ADD	351	9	36.93.050	REP	84
35A.14.020	AMD	351	4	36.93.060	REP	84
35A.14.050	AMD	351	5	36.93.100	AMD	84
35A.14.120	AMD	351	6	36.93.105	AMD	84
35A.14.400	AMD	267	2	36.93.170	AMD	84
35A.15	ADD	84	39	36.93.180	AMD	84
35A.16	ADD	84	40	36.94	ADD	243
35A.21	ADD	431	35	36.100.010	AMD	8
35A.21.210	AMD	84	11	36.100.020	AMD	8
35A.40.210	AMD	11	8	36.100.030	AMD	8
35A.63	ADD	274	3	36.100.040	AMD	8
35A.63	ADD	335	5	36.100.060	AMD	8
35A.63	ADD	427	37	38	ADD	19
35A.82.060	AMD	103	3	38.04.010	AMD	19
35A.82.065	AMD	103	4	38.04.020	AMD	19
36.16.134	AMD	250	1	38.04.030	AMD	19
36.18	ADD	204	2-5	38.04.040	AMD	19
36.18.010	AMD	204	6	38.08.010	AMD	19
36.18.010	AMD	304	1	38.08.030	AMD	19

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RCW	CH.	SEC.	RCW	CH.	SEC.
38.08.040	AMD	19	7	38.38.244	AMD 48 23
38.08.050	AMD	19	8	38.38.248	AMD 48 24
38.08.070	AMD	19	9	38.38.252	AMD 48 25
38.08.080	REP	19	62	38.38.256	AMD 48 26
38.08.090	AMD	19	10	38.38.260	AMD 48 27
38.12.010	AMD	19	11	38.38.268	AMD 48 28
38.12.020	AMD	19	12	38.38.308	AMD 48 29
38.12.030	AMD	19	13	38.38.312	AMD 48 30
38.12.060	AMD	19	14	38.38.316	AMD 48 31
38.12.070	AMD	19	15	38.38.320	AMD 48 32
38.12.095	AMD	19	16	38.38.324	AMD 48 33
38.12.115	AMD	19	17	38.38.328	AMD 48 34
38.12.125	AMD	19	18	38.38.368	AMD 48 35
38.12.150	AMD	19	19	38.38.372	AMD 48 36
38.12.170	AMD	19	20	38.38.376	AMD 48 37
38.12.180	AMD	19	21	38.38.380	AMD 48 38
38.12.200	AMD	19	22	38.38.384	AMD 48 39
38.16	ADD	19	30	38.38.388	AMD 48 40
38.16.010	AMD	19	29	38.38.392	AMD 48 41
38.16.020	AMD	19	31	38.38.396	AMD 48 42
38.16.030	AMD	19	32	38.38.400	AMD 48 43
38.20.010	AMD	19	33	38.38.404	AMD 48 44
38.20.040	AMD	19	34	38.38.408	AMD 48 45
38.20.050	AMD	19	35	38.38.412	AMD 48 46
38.24.010	AMD	19	36	38.38.420	AMD 48 47
38.24.050	AMD	19	37	38.38.428	AMD 48 48
38.24.060	AMD	19	38	38.38.432	AMD 48 49
38.32.010	AMD	19	39	38.38.440	AMD 48 50
38.32.020	AMD	19	40	38.38.484	AMD 48 51
38.32.070	AMD	19	41	38.38.488	AMD 48 52
38.32.080	AMD	19	42	38.38.492	AMD 48 53
38.32.090	AMD	19	43	38.38.532	AMD 48 54
38.32.120	AMD	19	44	38.38.540	AMD 48 55
38.38.004	AMD	48	1	38.38.556	AMD 48 56
38.38.008	AMD	48	2	38.38.564	AMD 48 57
38.38.012	AMD	48	3	38.38.568	AMD 48 58
38.38.012	AMD	11	9	38.38.572	AMD 48 59
38.38.016	AMD	48	4	38.38.580	AMD 48 60
38.38.020	AMD	48	5	38.38.652	AMD 48 61
38.38.024	AMD	48	6	38.38.556	AMD 48 62
38.38.064	AMD	48	7	38.38.660	AMD 48 63
38.38.068	AMD	48	8	38.38.684	AMD 48 64
38.38.072	AMD	48	9	38.38.688	AMD 48 65
38.38.076	AMD	48	10	38.38.716	AMD 48 66
38.38.080	AMD	48	11	38.38.720	AMD 48 67
38.38.084	AMD	48	12	38.38.756	AMD 48 68
38.38.088	AMD	48	13	38.38.772	AMD 48 69
38.38.092	AMD	48	14	38.38.788	AMD 48 70
38.38.132	AMD	48	15	38.38.800	AMD 48 71
38.38.172	AMD	48	16	38.38.840	AMD 48 72
38.38.176	AMD	48	17	38.38.844	AMD 48 73
38.38.184	AMD	48	18	38.38.848	AMD 48 74
38.38.188	AMD	48	19	38.38.852	AMD 48 75
38.38.196	AMD	48	20	38.38.856	AMD 48 76
38.38.200	AMD	48	21	38.38.860	AMD 48 77
38.38.240	AMD	48	22	38.38.864	AMD 48 78

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RCW	CH.	SEC.	RCW	CH.	SEC.
38.38.868	AMD	48	79	41.04.280	REP 273 30
38.40.010	AMD	15	45	41.04.510	AMD 21 1
38.40.020	AMD	19	46	41.04.525	AMD 11 10
38.40.030	AMD	19	47	41.05	ADD 345 4
38.40.040	AMD	19	48	41.05	ADD 338 5
38.40.050	AMD	19	49	41.05.055	AMD 324 1
38.40.060	AMD	19	50	41.06	ADD 9 E1 813
38.40.071	REP	19	62	41.06.070	AMD 96 8
38.40.080	REP	19	62	41.06.071	AMD 185 1
38.40.100	AMD	19	51	41.24	ADD 91 6,7,25
38.40.110	AMD	19	52	41.24	ADD 194 2
38.40.120	AMD	19	53	41.24.010	AMD 91 8
38.40.130	AMD	19	54	41.24.020	AMD 91 9
38.40.160	REP	19	62	41.24.030	AMD 91 1
38.44.010	AMD	19	55	41.24.030	AMD 194 1
38.44.020	AMD	19	56	41.24.031	REP 91 26
38.44.030	AMD	19	57	41.24.040	AMD 91 10
38.44.040	AMD	19	58	41.24.050	AMD 91 11
38.44.050	AMD	19	59	41.24.080	AMD 91 12
38.44.060	AMD	19	60	41.24.110	AMD 91 13
38.48.050	AMD	19	61	41.24.140	AMD 91 14
39	ADD	356	1-5	41.24.150	AMD 91 2
39.04	ADD	59	1	41.24.160	AMD 91 3
39.04.010	AMD	363	5	41.24.170	AMD 91 4
39.04.175	AMD	399	11	41.24.175	AMD 91 15
39.08	ADD	58	2	41.24.180	AMD 91 5
39.08.010	AMD	145	1	41.24.190	AMD 91 16
39.08.030	AMD	58	1	41.24.200	AMD 91 17
39.12.010	AMD	12	6	41.24.210	AMD 91 18
39.12.020	AMD	12	7	41.24.220	AMD 91 19
39.12.021	AMD	12	8	41.24.230	AMD 91 20
39.12.030	AMD	12	9	41.24.240	AMD 91 21
39.12.042	AMD	12	11	41.24.240	AMD 360 26
39.12.060	AMD	12	10	41.24.250	AMD 91 22
39.19.030	AMD	175	85	41.24.290	AMD 91 23
39.28.020	AMD	12	12	41.24.310	AMD 91 24
39.30.040	AMD	431	58	41.26	ADD 88 3
39.42.030	AMD	14 E1	16	41.26.005	AMD 273 10
39.42.060	AMD	356	7	41.26.040	AMD 273 11
39.42.060	AMD	14 E1	17	41.26.070	AMD 273 12
39.44.200	AMD	225	1	41.26.080	AMD 273 13
39.44.210	AMD	225	2		(Effective 9/1/90)
39.44.220	REP	225	6	41.26.180	AMD 360 24
39.44.230	AMD	225	3	41.26.270	AMD 12 13
39.44.240	AMD	225	4	41.26.450	AMD 273 14
39.56.010	REP	10	11	41.26.470	AMD 88 1
39.58.050	AMD	97	4	41.26.470	AMD 191 1
39.88.060	AMD	378	1	41.26.520	AMD 88 2
39.92.040	AMD	296	1	41.32	ADD 116 1-3
40.07.020	AMD	175	86	41.32	ADD 272 3
40.14	ADD	235	1,2	41.32.005	AMD 273 15
41	ADD	273	1-9	41.32.005	AMD 272 4
41.____	AMD	1 E1	1	41.32.030	AMD 273 16
41.04	ADD	93	1-5	41.32.110	REP 273 30
41.04.040	REP	273	30	41.32.150	REP 273 30
41.04.050	REP	273	30		

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RCW	CH.	SEC.	RCW	CH.	SEC.
41.32.401	AMD 273 (Effective 9/1/90)	17	42.17.060	AMD 280 (Effective 1/1/90)	4
41.32.403	AMD 273 (Effective 9/1/90)	18	42.17.065	AMD 280 (Effective 1/1/90)	5
41.32.485	AMD 272	5	42.17.067	AMD 280 (Effective 1/1/90)	6
41.32.487	AMD 272	6	42.17.070	AMD 280 (Effective 1/1/90)	7
41.32.4982	REP 273	30	42.17.080	AMD 280 (Effective 1/1/90)	8
41.32.4983	REP 273	30	42.17.090	REMD 280 (Effective 1/1/90)	9
41.32.570	AMD 273	29	42.17.100	AMD 280 (Effective 1/1/90)	10
41.32.590	AMD 360	25	42.17.105	AMD 280 (Effective 1/1/90)	11
41.32.775	AMD 273	19	42.17.125	AMD 280 (Effective 1/1/90)	12
41.32.790	AMD 191	2	42.17.135	AMD 280 (Effective 1/1/90)	13
41.40	ADD 272	2	42.17.170	AMD 175	90
41.40.005	AMD 272	7	42.17.240	AMD 158	1
41.40.005	AMD 273	20	42.17.2401	AMD 158	2
41.40.010	AMD 289	1	42.17.2401	AMD 279	22
41.40.010	AMD 309	1	42.17.2401	AMD 9 E1	812
41.40.065	REP 273	30	42.17.260	AMD 175 (Effective 7/1/90)	36
41.40.080	AMD 273	21	42.17.310	REMD 11	12
41.40.160	AMD 273 (Effective 9/1/90)	27	42.17.310	REMD 189	3
41.40.198	AMD 272	8	42.17.310	REMD 205	20
41.40.1981	AMD 272	9	42.17.310	REMD 279	23
41.40.361	AMD 273 (Effective 9/1/90)	22	42.17.310	REMD 238	1
41.40.370	AMD 273 (Effective 9/1/90)	23	42.17.310	REMD 352	7
41.40.380	AMD 360	27	42.17.310	REMD 9 E1	407
41.40.405	AMD 273 (Effective 9/1/90)	28	42.17.395	AMD 175	91
41.40.414	AMD 175	87	42.17.397	AMD 175	92
41.40.420	AMD 175	88	42.18.221	AMD 96	6
41.40.450	AMD 289	2	42.21.020	AMD 175	93
41.40.650	AMD 273	24	42.22.040	AMD 11	13
41.40.670	AMD 191	3	42.23.030	AMD 263	1
41.44.240	AMD 360	28	42.28.030	REP 9	1
41.56	ADD 46	1	42.28.035	REP 9	1
41.56.020	AMD 275	1	42.28.060	REP 9	1
41.56.030	AMD 275	2	42.28.070	REP 9	1
41.56.100	AMD 45	1	42.28.090	REP 9	1
41.56.490	AMD 373	24	42.30.060	AMD 42	1
41.59.020	AMD 11	11	42.30.110	AMD 238	2
41.60.041	AMD 56	1	42.30.140	AMD 175	94
41.60.100	AMD 56	2	42.40.020	AMD 284	1
41.60.110	AMD 56	3	42.40.030	AMD 284	2
41.60.120	AMD 56	4	42.40.040	AMD 284	3
41.60.150	AMD 56	5	42.40.050	AMD 284	4
42.17	ADD 312	7	42.40.060	REP 284	6
42.17.020	AMD 175	89	42.40.070	AMD 284	5
42.17.020	AMD 280 (Effective 1/1/90)	1	42.48.010	AMD 9 E1	207
42.17.040	AMD 280 (Effective 1/1/90)	2	43	ADD 271	315-322
42.17.050	AMD 280 (Effective 1/1/90)	3			

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RCW	CH.	SEC.	RCW	CH.	SEC.
43	ADD	279	1-21	43.20A.650	RECD 9 E1 267
43	ADD	431	100-102	43.20A.650	AMD 9 E1 258
43	ADD	2 E1	8-12	43.20A.655	RECD 9 E1 267
43	ADD	9 E1	101-104,	43.20A.655	AMD 9 E1 259
			106-109,	43.20A.660	AMD 9 E1 215
			201,252,	43.20A.665	AMD 9 E1 260
			262-264,	43.20A.665	RECD 9 E1 267
			301,	43.20A.710	AMD 334 13
			319-323	43.20B.030	AMD 78 4
43	ADD	14 E1	1-9	43.20B.110	AMD 9 E1 216
43.03.010	REEN	10	8	43.20B.340	AMD 175 98
43.03.011	AMD	4 E2	1	43.20B.365	REP 78 5
43.03.012	AMD	4 E2	2	43.20B.430	AMD 175 99
43.03.013	AMD	4 E2	3	43.20B.625	REP 78 5
43.07.120	AMD	307	39	43.20B.630	AMD 175 100
43.07.130	AMD	307	40	43.20B.740	AMD 175 101
43.07.190	AMD	307	41	43.21A.170	AMD 9 E1 217
43.09.020	AMD	140	1	43.21A.445	AMD 9 E1 218
43.09.230	AMD	168	1	43.21A.500	AMD 213 1
43.17.010	AMD	9 E1	810	43.21A.520	AMD 431 47
43.17.020	AMD	9 E1	811	43.21B.110	AMD 175 102
43.19	ADD	57	1-5	43.21B.160	AMD 175 103
43.19	ADD	419	6	43.21B.180	AMD 175 104
43.19.1911	AMD	431	60	43.21B.240	AMD 175 105
43.19.1919	AMD	144	1	43.21B.310	AMD 2 14
43.19.1932	AMD	185	2	43.21C.500	AMD 213 2
43.19.19366	REP	419	18	43.22.210	AMD 12 14
43.19.570	AMD	113	1	43.22.480	AMD 134 1
43.19.605	AMD	57	6	43.24.015	AMD 9 E1 318
43.19.620	AMD	57	7	43.24.015	RECD 9 E1 324
43.19.630	AMD	57	8	43.24.020	AMD 9 E1 314
43.20	ADD	348	12	43.24.072	RECD 9 E1 822
43.20.025	AMD	9 E1	208	43.24.075	REP 9 E1 819
43.20.050	AMD	207	1	43.24.086	AMD 9 E1 315
43.20.050	AMD	9 E1	210	43.31	ADD 312 1-6
43.20A	ADD	175	95,96	43.31	ADD 423 1-3, 6-10
43.20A.010	AMD	9 E1	211	43.31	ADD 430 3-8
43.20A.030	AMD	9 E1	212	43.31	ADD 431 64
43.20A.060	AMD	9 E1	213	43.31.085	AMD 430 2
43.20A.140	RECD	9 E1	822	43.31.370	REP 9 1
43.20A.360	AMD	11	14	43.33A.110	AMD 179 1
43.20A.360	AMD	9 E1	214	43.33A.150	AMD 179 2
43.20A.600	RECD	9 E1	267	43.41.170	AMD 11 15
43.20A.600	AMD	9 E1	251	43.43	ADD 320 6
43.20A.605	AMD	175	97	43.43	ADD 350 1,2, 4-6
43.20A.615	RECD	9 E1	267	43.43.080	AMD 28 1
43.20A.615	AMD	9 E1	253	43.43.090	AMD 28 2
43.20A.620	AMD	9 E1	254	43.43.200	REP 273 30
43.20A.620	RECD	9 E1	267	43.43.220	AMD 273 25
43.20A.625	RECD	9 E1	267		(Effective 9/1/90)
43.20A.625	AMD	9 E1	255	43.43.270	AMD 108 1
43.20A.640	RECD	9 E1	267	43.43.310	REMD 360 29
43.20A.640	AMD	9 E1	256	43.43.700	AMD 334 6
43.20A.645	RECD	9 E1	267	43.43.705	AMD 334 7
43.20A.645	AMD	9 E1	257		

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RCW	CH.	SEC.	RCW	CH.	SEC.
43.43.715	AMD	334	8	43.99.146	AMD 237 6
43.43.735	REMD	6	2	43.99C.045	AMD 265 1
43.43.735	REMD	334	9	43.99D	ADD 9 E1 241
43.43.740	REMD	334	10	43.99E	ADD 9 E1 242
43.43.830	AMD	90	1	43.99E.015	AMD 136 4
43.43.830	AMD	334	1	43.99E.015	AMD 14 E1 11
43.43.832	AMD	90	2	43.99E.035	AMD 136 5
43.43.832	AMD	334	2	43.99F.020	AMD 136 6
43.43.834	AMD	90	3	43.99F.020	AMD 14 E1 12
43.43.834	AMD	334	3	43.99F.060	AMD 136 7
43.43.838	AMD	90	4	43.99G.020	AMD 14 E1 13
43.43.838	AMD	334	4	43.99G.030	AMD 14 E1 19
43.43.840	AMD	90	5	43.99G.040	AMD 14 E1 20
43.43.840	AMD	334	5	43.99G.050	AMD 14 E1 21
43.51.040	AMD	175	106	43.99G.070	AMD 14 E1 22
43.51.055	AMD	135	1	43.99G.102	AMD 14 E1 14
43.51.340	AMD	175	107	43.99G.104	AMD 14 E1 23
43.51.405	AMD	129	1	43.99G.106	REP 14 E1 25
43.51.409	AMD	129	3	43.99G.110	REP 14 E1 25
43.52.395	AMD	14	4	43.99G.112	AMD 14 E1 24
43.60A.070	AMD	175	108	43.101.200	AMD 299 2
43.63A	ADD	274	7	43.121.020	AMD 304 4
43.63A.155	AMD	225	5	43.131	ADD 346 17
43.81.030	AMD	11	16	43.131.080	AMD 175 109
43.83A.020	AMD	136	2	43.131.319	AMD 304 2
43.83A.020	AMD	14 E1	10	43.131.320	AMD 304 3
43.83A.070	AMD	136	3	43.160	ADD 431 63
43.83B	ADD	171	1-6	43.160.010	AMD 431 61
43.83B	ADD	9 E1	240	43.160.060	AMD 431 62
43.83B.210	AMD	171	7	43.168.050	AMD 430 9
43.83B.220	AMD	11	17	43.170	ADD 312 9
43.83B.305	REP	171	12	43.200.015	AMD 322 1
43.83B.310	REP	171	12	43.200.020	AMD 322 2
43.83B.315	REP	171	12	43.200.025	REP 322 7
43.83B.320	REP	171	12	43.200.030	AMD 322 3
43.83B.325	REP	171	12	43.200.040	REP 322 7
43.83B.330	REP	171	12	43.200.040	REMD 9 E1 219
43.83B.340	REP	171	12	43.200.050	AMD 322 4
43.83B.342	REP	171	12	43.200.050	REP 322 7
43.83B.344	REP	171	12	43.200.060	REP 322 7
43.84.092	AMD	419	12	43.200.070	AMD 322 5
43.88	ADD	100	1	43.200.080	AMD 418 2
43.88	ADD	311	1	43.200.090	REP 322 7
43.88	ADD	362	3	43.200.100	REP 322 7
43.88	ADD	14 E1	18	43.200.110	REP 322 7
43.88.030	AMD	11	18	43.200.120	REP 322 7
43.88.030	AMD	311	3	43.200.130	REP 322 7
43.88.085	REP	273	30	43.200.140	REP 322 7
43.88.090	AMD	273	26	43.200.142	REP 322 7
43.99	ADD	237	4	43.200.144	REP 322 7
43.99.010	AMD	237	1	43.200.150	AMD 322 6
43.99.020	AMD	237	2	43.200.150	REP 322 7
43.99.115	REP	237	8	43.200.160	REP 322 7
43.99.122	REP	237	8	43.200.904	REP 322 7
43.99.130	AMD	237	3	43.230.050	REP 11 32
43.99.142	AMD	237	5	43.230.050	REP 9 1

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RCW	CH.	SEC.	RCW	CH.	SEC.
44.28	ADD	271	604	46.44.096	AMD 398 4
44.28.050	AMD	137	1	46.52.030	AMD 353 5
44.40	ADD	6 E1	14		(Effective 1/1/90)
44.42.040	AMD	11	19	46.52.120	AMD 178 23
46	ADD	178	1-19		(Effective 10/1/89)
	(Effective 10/1/89)			46.52.130	REMD 178 24
46	ADD	353	1-4		(Effective 10/1/89)
	(Effective 1/1/90)			46.55	ADD 111 4,7,18
46	ADD	415	1-11, 18,19	46.55.010	REMD 111 1
				46.55.020	AMD 111 2
46.04	ADD	337	2,3	46.55.030	AMD 111 3
46.04.302	AMD	343	24	46.55.040	AMD 111 5
	(Effective 3/1/90)			46.55.060	AMD 111 6
46.04.302	AMD	337	1	46.55.080	AMD 111 8
46.08.065	AMD	57	9	46.55.090	AMD 178 25
46.09.130	AMD	297	3		(Effective 4/1/92)
46.10.130	AMD	297	4	46.55.100	AMD 111 9
46.10.220	AMD	175	110	46.55.110	AMD 111 10
46.12	ADD	343	19	46.55.120	AMD 111 11
	(Effective 3/1/90)			46.55.130	AMD 111 12
46.12.020	REMD	337	22	46.55.140	AMD 111 13
	(Effective 1/1/90)			46.55.150	AMD 111 14
46.12.040	AMD	110	1	46.55.180	AMD 111 15
46.12.290	AMD	343	20	46.55.200	AMD 111 16
	(Effective 3/1/90)			46.55.240	AMD 111 17
46.12.290	AMD	337	4	46.61.020	AMD 353 6
46.16.010	AMD	192	2		(Effective 1/1/90)
	(Effective 9/1/89)			46.61.021	AMD 353 7
46.16.015	AMD	240	1		(Effective 1/1/90)
	(Effective 1/1/90)			46.61.255	AMD 288 1
46.16.070	REMD	156	1	46.61.519	AMD 178 26
46.16.085	AMD	156	2		(Effective 4/1/92)
46.16.090	AMD	156	3	46.61.563	REP 111 21
46.20.205	AMD	337	6	46.61.567	RECD 111 22
46.20.265	AMD	271	117	46.63.020	REMD 111 20
46.20.300	AMD	337	7	46.63.020	REMD 178 27
46.20.308	AMD	337	8		(Effective 10/1/89)
46.20.331	AMD	175	111	46.63.020	REMD 353 8
46.20.440	REP	178	32		(Effective 1/1/90)
	(Effective 4/1/92)			46.63.150	REP 9 1
46.20.450	REP	178	32	46.65.065	AMD 337 10
	(Effective 4/1/92)			46.68.010	AMD 68 1
46.20.460	REP	178	32	46.68.035	AMD 156 4
	(Effective 4/1/92)			46.68.110	AMD 6 E1 41
46.20.470	AMD	178	21	46.68.120	AMD 6 E1 42
	(Effective 10/1/89)			46.70	ADD 337 13
46.20.505	AMD	203	2	46.70.011	AMD 337 11
46.20.510	AMD	337	9	46.70.011	AMD 301 1
46.37.010	AMD	178	22	46.70.023	AMD 301 2
	(Effective 10/1/89)			46.70.027	AMD 337 12
46.37.340	AMD	221	1	46.70.051	AMD 301 3
46.37.430	AMD	210	1	46.70.070	AMD 337 15
46.44.091	AMD	52	1	46.70.101	AMD 337 16
46.44.092	AMD	398	2	46.70.135	AMD 343 22
46.44.0941	AMD	398	1		(Effective 3/1/90)
46.44.095	AMD	398	3	46.70.180	AMD 415 20

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## RCW SECTIONS AFFECTED BY 1989 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
46.70.190	AMD	415	21	48.31.020	AMD 151 1
46.70.200	REP	415	23	48.41.030	AMD 121 1
46.70.210	REP	415	23	48.41.040	AMD 121 2
46.80.110	AMD	337	17	48.41.060	AMD 121 3
46.82.320	AMD	337	18	48.41.070	AMD 121 4
46.82.360	AMD	337	19	48.41.080	AMD 121 5
46.90.300	AMD	178	28	48.41.090	AMD 121 6
	(Effective 4/1/92)			48.41.100	AMD 121 7
47	ADD	397	1-4	48.41.120	AMD 121 8
47.04	ADD	195	1	48.41.150	AMD 121 9
47.04.090	AMD	224	2	48.41.190	AMD 121 10
47.04.140	AMD	62	1	48.42.070	AMD 9 E1 221
47.26.220	AMD	160	1	48.44	ADD 331 3
47.28.190	AMD	182	1		(Effective 1/1/90)
47.28.200	AMD	182	2	48.44	ADD 338 3
47.44	ADD	196	1	48.44	ADD 345 1
47.44.060	AMD	224	1	48.44.026	AMD 122 1
47.64.006	AMD	327	1	48.44.320	AMD 9 E1 222
47.64.140	AMD	373	25	48.46	ADD 331 4
47.64.220	AMD	327	2		(Effective 1/1/90)
47.64.240	AMD	327	3	48.46	ADD 338 4
48.03.070	AMD	175	112	48.46	ADD 345 3
48.07.050	AMD	24	1	48.46.040	AMD 9 E1 223
48.07.130	AMD	228	1	48.46.060	REMD 10 10
48.17	ADD	323	1,2, 4,5,7	48.62.050	AMD 175 114
				49	ADD 357 1,3,4
48.17.120	AMD	323	6		(Effective 1/1/90)
48.17.540	AMD	175	113	49	ADD 380 83-86
48.17.560	AMD	323	3	49	ADD 11 E1 1-21
48.18.100	AMD	25	1		(Effective 9/1/89)
	(Effective 9/1/89)			49.12	ADD 216 1-3
48.18.140	AMD	25	2	49.12	ADD 11 E1 23,24
	(Effective 9/1/89)				(Effective 9/1/89)
48.19.030	AMD	25	3	49.12.121	AMD 1 3
	(Effective 9/1/89)			49.24.270	AMD 12 15
48.19.040	AMD	25	4	49.26.013	REMD 154 2
	(Effective 9/1/89)			49.26.016	REMD 154 3
48.19.060	AMD	25	5	49.26.100	REMD 154 4
	(Effective 9/1/89)			49.26.110	REMD 154 5
48.19.100	AMD	25	6	49.26.115	REEN 154 6
	(Effective 9/1/89)			49.26.120	REMD 154 7
48.19.120	AMD	25	7	49.26.125	REMD 154 8
	(Effective 9/1/89)			49.26.130	REMD 154 9
48.19.280	AMD	25	8	49.26.150	REEN 154 10
	(Effective 9/1/89)			49.26.901	REMD 154 11
48.19.440	REP	25	9	49.46	ADD 1 4
	(Effective 9/1/89)			49.46.010	AMD 1 1
48.19.500	AMD	11	20	49.46.020	AMD 1 2
48.19.501	AMD	11	21	49.46.130	REMD 104 1
48.20	ADD	338	1	49.52.030	AMD 12 16
48.21	ADD	331	2	49.60.222	AMD 61 1
	(Effective 1/1/90)			49.60.250	AMD 175 115
48.21	ADD	338	2	49.60.260	AMD 175 116
48.21	ADD	345	2	49.70	ADD 380 77
48.21A.090	AMD	9 E1	220	49.70	ADD 380 76
48.24.060	REEN	10	9		(Effective 7/1/90)

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## RCW SECTIONS AFFECTED BY 1989 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
49.70.100	AMD	11	22	52.08	ADD	84	44
50.04.150	AMD	380	78	52.10	ADD	84	45
	(Effective 1/1/90)			52.10.010	AMD	63	19
50.13	ADD	92	3	52.14.015	AMD	63	20
50.16.070	AMD	19 E1	811	52.14.025	REP	63	35
50.20.098	AMD	92	1	52.14.040	REP	63	35
50.20.100	AMD	380	80	52.14.050	AMD	63	21
	(Effective 1/1/90)			52.14.060	AMD	63	22
50.20.190	AMD	92	2	52.14.070	AMD	63	23
50.24.200	AMD	78	1	52.16.010	AMD	63	24
50.29.025	AMD	380	79	52.16.030	AMD	63	25
	(Effective 1/1/90)			52.16.040	AMD	63	26
50.29.062	AMD	380	81	52.16.130	AMD	63	27
	(Effective 1/1/90)			52.18.010	AMD	63	28
50.32.040	AMD	175	117	52.18.030	AMD	63	29
50.32.090	AMD	175	118	52.18.040	AMD	63	30
50.32.140	AMD	175	119	52.18.050	AMD	27	1
51.04.030	AMD	189	1	52.18.060	AMD	63	31
51.12.095	AMD	368	1	52.20	ADD	243	7
51.16	ADD	385	1	52.20.025	AMD	63	32
51.16.035	AMD	49	1	52.22.011	AMD	63	33
51.16.140	AMD	385	3	52.30	ADD	63	34
51.32.073	AMD	385	4	52.30.010	REP	63	35
51.36	ADD	189	2	53.06	ADD	425	2
51.36.060	AMD	12	17	53.06.020	AMD	425	3
51.44.070	AMD	190	1	53.06.030	AMD	425	4
51.44.080	AMD	190	2	53.08	ADD	243	8
51.48.131	AMD	175	120	53.08.040	AMD	298	1
51.48.140	AMD	175	121	53.08.080	AMD	298	2
52.02	ADD	63	2	53.25.040	AMD	167	1
52.02	ADD	84	41	53.29.010	AMD	425	5
52.02.030	AMD	63	1	53.29.020	AMD	425	6
52.02.040	AMD	63	3	53.29.030	AMD	425	7
52.02.050	AMD	63	4	53.29.900	AMD	425	8
52.02.070	AMD	63	5	53.31.040	AMD	11	23
52.02.080	AMD	63	6	53.31.900	AMD	425	13
52.02.090	REP	63	35	53.48	ADD	84	46
52.02.100	REP	63	35	54.08	ADD	84	47
52.02.110	AMD	63	7	54.16	ADD	84	48
52.02.120	REP	63	35	54.16	ADD	243	9
52.02.130	REP	63	35	54.16	ADD	421	4
52.04	ADD	63	12	54.16.280	AMD	268	2
52.04	ADD	76	1	54.32	ADD	84	49
52.04	ADD	84	42	56	ADD	389	4-8
52.04.011	AMD	63	8	56.04	ADD	84	50
52.04.031	AMD	63	9	56.08	ADD	84	51
52.04.051	AMD	63	10	56.08.010	AMD	308	1
52.04.056	AMD	63	11	56.08.010	AMD	389	2
52.06	ADD	63	18	56.08.070	AMD	105	1
52.06	ADD	84	43	56.08.080	AMD	308	5
52.06.010	AMD	63	13	56.08.090	AMD	308	6
52.06.030	AMD	63	14	56.16.030	AMD	389	3
52.06.040	REP	63	35	56.20	ADD	243	10
52.06.060	AMD	63	15	56.24	ADD	84	52
52.06.090	AMD	63	16	56.24.070	AMD	308	3
52.06.100	AMD	63	17	56.28	ADD	84	53

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## RCW SECTIONS AFFECTED BY 1989 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
56.32	ADD	84	54	58.20.090	AMD 54 8
56.32.010	AMD	308	9	58.20.900	REP 54 22
56.32.080	AMD	308	10		(Effective 7/1/90)
56.36	ADD	84	55	59	ADD 188 1-11
57	ADD	389	11-15	59	ADD 201 1-6,
57.04	ADD	84	56		10,11,
57.08	ADD	84	57		13-15
57.08	ADD	308	14	59.12.120	AMD 342 2
57.08	ADD	421	5		(Effective 8/1/89)
57.08.010	AMD	308	2	59.18	ADD 342 13-16
57.08.010	AMD	389	9		(Effective 8/1/89)
57.08.015	AMD	308	7	59.18.040	AMD 342 3
57.08.016	AMD	308	8		(Effective 8/1/89)
57.08.050	AMD	105	2	59.18.070	AMD 342 4
57.16	ADD	243	11		(Effective 8/1/89)
57.16.010	AMD	389	10	59.18.100	AMD 342 5
57.24	ADD	84	58		(Effective 8/1/89)
57.24.010	AMD	308	4	59.18.140	AMD 342 6
57.28	ADD	84	59		(Effective 8/1/89)
57.32	ADD	84	60	59.18.150	AMD 12 18
57.32.010	AMD	308	11	59.18.150	AMD 342 7
57.36	ADD	84	61		(Effective 8/1/89)
57.36.010	AMD	308	12	59.18.230	AMD 342 8
57.40	ADD	84	62		(Effective 8/1/89)
57.90	ADD	84	63	59.18.280	AMD 342 9
58.08.040	AMD	378	2		(Effective 8/1/89)
58.17.040	REMD	43	4-123	59.18.310	AMD 342 10
					(Effective 8/1/89)
58.17.060	ADD	330	2	59.18.390	AMD 342 11
58.17.110	ADD	330	3		(Effective 8/1/89)
58.20	ADD	54	9-21	59.18.415	AMD 342 12
58.20.010	REP	54	22		(Effective 8/1/89)
				59.20.060	AMD 201 9
58.20.010	AMD	54	1	59.20.080	AMD 201 12
58.20.020	REP	54	22	59.22.050	AMD 294 1
				59.22.060	AMD 201 7
58.20.020	AMD	54	2	59.22.070	AMD 201 8
58.20.030	REP	54	22	60.11.040	AMD 229 1
				60.56	ADD 67 2
58.20.030	AMD	54	3	60.56.010	AMD 67 1
58.20.040	REP	54	22	61.12.030	AMD 343 21
					(Effective 3/1/90)
58.20.050	REP	54	22	61.24.040	AMD 361 1
				62A.3-106	AMD 13 1
58.20.050	AMD	54	4	62A.3-109	AMD 13 2
58.20.060	REP	54	22	62A.9-312	AMD 251 1
				62A.9-402	AMD 251 2
58.20.060	AMD	54	5	63	ADD 222 1-6
58.20.070	REP	54	22	63.14.130	AMD 14 5
				63.14.130	AMD 112 1
58.20.070	AMD	54	6	63.14.135	AMD 112 2
58.20.080	REP	54	22	63.14.154	AMD 14 8
				63.14.154	AMD 20 18
58.20.080	AMD	54	7		(Effective 1/1/90)
58.20.090	REP	54	22	63.14.167	AMD 11 24
					(Effective 7/1/90)

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## RCW SECTIONS AFFECTED BY 1989 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
64	ADD	43	1-101 to	69.41.070	AMD	369	4
			4-104,	69.41.075	AMD	9	E1 427
			4-106 to 4-110,	69.41.220	AMD	9	E1 428
			4-112,	69.43.040	AMD	9	E1 441
			4-113,	69.43.050	AMD	9	E1 442
			4-115 to 4-117,	69.43.090	AMD	9	E1 443
			4-119 to 4-120	69.45.010	AMD	9	E1 444
	(Effective 7/1/90)			69.45.020	AMD	9	E1 445
65	ADD	343	1-17	69.45.030	AMD	9	E1 446
	(Effective 3/1/90)			69.45.050	AMD	164	2
66.08.150	AMD	175	122	69.45.070	AMD	9	E1 447
66.24.210	AMD	271	501	69.50	ADD	271	105,106, 112,228, 601
66.24.290	AMD	271	502				
66.24.550	AMD	149	1	69.50.101	AMD	9	E1 429
66.28	ADD	271	229-233	69.50.201	AMD	9	E1 430
66.44.365	AMD	271	118	69.50.301	AMD	9	E1 431
67.08	ADD	127	1-4	69.50.302	AMD	9	E1 432
67.08.001	AMD	127	5	69.50.303	AMD	9	E1 433
67.08.010	AMD	127	13	69.50.304	AMD	9	E1 434
67.08.015	AMD	127	14	69.50.310	AMD	9	E1 435
67.08.030	AMD	127	6	69.50.311	AMD	9	E1 436
67.08.050	AMD	127	7	69.50.401	AMD	271	104
67.08.055	AMD	127	15	69.50.408	AMD	8	3
67.08.060	AMD	127	16	69.50.420	AMD	271	120
67.08.080	AMD	127	8	69.50.500	AMD	9	E1 437
67.08.090	AMD	127	9	69.50.505	AMD	271	212
67.08.100	AMD	127	10	69.51.030	AMD	9	E1 438
67.08.110	AMD	127	11	69.51.040	AMD	9	E1 439
67.08.120	AMD	127	12	69.52.070	AMD	271	121
67.08.140	AMD	127	17	69.54.010	REP	270	35
67.16	ADD	385	2	69.54.020	REP	270	35
67.16.020	AMD	385	5	69.54.030	REP	270	35
67.32.050	AMD	237	7	69.54.033	REP	270	35
67.70.060	AMD	175	123	69.54.035	REP	270	35
68.05	ADD	44	4,5	69.54.040	REP	270	35
68.05.310	AMD	175	124	69.54.050	REP	270	35
68.50.280	AMD	9	E1 224	69.54.060	REP	270	35
69	ADD	247	2-9	69.54.070	REP	270	35
69.04	ADD	257	2	69.54.080	REP	270	35
69.04.915	AMD	9	E1 225	69.54.090	REP	270	35
69.30	ADD	200	2-4	69.54.100	REP	270	35
69.30.010	AMD	200	1	69.54.110	REP	270	35
69.30.080	AMD	175	125	69.54.120	REP	270	35
69.30.090	REP	175	185	69.54.130	REP	270	35
69.30.100	REP	175	185	70	ADD	2	1-7
69.38.060	AMD	9	E1 440	70	ADD	315	1-6
69.41	ADD	242	1	70	ADD	383	1-13
69.41	ADD	352	5,6	70	ADD	386	23
69.41	ADD	369	1-3,5,6	70	ADD	386	1-22
69.41	ADD	9	E1 405, 406		(Effective 7/1/90)		
69.41.010	AMD	36	3	70	ADD	427	14-24, 26-28, 30-33
69.41.010	AMD	9	E1 426				
69.41.020	AMD	352	8				
69.41.020	AMD	9	E1 408	70	ADD	431	65-75
69.41.065	AMD	271	119				

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RCW	CH.	SEC.	RCW	CH.	SEC.
70	ADD	9 E1 501-511	70.95.165	AMD	431 11
		701-712	70.95.260	REMD	431 9
70.	ADD	9 E1 815	70.95.280	AMD	431 13
70.05	ADD	9 E1 243	70.95.510	AMD	431 92
70.08	ADD	9 E1 244	70.95.520	AMD	431 94
70.12	ADD	9 E1 245	70.95.560	AMD	431 95
70.22	ADD	9 E1 246	70.95C	ADD	431 48,50
70.22.050	AMD	11 25	70.96.021	REP	270 35
70.24	ADD	260 3	70.96.085	REP	270 35
70.24	ADD	387 1	70.96.092	REP	270 35
70.24	ADD	9 E1 247	70.96.094	REP	270 35
70.24.105	AMD	123 1	70.96.095	REP	270 35
70.37.020	AMD	65 1	70.96.096	REP	270 35
70.37.030	AMD	9 E1 261	70.96.150	AMD	271 308
70.38.015	AMD	9 E1 601	70.96.150	REP	270 35
70.38.025	AMD	9 E1 602	70.96.160	REP	270 35
70.38.035	REP	9 E1 819	70.96.170	REP	270 35
70.38.045	REP	9 E1 819	70.96.180	REP	270 35
70.38.055	REP	9 E1 819	70.96.190	REP	270 35
70.38.065	REP	9 E1 819	70.96.200	REP	270 35
70.38.085	REP	9 E1 819	70.96A	ADD	270 1,7,
70.38.105	AMD	9 E1 603			10-13,
70.38.111	AMD	9 E1 604			15-17,
70.38.115	AMD	175 126			20-22,24
70.38.115	AMD	9 E1 605	70.96A	ADD	271 309
70.38.125	AMD	9 E1 606	70.96A.010	AMD	271 304
70.38.135	AMD	9 E1 607	70.96A.020	AMD	271 305
70.38.145	REP	9 E1 819	70.96A.020	AMD	270 3
70.40	ADD	9 E1 248	70.96A.030	AMD	270 4
70.41	ADD	9 E1 249	70.96A.040	AMD	270 5
70.41.030	AMD	175 127	70.96A.050	AMD	270 6
70.41.090	AMD	9 E1 611	70.96A.060	AMD	270 8
70.41.130	AMD	175 128	70.96A.070	AMD	270 9
70.41.140	REP	175 185	70.96A.080	AMD	270 18
70.41.170	AMD	9 E1 612	70.96A.090	AMD	175 131
70.48.210	AMD	248 3	70.96A.090	AMD	270 19
70.54	ADD	9 E1 250	70.96A.100	AMD	270 23
70.58.080	AMD	55 2	70.96A.110	AMD	270 25
70.77.370	AMD	175 129	70.96A.120	AMD	271 306
70.84	ADD	41 1	70.96A.140	AMD	271 307
70.89.050	AMD	12 19	70.96A.150	AMD	162 1
70.90.210	AMD	175 130	70.96A.160	AMD	270 29
70.92.110	AMD	14 9	70.96A.170	AMD	270 30
70.94.100	AMD	150 1	70.96A.180	AMD	270 31
70.95	ADD	431 4,8,12,16,32,37-43,55,77,90,93,96,97	70.96A.190	AMD	270 32
			70.96A.200	REP	270 35
			70.96A.210	REP	270 35
			70.96A.220	REP	270 35
			70.96A.900	REP	270 35
70.95.010	AMD	431 1	70.98.050	AMD	175 132
70.95.030	AMD	431 2	70.98.085	AMD	106 1
70.95.090	AMD	431 3	70.98.130	AMD	175 133
70.95.100	AMD	431 6	70.104	ADD	380 69,72,73
70.95.110	AMD	431 5		(Effective 1/1/90)	
70.95.160	AMD	431 10	70.104	ADD	380 67,68,70

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RCW	CH.	SEC.	RCW	CH.	SEC.
70.104.030	AMD	380	71	71.05.300	AMD 420 14
	(Effective 1/1/90)			71.05.320	AMD 420 15
70.105	ADD	2	15	71.05.325	AMD 401 1
70.105	ADD	376	2	71.05.370	AMD 120 8
70.105.010	AMD	376	1	71.05.540	REP 205 26
70.105.210	AMD	13	E1 2	71.12.460	AMD 9 E1 226
70.105.225	AMD	13	E1 1	71.12.480	AMD 9 E1 227
70.105A	ADD	2	16	71.12.485	AMD 9 E1 228
70.105B.070	AMD	175	134	71.12.490	AMD 9 E1 229
70.117	ADD	81	1,5	71.12.500	AMD 175 137
70.117.010	AMD	81	2	71.12.500	AMD 9 E1 230
70.117.020	AMD	81	3	71.12.520	AMD 9 E1 231
70.117.030	AMD	81	4	71.12.530	AMD 9 E1 232
70.118	ADD	349	2,3	71.12.540	AMD 9 E1 233
70.119A	ADD	422	3-5	71.12.640	AMD 9 E1 234
70.119A.010	REP	422	12	71.24	ADD 205 5,6
70.119A.020	AMD	422	2	71.24.015	AMD 205 1
70.119A.030	AMD	422	6	71.24.025	AMD 205 2
70.119A.040	AMD	175	135	71.24.035	AMD 205 3
70.119A.050	AMD	422	8	71.24.039	REP 205 26
70.120	ADD	240	2-4,9	71.24.045	AMD 205 4
	(Effective 1/1/90)			71.24.160	AMD 205 7
70.120.020	AMD	240	5	71.34	ADD 120 9
	(Effective 1/1/90)			71.34	ADD 174 3
70.120.030	REP	240	12	71A.10.050	AMD 175 138
	(Effective 1/1/90)			71A.10.060	AMD 175 139
70.120.040	REP	240	12	71A.10.070	AMD 175 140
	(Effective 1/1/90)			71A.16.040	AMD 175 141
70.120.050	REP	240	12	71A.18.040	AMD 175 142
	(Effective 1/1/90)			71A.20.080	AMD 175 143
70.120.060	REP	240	12	71A.22.040	AMD 329 2
	(Effective 1/1/90)			72	ADD 157 1-5
70.120.070	AMD	240	6	72	ADD 177 1-6
	(Effective 1/1/90)			72	ADD 252 22-24
70.120.110	AMD	240	7	72.04A.120	AMD 252 20
	(Effective 1/1/90)				(Effective 7/1/90)
70.120.120	AMD	240	8	72.09.060	AMD 185 3
	(Effective 1/1/90)			72.09.070	AMD 185 4
70.123.030	AMD	9	E1 235	72.09.080	AMD 185 5
70.150.040	AMD	175	136	72.09.090	AMD 185 6
71.05	ADD	174	1,2	72.09.100	AMD 185 7
71.05	ADD	205	11-19	72.09.106	AMD 185 8
	(Effective 7/1/95)			72.09.110	AMD 185 9
71.05	ADD	205	9	72.23	ADD 205 21
71.05	ADD	420	2,18	72.23	ADD 334 12
71.05.010	AMD	120	1	72.60.100	AMD 185 10
71.05.020	AMD	120	2	72.60.102	AMD 185 11
71.05.020	AMD	205	8	72.62.020	AMD 185 12
71.05.020	AMD	420	13	72.63.040	AMD 185 13
71.05.120	AMD	120	3	72.65	ADD 89 1
71.05.130	AMD	120	4	72.65.060	AMD 252 21
71.05.170	AMD	205	10		(Effective 7/1/90)
	(Effective 7/1/95)			72.66.044	AMD 175 144
71.05.200	AMD	120	5	73.04.030	AMD 50 1
71.05.210	AMD	120	6	74	ADD 427 2,3,
71.05.250	AMD	120	7		9,11,13

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## RCW SECTIONS AFFECTED BY 1989 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
74.____	REP	9 E1	819	74.20A.120	AMD 360 30
74.04.005	REMD	9 E1	816	74.20A.190	REP 360 42
74.04.660	AMD	11	26	74.20A.220	AMD 78 2
74.08	ADD	3	3	74.20A.220	AMD 360 4
74.08.070	REP	175	185	74.20A.270	AMD 175 156
74.08.080	AMD	175	145	74.20A.270	AMD 360 35
74.08.541	AMD	427	4	74.20A.290	AMD 175 157
74.08.545	AMD	427	5	74.21.030	AMD 11 27
74.08.550	AMD	427	6	74.21.100	AMD 175 158
74.08.570	AMD	427	7	74.38.020	AMD 9 E1 817
74.09	ADD	87	4,5,7,8	74.41.050	AMD 427 8
	(Effective 10/1/89)			74.42.240	AMD 372 5
74.09	ADD	427	12	74.42.380	AMD 372 6
74.09	ADD	10 E1	1-7	74.42.580	AMD 372 13
74.09.120	AMD	372	15	74.46.020	AMD 372 17
74.09.210	AMD	175	146	74.46.360	REMD 372 14
74.09.510	AMD	87	2	74.46.410	AMD 372 2
	(Effective 10/1/89)			74.46.440	AMD 372 16
74.09.510	AMD	10 E1	8	74.46.780	AMD 175 159
74.09.520	AMD	427	10	74.50	ADD 3 2
74.09.520	AMD	400	3	74.50	ADD 18 E1 2,4,7
74.09.522	AMD	260	2	74.50.020	REP 18 E1 8
74.09.532	REP	87	11	74.50.030	REP 3 4
74.09.534	REP	87	11	74.50.050	AMD 18 E1 5
74.09.536	REP	87	11	74.50.060	AMD 18 E1 3
74.09.536	REP	175	185	75	ADD 426 1,4
74.09.538	REP	87	11	75.08	ADD 336 2-6
74.09.700	AMD	87	3	75.08.011	AMD 218 1
	(Effective 10/1/89)			75.08.070	AMD 130 1
74.09.730	AMD	260	1	75.08.230	AMD 176 4
74.12.270	REP	175	185	75.10	ADD 393 16
74.13	ADD	381	4-6	75.12	ADD 172 1
74.13.036	AMD	175	147	75.20.130	AMD 175 160
74.13.085	AMD	381	2	75.20.140	AMD 175 161
74.13.090	AMD	381	3	75.20.150	AMD 171 8
74.13.127	AMD	175	148	75.20.300	AMD 213 3
74.15.060	AMD	9 E1	265	75.25	ADD 305 1,7,10,14
74.15.080	AMD	9 E1	266		(Effective 1/1/90)
74.15.130	AMD	175	149	75.25.015	AMD 305 2
74.18.120	AMD	175	150		(Effective 1/1/90)
74.20.040	AMD	360	12	75.25.020	REP 305 20
74.20.101	AMD	360	7		(Effective 1/1/90)
74.20.330	AMD	360	13	75.25.040	AMD 305 3
74.20A	ADD	55	3,5		(Effective 1/1/90)
74.20A	ADD	416	6,7	75.25.080	AMD 305 4
74.20A.020	AMD	55	1		(Effective 1/1/90)
74.20A.020	AMD	175	151	75.25.090	AMD 305 5
74.20A.030	REMD	360	14		(Effective 1/1/90)
74.20A.040	AMD	360	8	75.25.100	AMD 305 6
74.20A.055	AMD	175	152		(Effective 1/1/90)
74.20A.060	AMD	175	153	75.25.110	AMD 305 8
74.20A.060	AMD	360	9		(Effective 1/1/90)
74.20A.080	AMD	175	154	75.25.120	AMD 305 9
74.20A.080	AMD	360	10		(Effective 1/1/90)
74.20A.100	AMD	360	5		(Effective 1/1/90)
74.20A.120	AMD	175	155		

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**RCW SECTIONS AFFECTED BY 1989 STATUTES**

RCW	CH.	SEC.	RCW	CH.	SEC.
75.25.125	REP 305	20	75.28.340	AMD 316	17
	(Effective 1/1/90)			(Effective 1/1/90)	
75.25.130	AMD 305	11	75.28.370	REP 47	3
	(Effective 1/1/90)		75.28.370	REP 316	21
75.25.140	AMD 305	12		(Effective 1/1/90)	
	(Effective 1/1/90)		75.28.690	AMD 316	18
75.25.150	AMD 305	13		(Effective 1/1/90)	
	(Effective 1/1/90)		75.30	ADD 37	2
75.25.160	AMD 305	15	75.30.050	AMD 37	3
	(Effective 1/1/90)		75.30.070	AMD 147	2
75.25.170	AMD 305	16	75.40.060	AMD 130	2
	(Effective 1/1/90)		75.48.020	AMD 136	8
75.28	ADD 176	2	75.48.020	AMD 14	E1 15
75.28	ADD 316	15,19,20	75.48.060	AMD 136	9
	(Effective 1/1/90)		75.52	ADD 85	3-7,9
75.28.020	AMD 47	1	76.04.610	AMD 362	1
75.28.035	AMD 316	1	76.04.630	AMD 175	162
	(Effective 1/1/90)		76.04.630	AMD 362	2
75.28.081	REP 47	3	76.09.080	AMD 175	163
75.28.081	REP 316	21	76.09.220	AMD 175	164
	(Effective 1/1/90)		76.09.230	AMD 175	165
75.28.095	AMD 47	2	76.12	ADD 424	2
75.28.095	AMD 147	1	77.08.010	AMD 297	7
75.28.095	AMD 316	2	77.08.020	AMD 218	2
	(Effective 1/1/90)		77.12	ADD 314	2,3
75.28.110	AMD 316	3	77.12.100	REP 314	8
	(Effective 1/1/90)		77.12.170	AMD 314	4
75.28.113	AMD 316	4	77.12.240	AMD 197	1
	(Effective 1/1/90)		77.16.250	AMD 297	5
75.28.116	AMD 316	5	77.21.040	AMD 314	5
	(Effective 1/1/90)		77.21.060	AMD 314	6
75.28.120	AMD 316	6	77.21.070	AMD 11	28
	(Effective 1/1/90)		77.21.080	AMD 11	29
75.28.123	REP 47	3	77.32	ADD 153	1
75.28.123	REP 316	21	77.32	ADD 297	1,2
	(Effective 1/1/90)		77.32.005	AMD 305	17
75.28.125	AMD 316	7		(Effective 1/1/90)	
	(Effective 1/1/90)		77.32.350	AMD 365	1
75.28.130	AMD 316	8	78.40.181	AMD 12	20
	(Effective 1/1/90)		78.40.262	AMD 12	21
75.28.134	AMD 316	9	78.40.345	AMD 12	22
	(Effective 1/1/90)		78.40.405	AMD 12	23
75.28.140	AMD 316	10	78.40.672	AMD 12	24
	(Effective 1/1/90)		78.40.693	AMD 12	25
75.28.255	AMD 316	11	78.40.741	AMD 12	26
	(Effective 1/1/90)		78.40.783	AMD 12	27
75.28.280	AMD 316	12	78.40.786	AMD 12	28
	(Effective 1/1/90)		78.44.140	AMD 230	1
75.28.285	REP 316	21	78.44.170	AMD 175	166
	(Effective 1/1/90)		78.52.463	AMD 175	167
75.28.287	AMD 316	13	78.52.470	AMD 175	168
	(Effective 1/1/90)		79	ADD 23	1-6
75.28.290	AMD 316	14	79.01.132	AMD 148	1
	(Effective 1/1/90)		79.01.184	AMD 148	2
75.28.300	REMD 316	16	79.01.200	AMD 148	3
	(Effective 1/1/90)		79.01.704	AMD 373	26

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RCW	CH.	SEC.	RCW	CH.	SEC.
79.08.275	AMD	129	2	81.70.320	AMD 163 13
79.44	ADD	243	16	81.70.330	AMD 163 14
79.44.003	AMD	243	13	81.70.340	AMD 163 15
79.44.040	AMD	243	14	81.70.350	AMD 163 16
79.44.050	AMD	243	15	81.77	ADD 431 19,
79.72.040	AMD	175	169		29-31,36
79.90.105	AMD	175	170	81.77.010	AMD 431 17
79.90.160	AMD	213	4	81.77.020	AMD 431 18
79.92.030	AMD	79	1	81.77.030	AMD 431 20
79.94.210	AMD	175	171	81.77.040	AMD 431 21
79.94.210	AMD	378	3	81.77.050	AMD 431 22
80.04.010	AMD	101	2	81.77.060	AMD 431 23
80.04.080	AMD	107	1	81.77.080	AMD 431 24
80.04.110	AMD	101	17	81.77.100	AMD 431 25
80.04.110	AMD	207	2	81.77.110	AMD 431 26
80.04.130	REMD	101	13	81.80	ADD 264 2
80.04.180	AMD	207	3	81.80.010	AMD 60 1
80.04.320	AMD	107	3	81.80.430	AMD 60 2
80.28	ADD	207	6	82	ADD 2 8-12
80.28.030	AMD	207	4	82	ADD 271 505-509
80.28.040	AMD	207	5	82	ADD 383 14-18
80.28.060	AMD	152	1	82.02	ADD 431 49
80.28.240	AMD	11	30	82.03.130	AMD 378 4
80.36	ADD	101	1,3,6,7	82.03.160	AMD 175 175
80.36	ADD	282	2,3,6	82.03.180	AMD 175 176
80.36.100	AMD	101	9	82.03.190	AMD 378 5
80.36.110	AMD	152	2	82.04.120	REMD 302 201
80.36.110	AMD	101	10	82.04.120	AMD 302 101
80.36.130	AMD	101	11	82.04.310	AMD 302 202
80.36.150	AMD	101	8	82.04.4282	AMD 392 1
80.36.170	AMD	101	4	82.08	ADD 384 4
80.36.180	AMD	101	5		(Effective 7/1/90)
80.36.270	AMD	101	12	82.08	ADD 431 45
80.36.310	AMD	101	14	82.08.150	AMD 271 503
80.36.320	AMD	101	15	82.12	ADD 384 3,5
80.36.330	AMD	101	16		(Effective 7/1/90)
80.36.901	AMD	101	18	82.12	ADD 431 46
80.50.075	AMD	175	172	82.14	ADD 384 2
80.50.090	AMD	175	173		(Effective 7/1/90)
80.50.100	AMD	175	174	82.14.030	AMD 384 6
81	ADD	283	1-16		(Effective 7/1/90)
81.04.080	AMD	107	2	82.16.010	REMD 302 203
81.28.070	REP	186	1	82.16.010	AMD 302 102
81.68.010	AMD	163	1	82.16.020	AMD 302 204
81.68.015	AMD	163	2	82.16.030	AMD 302 205
81.68.020	AMD	163	3	82.16.050	AMD 302 103
81.68.030	AMD	163	4	82.18	ADD 431 80
81.68.060	AMD	163	5	82.18.010	AMD 431 78
81.70.020	AMD	163	6	82.18.020	AMD 431 79
81.70.030	AMD	283	17	82.18.030	AMD 431 84
81.70.220	AMD	163	7	82.18.040	AMD 431 85
81.70.250	AMD	163	8	82.18.050	AMD 431 86
81.70.260	AMD	163	9	82.18.060	AMD 431 87
81.70.270	AMD	163	10	82.18.070	AMD 431 88
81.70.280	AMD	163	11	82.13.080	AMD 431 89
81.70.290	AMD	163	12	82.24.020	AMD 271 504

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RCW	CH.	SEC.	RCW	CH.	SEC.
82.32.050	AMD	378	19	84.36.850	AMD 378 13
82.32.060	AMD	378	20		(Effective 1/1/90)
82.32.100	AMD	378	21	84.48.065	AMD 378 14
82.32.110	AMD	373	27	84.52.015	REP 378 40
82.32.160	AMD	378	22	84.52.018	AMD 378 15
82.32.180	AMD	378	23	84.52.043	AMD 378 36
82.32.340	AMD	78	3	84.52.052	AMD 53 4
82.32.400	REP	273	30	84.52.0531	AMD 141 1
82.34.040	AMD	175	177	84.52.080	AMD 378 16
82.36	ADD	193	2	84.55.050	AMD 287 1
82.36.040	AMD	378	24	84.56	ADD 378 38
82.36.230	AMD	193	1	84.64.050	AMD 378 37
82.36.302	REP	193	5	84.68.030	AMD 378 28
82.38.030	AMD	193	3	84.68.050	AMD 378 29
82.38.060	AMD	142	1	84.68.070	AMD 378 30
82.42.030	AMD	193	4	84.68.140	AMD 378 31
82.44.120	AMD	68	2	84.69.020	AMD 378 17
82.48.090	AMD	378	25	84.69.030	AMD 378 32
82.49	ADD	68	3	84.69.060	AMD 378 18
82.49.030	AMD	393	10	84.69.100	AMD 14 6
82.50.010	AMD	337	20	84.69.120	AMD 378 33
82.50.170	AMD	68	4	84.69.140	AMD 378 34
82.50.170	AMD	378	26	85.38	ADD 84 64
83.110.010	AMD	40	1	86.15	ADD 84 65
83.110.020	AMD	40	2	86.16	ADD 64 6
83.110.030	AMD	40	3	86.16.020	AMD 64 1
83.110.050	AMD	40	4	86.16.025	AMD 64 2
83.110.060	AMD	40	5	86.16.031	AMD 64 3
83.110.090	AMD	40	6	86.16.041	AMD 64 4
84.04	ADD	378	6	86.16.061	AMD 64 5
84.08.130	AMD	378	7	86.16.180	AMD 171 9
84.09.030	REMD	217	1	87.03	ADD 84 66
84.09.030	REMD	378	8	87.03	ADD 243 12
84.09.035	AMD	378	9	87.52	ADD 84 67
84.09.080	REP	378	40	87.53	ADD 84 68
84.24.070	AMD	378	27	87.56	ADD 84 69
84.26.130	AMD	175	178	88	ADD 2 E1 1-6
84.33.200	AMD	175	179	88	ADD 393 1-9,11
84.34.030	AMD	378	10	88.02	ADD 68 5
84.34.065	AMD	378	11	88.02.030	AMD 102 1
84.34.108	AMD	378	35	88.02.030	AMD 393 13
84.36	ADD	379	2	88.02.040	AMD 393 12
	(Effective 4/1/90)			88.02.050	AMD 17 1
84.36.040	AMD	379	1	88.04	ADD 295 1-5,9-13
	(Effective 4/1/90)			88.04.300	REP 295 16
84.36.383	AMD	379	6	88.04.310	AMD 295 6
	(Effective 4/1/90)			88.04.320	AMD 295 7
84.36.470	AMD	378	12	88.04.330	AMD 295 8
84.36.475	REP	378	40	88.12	ADD 241 1
84.36.800	AMD	379	3	89.08	ADD 18 1,2
	(Effective 4/1/90)			89.16.500	AMD 213 5
84.36.805	AMD	379	4	90	ADD 346 6,12
	(Effective 4/1/90)				(Effective 7/1/90)
84.36.810	AMD	379	5	90	ADD 346 2-5, 7-11, 13,14
	(Effective 4/1/90)				

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RCW		CH.	SEC.
90	ADD	429	1-9
90.03.005	AMD	348	2
90.03.160	AMD	80	1
90.03.360	AMD	348	6
90.14.200	AMD	175	180
90.44	ADD	348	7
90.48	ADD	2	13
90.48	ADD	293	1
90.48	ADD	348	10
90.48	ADD	388	2-5
90.48.142	AMD	262	2
90.48.160	AMD	293	2
90.48.230	AMD	175	181
90.48.315	AMD	388	6
90.48.350	AMD	388	9
90.48.390	AMD	262	3
90.48.390	AMD	388	7
90.48.400	AMD	262	4
90.48.400	AMD	388	8
90.48.460	REP	2	17
90.54	ADD	348	5,11
90.54.020	AMD	348	1
90.54.022	AMD	171	10
90.58	ADD	2 E1	13,15
90.58.120	AMD	175	182
90.58.180	AMD	175	183
90.58.190	AMD	175	184
90.58.370	AMD	171	11
90.58.500	AMD	213	6
90.70.060	AMD	11	31

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LAWS 1979 EX.			LAWS 1989		LAWS 1987 1ST EX.			LAWS 1989	
Ch.	Sec.	Action	Ch.	Sec.	Ch.	Sec.	Action	Ch.	Sec.
114	1	AMD	10	6	7	217	AMD	3	E1 205
163	17	REP	240	12	7	219	AMD	3	E1 207
					7	223	AMD	3	E1 208
<b>LAWS 1985</b>			<b>LAWS 1989</b>		7	223	AMD	5	E1 7
Ch.	Sec.	Action	Ch.	Sec.	7	303	AMD	3	E1 301
30	143	AMD	10	4	7	312	AMD	3	E1 302
462	9	REP	21	2	7	313	AMD	3	E1 303
					7	316	AMD	3	E1 304
<b>LAWS 1986</b>			<b>LAWS 1989</b>		7	402	AMD	3	E1 401
Ch.	Sec.	Action	Ch.	Sec.	7	502	AMD	3	E1 501
224	1	REP	259	6	7	503	AMD	3	E1 502
224	14	REP	259	6	7	504	AMD	3	E1 503
					7	505	AMD	3	E1 504
<b>LAWS 1987</b>			<b>LAWS 1989</b>		7	507	AMD	3	E1 505
Ch.	Sec.	Action	Ch.	Sec.	7	508	AMD	3	E1 506
323	5	AMD	328	6	7	509	AMD	3	E1 507
424	5	AMD	182	3	7	510	AMD	3	E1 508
525	210	AMD	253	4	7	511	AMD	3	E1 509
528	15	AMD	431	91	7	513	AMD	3	E1 510
					7	514	AMD	3	E1 511
					7	514	AMD	3	E1 516
					7	515	AMD	3	E1 512
<b>LAWS 1987 1ST EX.</b>			<b>LAWS 1989</b>		7	516	AMD	3	E1 513
Ch.	Sec.	Action	Ch.	Sec.	7	521	AMD	3	E1 514
6		ADD	15	E1 1,2	7	522	AMD	3	E1 515
6	116	AMD	181	2	7	601	AMD	3	E1 601
7		ADD	3	E1 107, 202, 204, 206, 306-310, 708	7	603	AMD	3	E1 602
					7	604	AMD	3	E1 603
					7	712	AMD	3	E1 701
					7	714	AMD	3	E1 702
					7	715	AMD	3	E1 703
					7	716	AMD	3	E1 704
6	518	AMD	15	E1 3	7	717	AMD	3	E1 705
6	837	AMD	15	E1 4	8	12	AMD	3	E1 305
7	107	AMD	3	E1 101	10	2	AMD	6	E1 69
7	108	AMD	3	E1 102	10	18	AMD	6	E1 70
7	111	AMD	3	E1 103	10	20	AMD	6	E1 71
7	113	AMD	3	E1 104	10	26	AMD	6	E1 72
7	114	AMD	3	E1 105	10	27	AMD	6	E1 73
7	130	AMD	3	E1 106	10	30	AMD	6	E1 74
7	201	AMD	3	E1 201					
7	202	REP	3	E1 804	<b>LAWS 1988</b>			<b>LAWS 1989</b>	
7	203	REP	3	E1 804	Ch.	Sec.	Action	Ch.	Sec.
7	204	REP	3	E1 804	112	56	REP	3	E1 804
7	205	REP	3	E1 804	283	5	AMD	6	E1 70
7	206	REP	3	E1 804	283	7	AMD	6	E1 71
7	207	REP	3	E1 804	283	12	AMD	6	E1 72
7	208	REP	3	E1 804	283	13	AMD	6	E1 73
7	209	AMD	3	E1 203	283	16	AMD	6	E1 74
7	210	REP	3	E1 804	289	102	AMD	3	E1 101
7	211	REP	3	E1 804	289	105	AMD	3	E1 105
7	212	REP	3	E1 804	289	201	AMD	3	E1 201
7	213	REP	3	E1 804	289	202	REP	3	E1 804
7	214	REP	3	E1 804	289	203	REP	3	E1 804
7	215	REP	3	E1 804	289	204	REP	3	E1 804
7	216	REP	3	E1 804	289	205	REP	3	E1 804

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LAWS 1988			LAWS 1989		
Ch.	Sec.	Action	Ch.	Sec.	
289	206	REP	3	E1	804
289	207	REP	3	E1	804
289	208	REP	3	E1	804
289	209	AMD	3	E1	203
289	210	REP	3	E1	804
289	211	REP	3	E1	804
289	212	REP	3	E1	804
289	213	REP	3	E1	804
289	214	REP	3	E1	804
289	215	AMD	3	E1	205
289	217	AMD	3	E1	207
289	218	AMD	3	E1	208
289	218	AMD	5	E1	7
289	303	AMD	3	E1	301
289	308	AMD	3	E1	302
289	309	AMD	3	E1	303
289	312	AMD	3	E1	305
289	313	AMD	3	E1	304
289	402	AMD	3	E1	401
289	502	AMD	3	E1	502
289	503	AMD	3	E1	503
289	504	AMD	3	E1	504
289	506	AMD	3	E1	505
289	507	AMD	3	E1	506
289	508	AMD	3	E1	507
289	509	AMD	3	E1	508
289	510	AMD	3	E1	509
289	511	AMD	3	E1	510
289	512	AMD	3	E1	511
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"E1" Denotes 1989 1st ex. sess.

"E2" Denotes 1989 2nd ex. sess.

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# HISTORY OF STATE MEASURES FILED WITH THE SECRETARY OF STATE

## INITIATIVES TO THE PEOPLE

(SUPPLEMENTING 1987 LAWS, PAGE 2960)

(SUPPLEMENTING 1988 LAWS, PAGE 1619)

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- INITIATIVE MEASURE NO. 496 (Shall certain excise taxes imposed in lieu of property taxes be limited to one percent of true and fair value?)—Filed on January 5, 1987 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 497 (Shall constitutional impact statements reflecting constitutional compliance or noncompliance be required to accompany all bills introduced in the state legislature?)—Filed on January 5, 1987 by John A. Klima of Issaquah. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 498 (Shall approval by two-thirds of a governing body be required for new taxes, tax rate increases, or tax base enlargement?)—Filed on January 9, 1987 by D.E. Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 499 (Shall maximum tax rates on real and personal property be reduced and a new maximum include voter approved tax levies?)—Filed on January 23, 1987 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 500 (Shall a transaction tax, not to exceed 1% on transfers of money or property replace present state and local taxes?)—Filed on January 20, 1987 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 501 (Shall the statutory maximum tax per gallon on motor vehicle fuels be reduced to a 15 cents per gallon maximum?)—Filed on January 28, 1987 by Cecil F. Herman of Olympia. Sponsored failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 502 (Shall the state law which requires the driver and passengers of a motor vehicle to use safety belts be repealed?)—Filed on February 9, 1987 by Donald T. Adsitt of Kennewick. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 503 (Shall motor vehicle owners and operators be required to maintain vehicle liability insurance and submit proof thereof to license vehicles?)—Filed on February 13, 1987 by William D. Smith of Cashmere. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 504 (Shall individuals' net worth be taxed except for current bonded indebtedness be eliminated, and other taxes be reduced?)—Filed on March 17, 1987 by Meta Heller of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 505 (Shall individuals' and trusts' net worth be taxed, not property except for current bonded indebtedness, and other taxes be reduced?)—Filed on March 27, 1987 by Meta Heller of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 506 (Shall the State conduct a March presidential preference primary for major political party candidates and certain election statutes be changed?)—Filed on May 12, 1987 by Eddie Ryc, Jr. of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 507 (Shall motor vehicle liability insurance be required to drive in this state and proof of insurance submitted to license vehicles?)—Filed on January 12, 1988 by William D. Smith of Cashmere. Sponsor failed to submit signatures for checking.

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\*Indicates measure became law.

## INITIATIVES TO THE PEOPLE

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- INITIATIVE MEASURE NO. 508 (Shall the maximum for property tax rates be reduced and a maximum established to include tax levies approved by voters?)--Filed on January 8, 1988 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 509 (Shall the first \$150,000 of each piece of property's assessed valuation be exempt from the payment of the property taxes?)--Filed on January 15, 1988 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 510 (Shall a two-thirds vote of approval be required to impose new taxes, increase tax rates, or enlarge the tax base?)--Filed on January 12, 1988 by D. E. Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 511 (Shall the 106% levy lid limiting the amount taxing districts can levy as regular property taxes be reduced to 98%?)--Filed on January 21, 1988 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 512 (Shall state and local tax rates, fees, fines and other charges be stabilized then reduced 2% annually for five years?)--Filed on January 11, 1988 by Judith Anderson of Brush Prairie. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 513 Filed on January 19, 1988 by Michael P. Shanks of Seattle. Measure was refiled as Initiative No. 514.
- INITIATIVE MEASURE NO. 514 (Shall household and local commercial movers be exempted from rate and service area regulation by the Utilities and Transportation Commission?)--Filed on February 11, 1988 by Michael P. Shanks of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 515 (Shall the January state holiday which celebrates the birth of Martin Luther King, Jr. be officially designated "Civil Rights Day"?)--Filed on February 10, 1988 by Brian Burgett of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 516 (Shall a transaction tax, not to exceed 1%, on transfers of money or property replace present state and local taxes?)--Filed on March 4, 1988 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 517 (Shall the state operate waste dumpsites and a Hanford facility, require separation of recyclable refuse, and regulate all garbage collectors?)--Filed on March 9, 1988 by Michael P. Shanks of Seattle. Sponsor failed to submit signatures for checking.
- \*INITIATIVE MEASURE NO. 518 (Shall the state minimum wage increase from \$2.30 to \$3.85 (January 1, 1989) and then to \$4.25 (January 1, 1990) and include agricultural workers?)--Filed on March 21, 1988 by Jennifer Belcher of Olympia and Art Wang of Tacoma. The sponsors submitted 300,900 signatures for checking. The measure was subsequently certified to the ballot and was submitted to the voters at the November 8, 1988 general election. It was approved by the following vote: For--1,354,454; Against--414,926.
- INITIATIVE MEASURE NO. 519 (Shall continued frequent contacts with both parents be the most important factor considered by a court in determining child custody?)--Filed on March 3, 1988 by Dan D. Miine of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 520 (Shall blood donors, in a voluntary noncompensatory blood donation program, have the right to designate the recipient of their blood?)--Filed on March 29, 1988 by Richard E. Woodrow of Lynnwood. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 521 (Shall active members of the Washington State Bar Association be ineligible to serve as a state legislative representative or senator?)--Filed on

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\*Indicates measure became law.

## INITIATIVES TO THE PEOPLE

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March 29, 1988 by Eugene Goosman of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 522 Filed on March 24, 1988 by James K. Linderman of Yacolt. Measure was refiled as Initiative to the Legislature No. 101.

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## INITIATIVES TO THE LEGISLATURE

(SUPPLEMENTING 1987 LAWS, PAGE 2968)

(SUPPLEMENTING 1988 LAWS, PAGE 1620)

- INITIATIVE TO THE LEGISLATURE NO. 95 (Shall denturists be licensed, dental hygienists' activities be expanded, and both be permitted to function without supervision of a dentist?)—Filed on April 17, 1987 by Kenneth S. MacPherson of Redmond. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 96 (Cleanup of Toxic Waste)—Filed on July 16, 1987 by David A. Bricklin of Seattle. Initiative refiled as Initiative 97.
- INITIATIVE TO THE LEGISLATURE NO. 97 (Shall a hazardous waste cleanup program, partially funded by a 7/10 of 1% tax on hazardous substances, be enacted?)—Filed on August 13, 1987 by Christine Platt of Olympia. 215,505 signatures were submitted and were found sufficient. The measure was certified to the legislature on February 8, 1988.
- INITIATIVE TO THE LEGISLATURE NO. 98 (Shall conversations concerning controlled drugs be recordable with one party's consent and limited court use of unauthorized recordings be permitted?)—Filed on April 1, 1988 by Frank Kanekoa of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 99 (Shall a state presidential preference primary election determine each presidential candidate's percentage of delegates to major party national conventions?)—Filed on April 24, 1988 by Ross E. Davis of Seattle and Joe E. Murphy of Seattle. 202, 872 signatures were submitted and were found sufficient. The measure was certified to the legislature on February 6, 1989.
- INITIATIVE TO THE LEGISLATURE NO. 100 (Shall private property rights be a compelling state interest restricting eminent domain, state agreements with governments, and some agency rules?)—Filed on April 11, 1988 by Neil Amondson of Centralia. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 101 (Shall mandatory minimum jail sentences be required for some drug offenses including possessing materials or equipment to illegally manufacture drugs?)—Filed on May 5, 1988 by James K. Linderman of Yacolt. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 102 (Shall the state support of children and family services, including some education programs, be increased by \$360,000,000 in new taxes?)—Filed on June 24, 1988 by Jon LeVeque of Seattle. 217,143 signatures were submitted and found sufficient. The measure was certified to the Legislature on January 20, 1989.
- INITIATIVE TO THE LEGISLATURE NO. 103 (Shall rent increases in mobile home parks be prohibited until June 30, 1990 and thereafter increases would require a state board's approval?)—Filed on July 8, 1988 by Shirley J. Johnson of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 104 (Shall proposed thermal power plants be required to demonstrate that their operation will not increase carbon dioxide in the atmosphere?)—Filed on August 22, 1988 by Allen W. Hayward of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 105 (Regarding attorneys as members of the Legislature)—Filed on July 20, 1988 by Eugene Goosman of Seattle. Attorney General refused to write ballot title on the grounds that the initiative proposed to amend the Constitution.

## INITIATIVES TO THE LEGISLATURE

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**INITIATIVE TO THE LEGISLATURE NO. 106 (Shall the state issue tax obligation bonds and use the proceeds for consumer grants, state projects, reinvestment and bond expenses?)**--Filed on August 23, 1988 by Steven A. Tracy of Longview. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 107 (Shall new limitations be imposed upon the adoption of state and local rules and ordinances restricting property rights of landowners?)**--Filed on September 12, 1988 by Ellen Pickell of Hoquiam and Neil Amondson of Centralia. Sponsors failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 108 (Shall a toll bridge connecting Bainbridge Island to land east of Bremerton be financed by \$22,000,000 and general obligation bonds?)**--Filed on September 29, 1988 by T. H. Tees of Bremerton. Sponsor failed to submit signatures for checking.

